

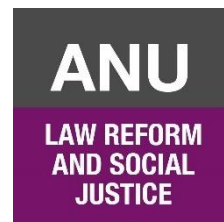


# CLIMATE CHAMPIONS

## BRIEFING REPORT ON THE EMISSIONS REDUCTION ACTIVITIES OF SELECT PARTIES TO THE COMMISSION FOR THE CONSERVATION OF ANTARCTIC MARINE LIVING RESOURCES

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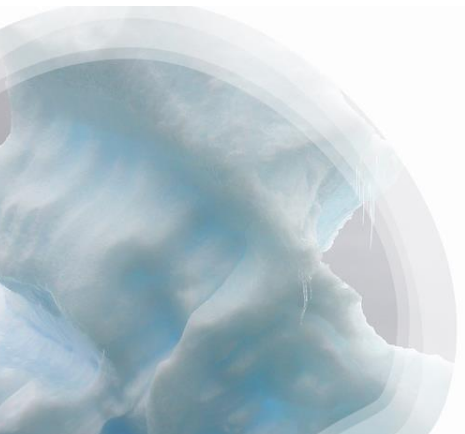
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## Acknowledgement of Country

We recognise our Aboriginal and Torres Strait Islander nations were the first sovereigns of our lands and waters. This sovereignty was never ceded and continues to this day, informing our connection to land, waters and community.

Indigenous respect and guardianship over the Australian land is an integral part of environmental justice and must be acknowledged and respected for the realisation of environmental justice in this country.

GreenLaw and its members acknowledge we meet on Indigenous land and, in working towards environmental justice, stand beside the traditional guardians of our lands. We pay our respects to Elders past and present.

We recognise that during the writing of this guide we met on Ngunnawal and Ngambri Country, as well as the lands of Gadigal People of the Eora nation; and that we collaborated with the Antarctic and Southern Ocean Coalition, whose offices are located on the ancestral homelands of the Nacotchtank, Anacostine and Piscataway Peoples (Washington D.C., United States of America).



## Acknowledgements

This Report took nine months and the combined efforts of a team of six law students at the Australian National University (ANU) and the University of Sydney, alongside the supervisory support of a number of academics.

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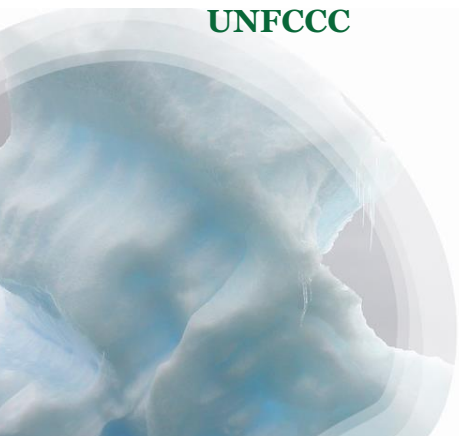
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## Abbreviations

<b>2009 NCP</b>	National Climate Plan 2008-2012 (Belgium)
<b>2019 NECP</b>	National Energy and Climate Plan 2021-2030 (Belgium)
<b>ASOC</b>	Antarctic and Southern Ocean Coalition
<b>CCAMLR</b>	Commission for the Conservation of Antarctic and Marine Living Resources
<b>CCC</b>	Citizens' Convention on Climate
<b>COP21</b>	21 <sup>st</sup> Conference of Parties
<b>COP24</b>	24 <sup>th</sup> Conference of Parties
<b>COP26</b>	26 <sup>th</sup> Conference of Parties
<b>EDC</b>	Ecological Defense Council
<b>EU</b>	European Union
<b>G7</b>	Group of Seven (Canada, France, Germany, Italy, Japan, the United Kingdom, the United States, the European Union)
<b>GHG</b>	Greenhouse Gas
<b>NDCs</b>	Nationally Determined Contributions
<b>ODA</b>	Official Development Assistance
<b>TEU</b>	Treaty on European Union
<b>UNFCCC</b>	United Nations Framework Convention on Climate Change



## Executive Summary

The Antarctic and Southern Ocean Coalition (**ASOC**) has requested GreenLaw provide a high-level briefing report that assesses the capacity of European parties to the Antarctic Treaty System to rise up as climate champions for the region. In this report we provide an analysis of the international climate commitments made by six CCAMLR actors: the European Union (EU), Belgium, France, Germany, the Netherlands and the UK.

Overall, the EU is best placed to come forward as a climate champion for Antarctica and the Southern Ocean. The EU is a global advocate for responsible and radical climate action and has the voice, diplomatic power and mandate to act in the long-term interests of the Antarctic region. However, all the actors assessed in this report have the capacity to rise up alongside the EU and push for significant climate action. All the States party to the EU we surveyed are part of the Green Growth Group within the EU and have demonstrated a willingness to push the EU to continue its global climate leadership. The UK as the sole non-EU actor also has the opportunity to carve out its own path as an ambitious climate actor, and as the host of **COP26** this year, we encourage the UK to push for ambitious climate action in all international fora.

## The Importance of Climate Action in CCAMLR

The Antarctic and Southern Ocean region is a biodiversity hot spot and a critical global area for climate action. Climate change is contributing to ice loss in Antarctica, reshaping regional ecosystems and global sea levels. On the current science, significant ice loss in Antarctica would create a virtually irreversible feedback loop, devastating the region and its unique ecosystems. The Commission for the Conservation of Antarctic and Marine Living Resources (**CCAMLR**), as the peak inter-governmental conservation group in Antarctica, must act to prevent this catastrophic future.

The importance of climate action in CCAMLR has been recognised by Antarctic Treaty parties, including John Kerry, the US Special Presidential Envoy for Climate. In April, Kerry called on CCAMLR to be more ambitious on climate action and adopt the three Marine Protection Areas previously proposed to CCAMLR.

## Climate Champions in Antarctica

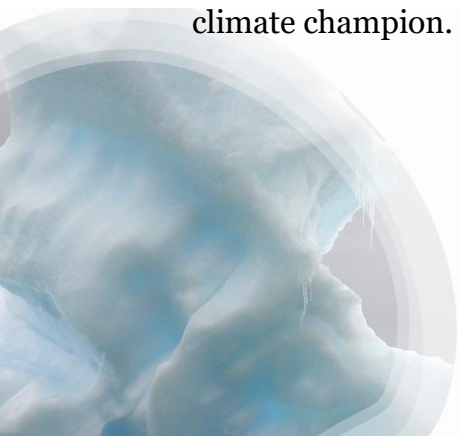
We found that each of the selected parties has the potential to emerge as a climate champion in CCAMLR. Indeed, if all of the assessed parties worked together to promote climate outcomes, we could see CCAMLR emerge as an international leader in conservation-based climate action.

