

LONG-TERM AGREEMENTS – A PRACTICAL ALTERNATIVE TO REGULATION

A CONTRIBUTION BY THE LTA TASK FORCE TO ECCP WG5 DISCUSSIONS

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2. EXECUTIVE SUMMARY

- ?? Following its 1996 Communication on Environmental Agreements COM(96)561, the Commission recognised in its 1999 Communication COM(99)230 on climate change 'that effective and ambitious environmental agreements may constitute a basis for important emission reductions in specific industrial sectors'. One aim of Community strategy is to be able to assess 'demonstrable progress by 2005'.
- ?? The objective of this document is for UNICE to contribute to ECCP WG5 work on the scope for long term agreements and commitments by business and industry to help to meet EU climate change targets. A blueprint for the elements of long-term agreements is set out for discussion, and to provide scope for implementation.
- ?? 'Agreements' cover a range of approaches already in place at EU level and in Member States: negotiated agreements, long term agreements, environmental agreements, sector agreements, voluntary agreements and voluntary initiatives.
- ?? Long-term agreements should be one of a mix of policies, with interactions carefully considered. Such agreements have the potential to deliver much more efficiently and effectively than fiscal instruments, but also more predictably because they set clear targets rather than prices.
- ?? Long-term agreements can be consistent with and supported by use of the Kyoto mechanisms, where the targets to be met are set by agreement.
- ?? The essential characteristic of an agreement is that commitments made are undertaken voluntarily, and so have the extra element of motivation for delivery.
- ?? Scope for agreements is part of promoting a proactive attitude by companies and associations that will encourage best practice, and help underpin compliance.
- ?? Some of the advantages of agreements are:
 - the ability to deliver commitments quickly and efficiently
 - light administrative burden sufficient to monitor delivery
 - allowing a company maximum flexibility for how its commitment will be met.
 - long-term agreements can be part of a predictable policy framework to aid planning and investments by companies.
- ?? In this way, EU policy objectives can be met whilst protecting competitiveness.
- ?? Other stakeholders have a legitimate interest in being assured that agreements will deliver the commitments made, so transparency of delivery is a key aspect.
- ?? Most existing operational agreements are at national level, as part of Member States implementing policy. For many agreements this will remain the appropriate level.
- ?? Long-term agreements at Community level are particularly appropriate when commitments made (e.g. ACEA on CO2 emissions from cars) interact with how harmonised single market standards are to be achieved.
- ?? Energy efficiency agreements may be appropriate at Community level for some industry sectors, especially for relatively coherent energy intensive sectors.
- ?? EU framework agreements can be helpful in encouraging a consistent approach in industry sectors across Member States, minimising potential market barriers.

3. INTRODUCTION

Background

In its Communication on Environmental Agreements (1996) the Commission defines environmental agreements as agreements between industry and public authorities to achieve environmental objectives. Such agreements may or may not be legally binding, but will have obligations for the parties to the agreement. They can also take the form of unilateral commitments by industry, possibly recognised by public authorities in that form.

The Commission distinguishes between national, regional or local agreements implementing EU directives; national, regional or local agreements which have no direct relation with EU legislation; and EU-wide agreements which are negotiated and concluded with EU institutions.

UNICE identifies different types of agreements, namely national agreements, and EU-wide agreements. These may include clear and quantified targets. There are also self-commitments that may be recognised by authorities.

Agreements have been developed to help reach environmental objectives, and are now taken into other areas such as reducing greenhouse gas emissions and improving energy efficiency.

Objective of the Document

The objective of this document is for UNICE to contribute to the ECCP WG5 sub-Working Group on Negotiated Agreements, by providing its views on the way these agreements should be developed. The document aims to explore the scope for these agreements, and to demonstrate that they can be valuable instruments to implement the policies and measures that the Commission will propose as part of the Community strategy to reduce greenhouse gas emissions.

4. DEFINITION OF AGREEMENTS

Several names have been used to define the new instrument, namely “negotiated agreement”, “sectoral agreement”, “long-term agreements”, “voluntary agreement”, “environmental agreement”.