The most likely climate champion is the EU, due to the EU's ambitious commitments, active climate diplomacy and leadership amongst European countries. The EU has joint competency alongside EU member States in CCAMLR, so the EU's identity as a supranational body does not preclude it from acting as a climate champion. We also found that both France and Germany are ambitious climate champions in their own right and will be able to support, work with or push the EU to be a climate champion.

We ranked the Netherlands fourth in its capacity to be a climate champion. Whilst the Netherlands has a proven track record of climate action and an established climate diplomacy model, the Netherlands has limited soft power outside of the EU. This report demonstrates that the Netherlands has the building blocks to be an international leader, but it must rise to the challenge and exhibit its international leadership.

The UK was ranked fifth, but its capacity to be a climate champion may fall in future years. In 2021, the UK is hosting COP26 – an incredible opportunity to demonstrate the UK's climate credentials. The UK should build on this climate diplomacy in other international spaces like CCAMLR to highlight its soft power independent of the EU.

Finally, we ranked Belgium sixth. Belgium is a responsible climate actor and has played a positive role in pushing EU leadership. However, constitutional divisions in Belgium have undermined its leadership so far. This report highlights the current gaps in Belgium advocacy on the international stage and should be impetus for Belgium to strive to be a climate champion.







## WHO ARE CCAMLR'S FUTURE CLIMATE CHAMPIONS?



1

EUROPEAN  
UNION

FRANCE

2

3

GERMANY

THE  
NETHERLANDS

4

5

THE UNITED  
KINGDOM

BELGIUM

6



## Scope of Briefing Report

ASOC has requested GreenLaw provide a high-level briefing report that provides a regional analysis of select European parties to CCAMLR, to inform ASOC's efforts to promote climate action within CCAMLR and the Antarctic Treaty system more broadly.

Our report identifies potential 'climate champions' within the CCAMLR who could take action concerning climate change as outlined in the Climate Change Response Work Program introduced in 2018, without the need for consensus from all parties.<sup>1</sup> ASOC recommended in its 2020 submission to CCAMLR that it take proactive action addressing climate change in the Southern Ocean.<sup>2</sup> ASOC recommended several actions to address the impacts of climate change, including establishing a representative system of Marine Protected Areas and reinvigorating the Climate Change e-Group.

Although climate change is a global issue of utmost importance, it is especially important for the Antarctic region. Climate change is accelerating the retreat of ice shelves, contributing to global sea level rise; and climatic change is putting pressure on both marine and terrestrial ecosystems in Antarctica and the Southern Ocean. Thus, it is imperative that positive steps are taken in the Antarctic region to combat climate change.

### Scope

This report provides a regional analysis of the current national and international commitments made by a selection of Antarctic Treaty parties. The report also provides an assessment of which parties are in the best position to rise up as a climate champion in CCAMLR. This report is not comprehensive; it focuses on the most significant commitments made by each Antarctic Treaty party.



## Methodology

We reviewed the climate action commitments of six CCAMLR parties, all based in the European region: the EU, Belgium, France, Germany, the Netherlands and the United Kingdom. The research we conducted was based on primary legal sources and secondary materials, including media coverage to provide an analysis of how the international community and the public perceives these actors. The main databases we utilised included the Nationally Determined Contributions (NDCs) interim registry under the *Paris Agreement*;<sup>3</sup> the Earth Negotiations Bulletin, which tracks climate negotiations;<sup>4</sup> and the United Nations Treaty Database.

Each of the six briefs is comprised of four key sections, where the research conducted focused on the following questions for each key actor:

1. What climate change treaties is the actor a party to? And to what extent is the actor bound by these commitments?
2. What are the core domestic commitments the actor has made to address climate change?
3. What progress has the actor made towards meeting its climate change obligations? Notably, has there been any funding commitments?
4. Does the actor have the capacity to be a climate champion in Antarctica and the Southern Ocean?

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## European Union (EU)

As an international organisation involved in CCAMLR negotiations, the EU plays a unique and significant political role in climate change action. The EU's founding treaties – particularly Article 5 of the *Treaty on European Union (TEU)* – sets out the EU's jurisdiction over its member States and what matters will be exclusively or partially under the competence of the EU. The EU possesses substantial power through its ability to impose binding laws on member States, holding them to account for both their domestic mitigation targets, and their overarching EU targets.<sup>5</sup> Furthermore, the EU typically forms part of the negotiating blocs that pushes for more ambitious climate action and stringent legal obligations during international climate negotiations. As a result, the EU is a significant political institution in climate change negotiations and will likely emerge a key climate champion as it moves into the next major stage of climate action.

## International Commitments

The EU has signed multiple climate treaties and its member States have also separately done so. The EU is party to the *United Nations Framework Convention on Climate Change (UNFCCC)* and a signatory to both the *Kyoto Protocol* and *Paris Agreement*. The EU, under the *Paris Agreement* in 2015, committed on behalf of its member States to a target of reducing 20% of greenhouse gas (**GHG**) emissions from 1990 levels by 2020. The EU itself has taken on responsibility for coordination across the continent, with member States submitting their targets under an overall EU target.<sup>6</sup> This target has reportedly been achieved with a 23% GHG emissions reduction in 2018. In December 2020, the EU submitted a new target for the second commitment period, aiming to reduce GHG emissions by 55% from 1990 levels by 2030.

The EU is considered a global leader on climate action. Although its current targets are not compatible with a target of  $\leq 1.5^{\circ}\text{C}$  increase in global temperatures, it is an ambitious actor on the world stage. In climate negotiations the EU has consistently aligned itself with negotiating blocs that advocate for greater climate action. Notably, the EU and the Association of Small Island States, during negotiations for the Paris Agreement, both argued for the inclusion of compliance mechanisms, which was successful (see Art 15).

The EU, in March 2013, outlined its vision for EU climate diplomacy, emphasising the need for a more assertive EU voice and to promote collective action alongside other international actors. In particular, the EU has set three diplomatic priorities:<sup>7</sup>

1. *Climate change as a strategic priority in diplomatic dialogues and initiatives:* EU will use ‘events and processes at the highest level’ to push consistent political messaging for ambitious climate action;
2. *Support to low-emission and climate resilient development:* EU provides significant aid support and aims to ‘strengthen its overall communication of the significant support it collectively provides’ for development and the need for such development to be low-emission and climate resilient; and
3. *Emphasising the nexus between climate, natural resources, prosperity and security:* EU diplomacy needs to reflect the EU narrative on the intricate links between climate change, international and human security, and push for climate change threats to be taken seriously and addressed urgently.

The EU is also a party to the *Montreal Protocol* on ozone-depleting substances, and engages with non-EU States on emissions reductions systems through bilateral treaties and negotiations. An example is the *China-EU Partnership on Climate Change*.<sup>8</sup> Through an annual China-EU Summit, climate change and commitments to the *Paris Agreement* are discussed. The most recent summit in June 2020 saw the EU call upon China to take greater responsibility for its emissions reductions. Through the unique status of the EU, there have been substantial bilateral and multilateral climate commitments to which it has bound its members.

## Domestic Commitments

The EU has played a key role in tracking the emissions reduction targets and the financing of projects for its members. This includes the implementation of the Emissions Trading System, and a series of financing mechanisms such as the 'LIFE Programme'. The EU has launched the European Green New Deal to tackle both climate change and the economic impact of COVID-19. These programs highlight that the EU's ambitious climate diplomacy reflects its internal agenda.



The EU's Emissions Trading Scheme is the first and largest international carbon market, covering approximately 45% of the EU's GHG emissions. The EU and other European institutions justify the EU's ambitious climate policy through this scheme on the grounds that it will lead to the reduction of GHG emissions without impeding economic growth.<sup>9</sup>

The EU's 'LIFE Programme,' which began in 1992, is a major financing mechanism to support environmental investment initiatives. The LIFE Climate Action Programme committed €864 million to co-finance climate investment projects between 2014-2020, with the objective of contributing to the 'shift towards a resource-efficient, low-carbon and climate-resilient economy'. In 2018, the European Parliament further approved an increase in funding for the LIFE Programme in the 2021-27 period. The European Parliament voted in favour of €7.27 billion for the LIFE Programme, of which 73.2% of that budget would constitute the environment portfolio. This increased funding aligns with the EU's Emissions Trading Scheme objectives by promoting climate-positive action without economic detriment.<sup>10</sup>

To reach its 2030 emissions reductions goal and the longer-term 2050 goal of climate neutrality, the EU has proposed a European Green Deal. This initiative is described as an 'action plan' ultimately seeking mechanisms to move toward a more sustainable economy, the restoration of biodiversity, and reduction of pollution.<sup>11</sup> Currently, the EU has further pushed for its 2050 climate neutrality commitment to be legally binding through a proposed European Climate Law.<sup>12</sup> This law is in its draft stage and sets its objectives as the increase of the EU's 2030 target to 50-55% of emissions, and neutrality by 2050. To finance these initiatives, the European Commission has proposed two major streams: €1 trillion injected into a European Green Deal Investment Plan for sustainable investments, and €143 billion over ten years into its Just Transition Mechanism to support investments to support regions 'most affected by the transition'.<sup>13</sup>



## The EU's Capacity to be a Climate Champion

The EU has demonstrated a commitment to implementing policies on climate change both internally with its member States and externally with its participation in international fora. Indeed, the EU has positioned itself as a climate champion in global international negotiations. It would therefore undermine the EU's broader diplomatic narrative on climate action if it did not take strong action in CCAMLRL negotiations to ensure climate action is also realised in Antarctic and the Southern Ocean.

Moreover, the EU is currently pursuing more ambitious climate policies as it pushes its European Green Deal initiative and a more ambitious reduction target under the *Paris Agreement*. The EU is in a critical position to leverage its unique political status to effect change through its member States and to act as an economic and political force against more resistant countries (either internally or externally to the EU).

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## Belgium

As one of the twelve original signatories to the *Antarctic Treaty* in 1959, Belgium retains the right to participate in decision making at consultative meetings. Within CCAMLRL, a Belgian representative currently acts as Vice Chair of the Standing Committee on Administration and Finance.

Belgium has a complicated constitutional structure that has hampered its action on climate change. Although treaties do not need to be transformed into specific legislation to be binding, mere ratification is insufficient to incorporate a treaty's obligations into domestic law. Since 1993, parliamentary assent for the signing of treaties is required, which is typically given before ratification occurs. Moreover, the implementation of international obligations into Belgian domestic law is complicated by the equal legal status of its Federal government, Regional governments and Communities. As outlined in Article 167(3) of the Belgian *Constitution*, all five of the Community and Regional governments within Belgium may enter into treaties on matters within their competence.<sup>14</sup> Power to legislate on climate issues is of 'mixed competence', and generally split between the Federal government and the governments of the Brussels-Capital, Flemish and Walloon Regions. Environmental matters relating to international relations are within the competence of the Federal government. The Regional governments have power in territory-related areas, interpreted broadly, such as elements of water, energy and conservation policy.

Belgium has historically failed to meet its climate change targets, partly because of a lack of cooperation between the Federal and Regional governments. Nevertheless, Belgium's policy and legislative actions have attempted to fulfil its international obligations. Thus, whilst Belgium has positioned itself as a responsible international actor on climate change, it may not be in a position to act as a climate champion.

## International Commitments

Belgium is party to all major climate international agreements. Two of the most significant treaties that Belgium is a party of are the *Kyoto Protocol* and the *Paris*



*Agreement.* Both treaties impose reporting requirements within the UNFCCC framework, which are fulfilled by Belgium's National Climate Commission. Whilst Belgium has historically been an international leader on sustainable development, in recent climate negotiations it has largely followed the diplomatic lead of the EU.

Belgium ratified the *Kyoto Protocol* on 31 May 2002 and was assigned a target of 7.5% reduction in its GHG emissions as part of the overall EU goal of an 8% reduction relative to 1990 levels. Exceeding this requirement, Belgium achieved a reduction of 14% of emissions within the 2008-2012 period.<sup>15</sup> Belgium accepted the *Doha Amendment* to the *Kyoto Protocol* on 14 November 2017. This Amendment launched the Protocol's second commitment period from 2013-2020. Regardless of whether the Amendment is in force, as a member of the EU, Belgium is subject to the EU Climate and Energy Package 2020, which established a 20% emissions reduction target to be achieved by 2020. Under this agreement, Belgium must reduce emissions by 15% (for sectors not covered by the EU Emissions Trading Scheme) compared to 2005 levels, and must derive 13% of its energy from renewable sources by 2020.<sup>16</sup> To implement Belgium's international obligations, a 'burden sharing' agreement between the Regional and Federal governments was concluded in 2015, and made legally binding in 2018.