Here are some elements to be considered prior to the adoption of a term:

- ?? The term voluntary agreement can mean a voluntary initiative, which is normally not preceded by negotiations with public authorities and so does not include binding targets or sanctions in case of non compliance; it is in fact an industry self commitment;
- ?? Voluntary agreement can also mean an agreement that is negotiated between public authorities and a given industrial sector; it is a sort of contract, which can include targets (sometimes quantified), clear requirements, controls, an implementation timetable and sanctions.
- ?? The term “voluntary” underlines the difference between this instrument and other instruments such as economic or regulatory instruments;
- ?? The term “negotiated” underlines the involvement of public authorities;
- ?? The term “long-term agreements” refers to the fact that objectives set are long-term ones.

The characteristic of agreements is that commitments are agreed, rather than imposed. This brings the crucial aspect of motivation to deliver these commitments, to go alongside the other advantages of agreements, which are potential for quick action, light administration, and the flexibility to allow choice of the most cost-effective options.

The present document addresses long-term agreements concluded between private industrial sectors and public authorities, and focuses in particular on greenhouse gas emissions, and energy related issues.

We shall therefore simply use the word **long-term agreements** throughout.

5. Elements for Long-term Agreement at EU or National Level

5.1. Parties to the Long-term Agreement

Parties to the agreement must be clearly defined and named. It must be made clear whether they act on others' behalf. Any mandate to act should be appended to the agreement. The status of each Party must be appended to the agreement.

In general parties are:

- ?? The government, regional, local or EU authorities concerned by the agreement;
- ?? Sectoral associations or federations representing the industry at large (e.g. BDI).

Parties must be legally authorised to undertake a binding agreement.

Industrial parties can be:

- ?? Individual companies, if the agreement only concerns a limited number of companies, or even one single company;
- ?? An association or federation that commits itself e.g. for a limited action (information for example); the association can also endorse the agreement without being a Party to the agreement, meaning that it recognises the agreement signed by one or several of its members and will take it into account when defining its policy;
- ?? An association or federation on behalf of its members – provided the members either mandate the association/federation or co-sign the agreement, in which case the federation's or association's signature will have a more political than factual aspect;
- ?? Companies that are not affiliated to the sectoral association or employers federation should be able to join the agreement after it was concluded, or mandate the association to act for them;

The number of companies in a given sector will affect its ability to conclude a long-term agreement. An association or federation can be very instrumental in this respect since it can help convince the majority of companies in the sector to participate, collect data and information, participate in negotiations and motivate companies during the implementation of the agreement.

Public Authorities

- ?? See chapter on the legality of long-term agreements - The capability of authorities to commit themselves is limited by their obligation not to limit their discretionary competence to legislate in the future;
- ?? The role of authorities in general consists in ensuring the conformity with national, EU and international laws; determining the general objectives; informing both concerned actors and other authorities about the overall policy and the content of the agreement,

as well as the Parliament and the general public; participating in negotiations and monitoring the implementation of the agreement:

The obligations of national authorities could in particular relate to:

- ?? **Self-restraint:** refrain from proposing new fiscal or other legislation in the subject area;
- ?? **Recognition:** official acknowledgement of the results achieved by industry;
- ?? **Practical support:** financial support to R&D projects for example.

The Commission's role might vary according to the type of agreement (EU-wide agreement, national agreement etc.) but it might for example be to:

- ?? Encourage and explore the scope for agreements;
- ?? Define – together with other parties - general objectives for the EU;
- ?? Receive notifications of agreements and control their conformity with EU legislation;
- ?? Facilitate the scope for negotiating agreements at EU-level;
- ?? Possibly recognise scope for industry self-commitments;
- ?? Establish common principles to meet single market rules.(please note, BDI objects to further detailed definition)

Stakeholders

UNICE recognises that other stakeholders, including Parliament, will need to be consulted and informed about agreements, so they can be satisfied about their effectiveness. In particular, the European Parliament has expressed the wish to become involved in this new process, when applied at Community level. Any mandate should provide sufficient flexibility to the Commission in relation to the subject and scope of agreements that will help meet Community objectives.

Although one understands the legitimate wish of Parliament to be involved in the process, onerous and lengthy legislative procedures should be avoided, since this would seriously reduce the advantages of such agreements.

Similarly, **NGOs** have a legitimate interest in what agreements will deliver. Some sectors may choose to consult them to help develop confidence in the agreement.

5.2. Objective, Scope and Obligations

The **objective** of the agreement must be defined. Possible governmental support measures should be described as and when appropriate.

Quantified objectives offer less room for discussion, ensure credibility and are easier to monitor. Quantified objectives can be defined in absolute or specific terms. Relative targets avoid the risk that external factors such as consumer behaviour lead to an increase in the abatement costs.

In the case of climate change related agreements, the links with other measures such as emission trading, CDM and Joint Implementation should be addressed. The coherence of public policies vis-à-vis LTAs and taxation is also an issue that needs to be addressed.

It may be necessary to establish the **procedural conditions** under which the obligations apply, such as for example the setting up of a committee, working group ...

The **timetable** for meeting the objective and the **period of validity** of the agreement must be stipulated. A provision can be included stating that, if the objective is not reached by a given date, the agreement expires; the agreement might also be extended if all parties agree. The timetable can possibly include a stepwise approach with **interim deadlines**; milestones allow parties to have a clear picture at an early stage of how to react to difficulties that arise; the intermediate objectives, which may also be indicative, should not create any additional obligation.

All **terms and concepts** referred to in the agreement should be defined clearly.

It should be noted that one of the key benefits of agreements is that they set long-term objectives, which imply that both authorities and industry can have long-term planning. Most of the obligations will lie with industry, but there may be a number of important tasks for public authorities.

Often implicit in agreements is the understanding that no legislative action will be proposed if and as long as the agreement continues to work satisfactorily. It may in this respect be explicitly acknowledged that administrative ordinances will not be adopted in the field of a valid agreement. In some cases, the agreement can explicitly refer to existing legislation, for example to foresee a tax rebate or other similar measures.

5.3. Monitoring and Verification

A key element of long-term agreements is that they are seen to deliver.

The agreement should indicate how the implementation is to be evaluated in the light of the objective. The assessment of the agreement should take account of both technical-environmental aspects and economic aspects. It should be made clear who is responsible for the evaluation and what reference points are to be used.

The agreement must stipulate the monitoring and verification procedure. A precise methodology, as well as criteria or evaluation factors, is useful in this respect to avoid disputes. It is important to ensure sufficiently complete, comparable and objective data (reliability and accuracy). EMS (environmental management systems) may provide a useful mechanism in this respect.

The persons/bodies responsible for monitoring must be named. The following alternatives exist:

- ?? A committee or an independent body can be entrusted with collecting, evaluating or verifying the results. This is particularly important in cases where the measuring methods differ, or the disclosure of business secrets has to be avoided.
- ?? The industry association can also be entrusted with the monitoring, provided the method is transparent and credible.
- ?? Monitoring can also be contracted out to an independent body, if all agree.

5.4 Changes of Circumstances, Settlement of Disputes, Early termination of the Agreement

The agreement should set out the means of dealing with **changes of circumstances**, such as new policy insights, legislation, economic situation, new investments, mergers, technological insights, international developments, etc.. The agreement should state the

possible options to amend or terminate the agreement. Such an alteration could, for example, be a situation that obliges a government or the Community to introduce for example, an energy tax, while the agreement foresees that no such tax would be adopted or applied to parties to the agreement.

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The agreement should specify how **disputes** are to be settled, for example regarding the interpretation and compliance with the provisions. It can for example state that disputes should be brought before a steering group or an arbitration committee.