Belgium ratified the *Paris Agreement* on 6 April 2017 and is bound by the EU's joint targets, outlined in the section above. In the most recent commitment, Belgium has committed to reducing GHG emissions outside the EU Emissions Trading Scheme by 35% of 1990 levels by 2030. This target is one of the most ambitious amongst EU member States. The *Paris Agreement* binds Belgium as a whole, as upon signing the Agreement it made a formal declaration that the signing also engaged its three Regional governments. The Green Climate Fund, established under the *Paris Agreement*, provides financial support and funding for projects in developing countries to assist those countries in meeting their *Paris Agreement* commitments. Pledges to the Green Climate Fund have been made by both the Federal government and each Regional government of Belgium, amounting to a total pledge of €85.6 million in July 2020.<sup>17</sup>

## Domestic Commitments

Belgium's main domestic policy commitment to climate change mitigation is the National Energy and Climate Plan 2021-2030 (**2019 NECP**), approved by the Concertation Committee on 18 December 2019.<sup>18</sup> This plan replaced the previous National Climate Plan 2008-2012 (**2009 NCP**) which had been adopted in April 2009. Both plans effectively compile the legislation and policy plans of the Federal government and each Region; due to the nature of the federal division of power in Belgium, there is no uniform national legislation and the targets implemented by governments vary. Reference to the EU Climate Package and *Paris Agreement* is made in the 2019 NECP, demonstrating that Belgium is strongly bound by these commitments.

The 2009 NCP was established to fulfill Belgium's obligations under the *Kyoto Protocol* and the EU Climate and Energy Package 2020. The 2009 NCP provided for measures including: a 'green certificates' scheme designed to ensure that renewable energy production is cost competitive; establishing funding and logistical support for environmentally friendly electricity generation; and building industry regulation and schemes to promote public transport and energy efficient vehicle use.<sup>19</sup> In 2013, €6.4 billion was invested in 'mitigation, adaptation and climate services activities' in Belgium, with 34% of total investment obtained from public actors (including EU funding) and approximately €2 million originating from the national budgets.<sup>20</sup>

Further, Belgium has implemented schemes to incentivise climate action and broaden its funding sources for environmental projects. In January 2014, laws were passed establishing financial bonuses for regional governments which exceed their emissions reduction objectives, and imposing financial penalties for non-compliance.<sup>21</sup> In 2018 Belgium further introduced medium to long-term government bonds designed to encourage investment in five priority sectors, including biodiversity, public transport and renewable energy. The Federal government expects to receive between €3 - 5.5 million of revenue from these bonds to be invested in these projects.<sup>22</sup>

Despite these measures, Belgium has not historically achieved the targets imposed on it by the EU. While Belgium was required to reduce its non-ETS emissions by 15% by 2020,

2017 projections expected only an 11.5% reduction, a significant shortfall. Similarly, in 2016 Belgium used only 8.7% renewable energy, falling short of the 2020 target of 13% set by its EU obligations.<sup>23</sup> Belgium has been criticised by the Climate Coalition, an assembly of over 70 non-governmental organisations, for failing to take a strong position in climate change negotiations. Criticisms are particularly levelled at Belgium's failure to engage fully with the High Ambition Coalition during **COP24** talks due to the veto of the Flanders Regional government, demonstrating a potential reticence to take the lead on climate issues.

## Belgium's Capacity to be a Climate Champion

Overall, while Belgium has some capacity to become a climate champion, it has not taken sufficiently strong action to meet its domestic and international climate commitments. Belgium has aligned with negotiating blocs pushing for climate action during international negotiations, and is likely to be influenced by the position of the EU in CCAMLRL negotiations.

Belgium has faced significant issues in creating a uniform policy and legislative regime due to the fractured nature of responsibility for climate policy. There is no uniform climate law regime in Belgium, and efforts to create one failed in 2019 after a proposed constitutional amendment to facilitate cooperation between the regions was rejected. However, Antarctic issues are largely dealt with at the Federal level; the Health, Food Chain Safety and Environment Federal Public Service is the official representative of Belgium to the CCAMLRL. Thus, Belgium's constitutional framework should not represent an institutional barrier to climate action, although it may make the Belgium delegation less likely to emerge as a climate champion.

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## France

France has potential to be a climate champion, having declared climate change to be a priority and making a number of significant commitments at the domestic, EU and international levels. It has sought to embrace a leadership role in this area, particularly during its presidency of **COP21** (the conference of parties to the UNFCCC, when the *Paris Agreement* was signed) and the **G7**.

Under France's system of law, ratification of international agreements is sufficient for France to become bound by these commitments. While the President has the power to ratify general treaties, certain issue areas are instead required to be ratified by parliament. However, this does not include environmental treaties.<sup>24</sup> As a result, parliament and the government are required to abide by international agreements in creating legislation. This means that the international agreements on climate change, marine conservation, and biodiversity that France has ratified are binding even without any further legislative action. The government and the parliament are prevented from enacting any legislation that conflicts with these treaties.

### International Commitments

France ratified the UNFCCC on 25 March 1994 and is a signatory to the *Kyoto Protocol*. Under the *Kyoto Protocol*, France committed to ensuring no increase in GHG emissions above 1990 levels up to 2012, but far exceeded this target, cutting emissions by 10% between 1990 and 2013.<sup>25</sup> France is also a party to the *Doha Amendment* to the *Kyoto Protocol*, committing to a further GHG emissions reduction of 30% below 1990 levels.

The *Paris Agreement*, arguably the most significant international climate agreement, was ratified by France on 5 October 2016. This underpins, and is used to justify, many of France's domestic actions on climate change. France's GHG reduction target under the *Paris Agreement* falls within the EU regional target. Under this target, France has committed to reducing its GHG emissions by 37% of 1990 levels from sectors outside the EU Emissions Trading System.<sup>26</sup>

During COP21, where the *Paris Agreement* was adopted, France positioned itself as a global climate champion, and although with the EU, acted as an independent leader in the negotiations. In particular, the French played a key role in ensuring the delegates at Paris enabled the Agreement to be finalised through compromise. This demonstrates the capacity of the French, who have significant diplomatic resources, to support ambitious climate action. However, France's leadership in international climate negotiations should not be overstated, as EU diplomacy and outreach to other negotiating coalitions was critical to the success of the *Paris Agreement*.

France has also shown a significant commitment to funding international climate efforts. For example, France is the fifth largest contributor to the Green Climate Fund. The French Facility for Global Environment is also responsible for supporting sustainable development projects as part of its Official Development Assistance (**ODA**) program. In 2018-2019, 45% of the budget (€32 million) went to climate change projects; 35% to biodiversity projects (€25 million euros); and 20% to land degradation and international waters (€15 million).<sup>27</sup>

France and Germany have jointly created 'Make our Planet Great Again,' an initiative which 'aims to strengthen international commitment to the Paris Agreement'.<sup>28</sup> It involves soliciting and funding research projects from scientists, entrepreneurs, and civil society across the world. The two countries also cooperate via the Franco-German Meseberg Climate Working Group, which involves ministers from the two countries and seeks to promote implementation of the *Paris Agreement*.

## Domestic Commitments

In 2005, the French *Constitution* was amended to include the *Charter of the Environment*. Legislation must comply with the *Charter*, and in several cases the Constitutional Council has invalidated statutory provisions due to breach of the *Charter*. The *Charter* provides that the precautionary principle should underpin policymaking and that public officials should consider risk to the environment in decision-making. The *Charter* also provides that it 'shall inspire France's actions at both European and international levels'<sup>29</sup> and thus justifies action on environmental issues. However, the

*Charter* does not address climate change or biodiversity. As a result, in 2018 the government announced that environmental preservation, biodiversity and action on climate change would become incorporated into Article 1 of the *Constitution*, which would be a very significant symbolic effort.

In 2017, the Macron government created a Climate Plan, which set ambitious policy targets.<sup>30</sup> These include pledging to ‘take GHG-emitting vehicles off the market by 2040’, ‘reduce the nuclear energy share to 50% in 2035’, to end coal power production by 2022, and to ‘triple the number of windfarms by 2030’. Another key policy proposal was a carbon tax, however this led to the mass ‘yellow vests’ protests and the proposal was later abandoned. France has also implemented ‘Green Budgeting’ which evaluates the ‘State’s budget in terms of its environmental impact’.

In 2018, France created the High Council for the Climate (*Haut Conseil pour le Climat*, HCC), which acts as an independent advisory body that issues reports on compliance with emissions reduction aims.<sup>31</sup> The HCC represents an important accountability mechanism and evaluates French climate laws for their contribution to meeting international climate commitments. These evaluations take place both prior to a law being tabled in parliament and after the law is enacted. Despite many of these policy initiatives, the 2020 Annual Report of the HCC was critical of France’s lack of climate action. While ministries have been required to create a ‘carbon road map’ illustrating how they will meet their international and domestic targets, ‘tangible implementation actions are still lacking’.<sup>32</sup>

France has created a number of other bodies that act in advisory capacities. The Ecological Defense Council (**EDC**) operates as a Cabinet-like body constituted of relevant ministers and has significant power over funding and policy decisions.<sup>33</sup> For example, the EDC, in its first meeting, stopped a major gold mining project in French Guiana. Additionally, the Citizens’ Convention on Climate (**CCC**) was created in order to include ordinary French citizens in advising the government on climate initiatives. Policies proposed by the CCC may be brought to a referendum or to parliament for legislation.



## France's Capacity to be a Climate Champion

France has undertaken significant efforts at the international and regional level to support climate action. The French government has made numerous policy commitments, some in direct response to its international obligations and the *Paris Agreement* in particular, and others which nevertheless contribute to fulfilling its international commitments. It has also created several advisory bodies that provide a role for both experts and the general public to propose policies and evaluate their effect. Notwithstanding these actions, the actual implementation of policies has been criticised in the media, by civil society, and the HCC. Despite announcing several emissions reductions targets and transition to clean energy, France has so far made little progress in meeting these targets.

Overall, France has positioned itself as an international leader for climate action and is an influential stakeholder within the EU. Despite failures to reduce emissions domestically, France is capable of positioning itself as a climate champion within CCAMLRL. France is likely to work in tandem with the EU and Germany, two influential partners that France has previously aligned itself with for international negotiations and bilateral climate action. France could also go beyond the EU and Germany, emerging as a major climate champion in CCAMLRL, provided doing so would not be a serious divergence from the EU's position.

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## Germany

Germany is particularly engaged in international climate change mitigation efforts. A signatory to most international environmental treaties and agreements, Germany notably ratified the *Kyoto Protocol* in 2002, and the *Paris Agreement* in 2016. Despite shortcomings in Germany's current climate and environmental commitments and actions, there is significant potential for Germany to become a major climate champion in the future. Notably, Germany is an influential leader within the EU and has the capacity to prompt greater ambition from both the EU and France, with whom Germany has a strong bilateral climate action relationship.

Germany's Constitution, the Basic Law, is the basis of all domestic legislation. As a dualist system, international treaties are ratified in accordance with Article 59(2) of the Basic Law and must be approved by both chambers of Parliament. As such, treaties are only incorporated into domestic law after approval from Parliament.<sup>34</sup> Environmental matters are largely regulated through national legislation. Despite this, State authorities are generally responsible for day-to-day operational tasks under the guidance of their respective state Environmental Ministry.

### International Commitments

Germany is party to several core climate treaties, including the *UNFCCC*. Under that agreement, Germany ratified the *Kyoto Protocol* in 2002, as well as its second commitment period under the Doha Amendment in 2017. Pursuant to the *Protocol*, Germany committed to reducing its GHGs between 2008-2012 by 21% below 1990 levels. Germany exceeded this commitment, lowering its emissions by approximately 23.6% by 2012. Under the *Protocol's* second commitment period, Germany is now expected to reduce its GHG emissions by 30-33% below 1990 levels by 2020.<sup>35</sup>

Under the *Paris Agreement*, Germany is also committed to reducing GHG emissions by at least 40% below 1990 levels by 2020, and by 55% below 1990 levels by 2030 under the broader EU target.<sup>36</sup> As discussed below, Germany will likely achieve its 2020 target, and

potentially its 2030 target too. However, this is a result of COVID-19, and not a reflection of Germany's domestic climate mitigation efforts.

## Domestic Commitments

By the end of 2019 Germany had achieved approximately 30% of its 2030 target under the *Paris Agreement*. In an effort to meet this target, Germany enshrined its 2030 emissions reduction target into law by adopting the *Climate Action Law* in December 2019<sup>37</sup>. The law also establishes a long-term goal of achieving GHG neutrality by 2050, outlines sector-specific targets, and distributes implementation responsibilities to various ministries.<sup>38</sup>

Germany's Climate Action Programme 2030 supplements the *Climate Action Law*, and specifies policy measures to achieve the sectorial 2030 emissions reduction targets<sup>39</sup>. These include implementing a pricing system for carbon emissions in the transport and building sectors, outlining a framework for the *Climate Action Law*, and establishing a package of incentives and regulatory measures across all sectors. The Climate Cabinet annually reviews the progress of these measures in achieving these goals. As part of the Climate Action Programme 2030, several national Acts have also been passed. Most notably, the *Coal Phase-Out Act* was adopted in July 2020, with an aim to phase out coal-fired power stations by 2038.<sup>40</sup> Germany also endeavours to generate 65% of its electricity from renewables by 2030. Climate finance plays a key role in implementing these measures. Since 2005, climate financing has increased eightfold in Germany, while in 2017, the government allocated funding of approximately €3.65 billion available for the environmental sector.<sup>41</sup>

In 2019, Germany's GHG emissions were reduced by 35.6% from 1990 levels.<sup>42</sup> Due to decreased industrial production and demand during the COVID-19 pandemic, Germany's 2020 target under the Paris Agreement (40% reduction below 1990 levels) will likely be met. Prior to 2019, emissions were lowered by 27.5% in 2017 and 30.6% in 2018.<sup>43</sup> In 2017, Germany was not expected to reach its 2020 target, with GHG emissions predicted to be lowered by 32% by 2020. Pre-2019 data provides a more accurate representation of

the effectiveness of Germany's climate legislative and policy measures, with COVID-19 acting as the key driver of Germany's recent significant GHGs reduction.

## Germany's Capacity to be a Climate Champion

Germany's international climate commitments are supported by a significant body of legislation and governmental policies. This demonstrates Germany's preparedness to recognise and tackle the impacts of climate change. However, its current commitments and actions are still inadequate. Germany's 55% emissions reduction target for 2030 is regarded as 'highly insufficient' and is not compatible with the  $\leq 1.5^{\circ}\text{C}$  *Paris Agreement* target. The Climate Action Programme 2030 is also regarded as 'lacking quantitative ambition' and fails to establish sufficient policy measures to meet Germany's climate and energy targets.

Germany is an influential member of the EU and as an international advocate for climate action. Notably, Germany has demonstrated a willingness to independently advocate for and finance climate ambition, including in bilateral initiatives with France (see above in *France*). The government is also experiencing significant bottom-up pressure to achieve positive environmental outcomes from young people and climate advocates, as well as from recent global climate-related initiatives (such as the School Strike for Climate movement).

It is likely that Germany, similar to France, has the capacity to emerge as a climate champion within CCAMLR and will be more likely to advocate for ambitious action if such an agenda is consistent with the EU's position on Antarctica.

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## The Netherlands

The Netherlands is often considered a nation at the forefront of climate action, a reputation that has been carefully cultivated through a combination of climate policy and political signalling. Despite this reputation, the Netherlands has limited soft power outside the EU system and has typically followed the EU's lead during international climate negotiations. The Dutch have focused on domestic climate actions, and whilst they are climate champions in their own right, they may lack the political weight to emerge as climate leaders in CCAMLRL negotiations.

The Netherlands is a monist system. This means that the Netherlands is automatically bound by its international obligations at a domestic level when it becomes a party to an international treaty. Nonetheless, the Netherlands usually passes domestic legislation to implement its international obligations. The Constitution provides that in the event of a conflict between domestic statutes and international obligations, the international obligation will prevail.

### International Commitments

The Dutch have made several commitments to counter climate change on the international stage. The Dutch are signatories to the UNFCCC, and the *Kyoto Protocol*. The Netherlands also ratified the Doha Amendment to the *Kyoto Protocol* in 2012, which continued the obligations set out by the initial Protocol for a second period. The Netherlands is also a signatory of the *Paris Agreement*. In the most recent commitment period under the EU, the Netherlands is aiming to reduce GHG emissions by 36% of 1990 levels by 2030 for emissions external to the EU Emissions Trading System.<sup>44</sup> As part of their obligations under the *Paris Agreement*, the Netherlands has committed €100 million to the Green Climate Fund and has actively and persistently pursued the goals of the *Paris Agreement* domestically.<sup>45</sup>

In regional negotiations the Netherlands is a climate leader consistently advocating for more ambitious climate action. The Netherlands is part of the Green Growth Group within the EU and has advocated for the EU to increase its region-wide GHG reduction targets

since 2017. This advocacy was ultimately successful: in late 2019 the EU adopted a Green New Deal strategy that included raising the EU's emission reduction target from 40% to 55%.<sup>46</sup> However, the Netherlands has a relatively low international profile preferring to follow the diplomatic strategy of the EU in international climate negotiations. In the last five years the Netherlands has largely contributed to international climate negotiations by presenting its domestic climate actions as a blueprint for other countries and committing finance to green initiatives.

## Domestic Commitments

The Dutch have taken their international commitments seriously, evidenced by ambitious domestic climate action. The primary example of this is the *Klimaatakkoord*, which is a climate agreement introduced in the Dutch Parliament setting out the Netherlands' climate agenda up to 2050. The agreement includes the introduction of a carbon tax and the planned shutdown of all coal-fired power plants by 2050.<sup>47</sup>

The Dutch Government further has a government department dedicated to climate action: the Ministry of Economic Affairs and Climate Policy. Its primary objectives are to reduce GHG emissions by 49% by 2030, and 95% by 2050.<sup>48</sup> These targets were chosen to align with the Dutch targets under the *Kyoto Protocol* and *Paris Agreement*. The Ministry completed a National Energy and Climate Plan in 2019, which provides more details on of the Netherlands' climate goals for the period 2021-2030.<sup>49</sup>

While the Dutch have set ambitious goals, they have been criticised for lack of action and the decreased likelihood of meeting such goals. A high-profile example of this is the *Urgenda* decision, where the Supreme Court of the Netherlands ruled that the government has a legal duty to prevent climate change.<sup>50</sup> The Supreme Court upheld the ruling of previous lower courts that the Netherlands must cut GHG emissions by at least 25% (in comparison to the GHG levels in 1990) by the end of 2020, and that the government must take more immediate action to meet these goals. The *Urgenda* case was a landmark decision for the responsibilities of government with respect to climate change, and the global attention the case received cast a spotlight on the Dutch government's

actions and policy. While the Netherlands has made progress towards the 25% goal, it appears unlikely that this goal will be achieved despite the litigation.

## The Netherlands' Capacity to be a Climate Champion

In light of recent developments, in particular the *Urgenda* case, the successes and failures of the Dutch Government in combating climate change are likely to be scrutinised in the near future. The Dutch Supreme Court has already placed a substantial, and very public, burden on the government to more aggressively pursue climate change action in the hopes of meeting its already ambitious targets. In the event the Dutch government fails to meet the aforementioned 25% reduction, it will likely face substantial criticism. This pressure provides great impetus for the Netherlands to act as climate champions within CCAMLR.

Unfortunately, the Netherlands lacks the soft power of other major EU States, and in international fora tends to merely follow EU diplomacy. The Netherlands' continued emphasis on domestic policy will also likely weaken its position in international negotiations. However, the Netherlands can continue to play a positive role as a global supporter for more ambitious climate action, both through diplomatic efforts and financing. Thus, whilst the Netherlands may not have the sway to act as a sole climate champion, it will be a powerful ally and supporter for more ambitious action in CCAMLR.

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## The United Kingdom (UK)

The UK has legislated ambitious plans to reach net-zero emissions by 2050, which has been accompanied by strong symbolic action on climate change. However, the government has acknowledged that achieving these goals will require more urgent action and stronger political will. Despite this, much of the UK's ambitious domestic climate action has been driven by economic factors which may condition the UK to deprioritise Antarctic climate action.

Unlike many European countries, the UK is a dualist state. The UK requires treaties to be incorporated into national law by the legislature in order to have domestic force. This means that although the UK may be bound by treaties in international law, treaties do not give rise to legal rights or obligations in domestic law. The sections below indicate what international environmental law the UK has incorporated into its national legislation.

### International Commitments

In 1979, the UK signed the *Convention on Long-Range Transboundary Air Pollution* (1979). Since then, the UK government has issued directives and regulations in 2018 and 2010 pursuant to the *Convention*, to limit the emissions of several pollutants. The UK is also a signatory to the *UN Vienna Convention for the Protection of the Ozone Layer* (1985), which was a multilateral agreement to reduce the production of chlorofluorocarbons, to mitigate the destruction of the ozone layer. This *Convention* was also the precursor to the UNFCCC that the UK signed a decade later.

This agreement to stabilise GHG concentrations in the atmosphere was largely symbolic but lay the groundwork for the *Kyoto Protocol*. During negotiations for the *Kyoto Protocol*, the UK supported EU-wide measures to introduce an Emissions Trading System, to promote renewable energy sources, and to devise a strategy to reduce carbon dioxide emissions from road vehicles.<sup>51</sup> The UK government also implemented domestic policies to enforce the *Kyoto Protocol*, in the form of a national registry for emissions trading with the EU and a national Climate Change Programme which was established in 2006.<sup>52</sup>



The UK is also a signatory to the *Paris Agreement*. This brought about the most compelling action from the UK seen so far, in that the government has committed to reduce all GHG emissions to net zero by 2050.<sup>53</sup> This is a clear improvement from the previous 80% reduction target that had been implemented after the *Kyoto Protocol*. This commitment shows a strong willingness by the UK government to be bound by the *Paris Agreement*, and to make meaningful progress to mitigate the advancement of climate change.

In 2021, the UK is hosting COP26 of the UNFCCC in partnership with Italy and is seeking to act as a global leader, particularly to prompt more ambitious action from non-EU developed States, notably the USA and Australia.<sup>54</sup> The UK will focus on promoting greater climate mitigation and adaption financing, energy transition and implementing a carbon trading scheme. As the UK establishes itself as an independent climate negotiator from the EU, COP26 will serve as both an opportunity and a test of the UK's soft power and political pull in international climate negotiations.

## Domestic Commitments

The most significant commitment made by the UK government to enact climate action has been the *Climate Change Act 2008*. In 2019, the legislation was amended to set out a net-zero emissions target by 2050. It also establishes a system of carbon budgeting to ensure that the country is on track to meet the target every five years, and a Committee on Climate Change was instituted. These measures have provided mechanisms for accountability and enforcement of the ambitious net-zero emissions target, demonstrating that the UK is committed to fulfilling the Paris Agreement. In 2020, the government committed £10 million to designing and delivering additional net-zero policies but has been vague on the content of this funding.<sup>55</sup>

The *Climate Change and Sustainable Energy Act 2006* is a parallel piece of legislation, which promotes energy efficiency and establishes national targets for renewable electricity generation.<sup>56</sup> This was also in line with the UK's commitment to the *Kyoto Protocol*. The Act principally encouraged microgeneration, involving the production of electricity in households and businesses with small scale solar panels and wind turbines.

Furthermore, the legislation required annual reports by the Secretary of State on GHG emissions and the progress made to achieving the sustainable energy goals set out in the *Sustainable Energy Act 2003*. Encouragingly, in a 2020 progress report by the Committee on Climate Change, it was found that UK emissions had fallen by 40% between 1990 and 2018, while the UK's GDP had increased by 80%.<sup>57</sup>

While this progress is promising, there is still a long road ahead to achieve net-zero emissions by 2050 in the UK. The Government's own projections show that even with the current trend of falling emissions, the country will still miss future carbon budgets at this rate. While emissions are required to fall by an additional 31% by 2030, the current policies in place will only achieve a 10% reduction.<sup>58</sup>

The government has also demonstrated a preparedness to respond to public political movements campaigning for more urgent policy change. In 2019, the UK parliament, established a 'citizen's assembly' to consult on climate change policies in addition to declaring the climate emergency. This was largely in response to pressure from groups such as Extinction Rebellion. For government policy to continue to align with the legislated carbon reduction targets, the momentum of the climate action movement must be continued to sustain public pressure that has so far been successful.

## The UK's Capacity to be a Climate Champion

The UK government certainly sees itself as a climate leader, evidenced by its net-zero emissions target and its Parliament's declaration of a climate emergency.<sup>59</sup> However, its own Committee on Climate Change has recommended that the UK's climate policy must be 'strengthened significantly' to ensure that the net-zero target is met by 2050. The government has indicated that it intends to follow these recommendations, but the necessary changes have not yet been reflected in the *Climate Change Act*. Moreover, much of the motivation for UK climate action has come from economic factors, including the *Stern Review* which outlined the costs of climate inaction.<sup>60</sup>

In international fora, the UK is seeking to establish itself as an independent leader after leaving the EU. This is a prime opportunity for the UK to emerge as a climate champion

within CCAMLR, independent from the typical European negotiating bloc, and to begin to demonstrate its leadership ahead of COP26 in November 2021. However, over the last year, climate change has been deprioritised to Brexit negotiations and the UK's COVID-19 response.

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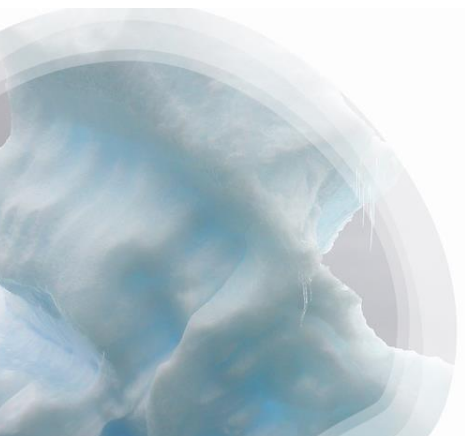
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**ALTHOUGH CLIMATE  
CHANGE IS A GLOBAL  
ISSUE OF UTMOST  
IMPORTANCE, IT IS  
ESPECIALLY  
IMPORTANT FOR THE  
ANTARCTIC REGION.**



**IT IS IMPERATIVE  
THAT POSITIVE STEPS  
ARE TAKEN IN THE  
ANTARCTIC REGION  
TO COMBAT CLIMATE  
CHANGE.**





## Glossary

### Term to be Defined

### Definition

#### Monist

A legal system in which ratification of an international agreement is sufficient to incorporate that treaty into domestic law. No further action is required for it to become binding on domestic actors, including legislatures, courts, etc.

#### Dualist

A legal system in which domestic law and international agreements are seen as two separate legal systems. Dualist systems require additional action beyond ratifying treaties to incorporate them into domestic law, and as a result a country may be bound by a treaty internationally but have no obligation in their domestic law to comply with the treaty commitments.

#### Ratify

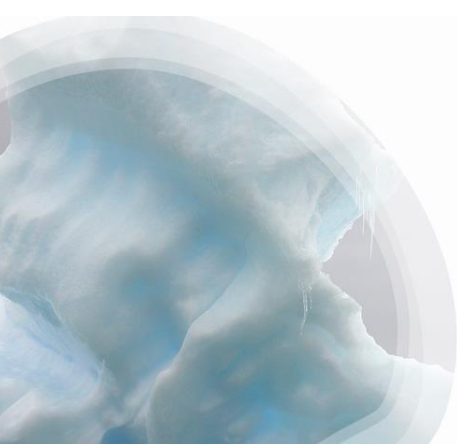
Means becoming bound by a treaty and demonstrates consent to be bound by a treaty. Ratification may include signing the treaty, but does not in itself constitute assent to be bound by it.

#### Precautionary principle

A principle of international environmental law, defined in the Rio Declaration (Article 15) as “where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.”

#### Competences

The EU has, under the principle of conferral, competences which enable it to act within certain limits depending on the type of power conferred upon it. There are three significant types of competences: exclusive, shared and supporting competences.



### **Supranational**

Often characterised as an organisation of multiple member States that has power or authority greater than those States individually, including powers to impose legally binding decisions on its members, and the power to enforce these decisions upon them.

### **Jurisdiction**

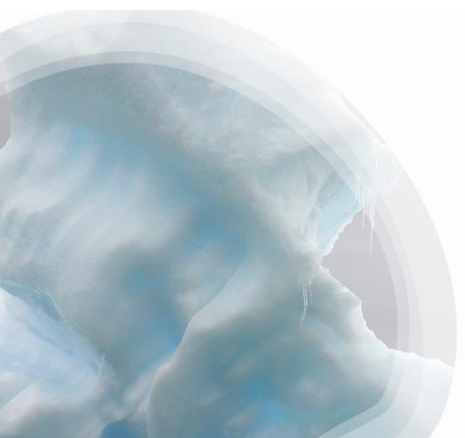
The scope of matters within a body's legal authority. In the case of a supranational body, it refers to the matters over which that body has legislative or executive authority.

### **Bilateral Treaty**

An international agreement between two States that is governed under international law.

### **Multilateral Treaty**

An agreement between more than two parties including States or international organisations (such as the EU) that is governed under international law.



## Table of International Commitments

International Commitment	EU Specific?	Signatories	Subject Matter	Major Targets
<a href="#"><u>Vienna Convention for the Protection of the Ozone Layer</u></a> (entered into force 22 September 1988)	No	EU Belgium France Germany The Netherlands UK	The Convention establishes a framework for the international community to protect against and prevent activities that modify or are likely to modify the Ozone layer.	Not applicable. The relevant reduction commitments under the Vienna Convention were operationalised by the Montreal Protocol.
<a href="#"><u>Montreal Protocol on Substance that Deplete the Ozone Layer</u></a> (entered into force 1989)	No	EU Belgium France Germany The Netherlands UK	<p>The Protocol is a global agreement to implement the Vienna Convention, protecting the Earth's ozone layer by phasing out the chemicals that deplete it.</p> <p>The Protocol was recently amended in 2016 (Kigali Agreement) to ensure the phase out of hydrofluorocarbons that contribute to climate change.</p>	<p>The EU, Belgium, France, Germany, the Netherlands and the United Kingdom have all ratified the Montreal Protocols and all amendments.</p> <p>The EU region has a control limit on ozone depleting substances of 822.8 Ozone Depleting Potential tonnes per year. The EU consumed just 61.2 tonnes in 2019.</p>
<a href="#"><u>UNFCCC</u></a> (entered into force 21 March 1994)	No	EU Belgium France Germany The Netherlands UK	The Treaty establishes an international framework to coordinate the stabilization and reduction of GHGs.	Not applicable. The relevant reduction commitments under the UNFCCC were operationalised by the Kyoto Protocol.

<a href="#"><u>Kyoto Protocol to the UNFCCC</u></a> (entered into force 16 February 2005)	No	EU Belgium France Germany The Netherlands UK	The Protocol operationalises the UNFCCC by committing industrialized and emerging countries to reduce emissions.	The EU, Belgium, France, Germany, the Netherlands and the United Kingdom all committed to reduce emissions by 8% from 1990 levels between 2008 – 2012.
<a href="#"><u>Doha Amendment to the Kyoto Protocol</u></a> (entered into force 31 December 2020)	No	EU Belgium France Germany The Netherlands UK	The Amendment establishes another commitment period for the Kyoto Protocol between 2013 – 2020.	The EU committed to a region-wide reduction of 20 – 30% emissions reduction on 1990 levels between 2013 – 2020. Both France and Germany also committed to a reduction of 20-30% emissions.  Belgium committed to an 8% reduction. The Netherlands committed to a 30% reduction. The United Kingdom committed to a 20% reduction.
<a href="#"><u>Paris Agreement</u></a> (entered into force 4 November 2016)	No	EU Belgium France Germany The Netherlands UK	The treaty aims to strengthen the global response to climate change to ensure global average temperatures are kept well below 2°C above pre-industrial levels.	The EU committed to a 55% reduction on 1990 emissions levels by 2030. The EU target includes Belgium, France, Germany and the Netherlands. United Kingdom: 68% reduction on 1990 emissions levels by 2030.
<a href="#"><u>European Green New Deal</u></a> (announced 11 December 2019)	Yes	EU	A new growth strategy proposed by the EU that balances economic and environmental needs in the region.	The EU, including Belgium, France, Germany and the Netherlands, commit to net zero GHG emissions by 2050.

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