The terms for **early termination** of an agreement should be clearly stated. If new developments occur that require significant modifications (e.g. implementation of the Kyoto mechanisms), the conditions under which the agreement can be amended or terminated but also the implications in terms of obligations should be stated.

5.5. Sanctions and Free Riders

Legal Status (to be checked)

Environmental and other agreements can be regarded as agreements under private law. In case of non-compliance or inadequate compliance, some measures can be taken based on civil law, such as claims for damage, dissolution; however, parties may also include specific measures such as fines. The competent jurisdiction or, where appropriate, a court of arbitration entrusted with the settlements of disputes should be designated.

The parties may, however, not wish the agreement to fall under civil law of contract and, if so, will have to state this explicitly in the agreement.

Non Compliance

In most cases, the publicity of non-compliance with the obligations, with the threat of legislation to achieve the objectives of the agreement are sufficiently strong incentives to ensure compliance with the agreement.

In the case of targeted objectives, however, it may well be that a given party is unable to fully meet the objectives for several reasons. Staged objectives can be helpful in this respect, since they can allow for revision of the objectives at appropriate times. **The procedure for revision of the objectives should be stated as clearly as possible.**

Free riders are either parties to the agreement, or non-compliant parties within the agreement. It is important, therefore, that agreements are as inclusive as possible and that handling the issue of free riders is addressed in the agreements.

Long-term agreements should be **inclusive**, that is open to all parties willing to meet the requirements and respect the terms of the agreement. It should be noted however that there are cases where the agreement is not open to all companies. Where this occurs, the companies that do not qualify for the agreements should not be penalised.

In the case of an EU directive transposed into national law through an environmental agreement, the Member State should ensure that all companies comply with their given obligations. The solution may be the adoption of a national law that can foresee an exemption for companies participating in an agreement.

A simple example is the exemption of companies that are parties to an agreement from energy taxation, while non-participating companies would be subject to taxation.

5.6. Access to Information

The agreement should foresee the conditions under which information should be made publicly available. The parties may agree to notify each other of information available to them, or agree to supply information to third parties, such as the media.

Given that transparency is crucial to assure third parties that non-regulatory obligations are met, parties to the agreement may decide to make information available to individuals upon request, including to encourage the dissemination of best practices.

The EU Commission could consider setting up a register of existing agreements.

5.7. Checklist for Long-term Agreements

A. Background

1. Preamble: previous relevant agreements, national and/or EU legislation, intention of the parties
2. Description of the sector, description of the parties
3. Background to the subject of the agreement
4. Previous involvement of legislator in setting the objectives

B. Content of the Agreement

1. Parties to the agreement
2. Subject
3. Definition of terms
4. Objectives – possibly quantified
5. Staged approach
6. Specifications of obligations and conditions
7. Monitoring of results
8. Periodic reporting
9. Access to information
10. Sanctions
11. Accession for third parties
12. Duration
13. Revision
14. Termination
15. Legal nature of the agreement – compliance with national law
16. Jurisdiction
17. Assessment of the environmental and economic implications of the agreement

C. Compliance with EC Treaty – Issues to be checked

1. Notification to the Commission
2. Free movement of goods
3. Competition
4. State aid rules
5. Distortion of competition justified on environmental grounds?

6. Compliance with EU and National Law

EU and national agreements have to comply with the national law and the EC Treaty and its derived legislation.

The directive 83/189/CEE on the notification of standards and technical rules states that some national agreements should be notified to the Commission, which needs to assess their conformity with the EU legislation.

The main issues to be addressed when defining a long-term agreement include:

- ?? **Restriction to trade**, such as quantitative limitations to imports or similar measures; this would however not apply in case the agreement is considered to have a scope which is wider than simply limiting imports.
- ?? **Agreements between undertakings affecting trade or distort competition:**
- ?? **State aid:** where financial contributions from public authorities or other benefits such as tax exemptions or a redistribution of revenues from levies are part of an agreement, compliance with the treaty has to be ensured. New guidelines on state aid give more detail in this respect.
- ?? **Good functioning of the internal market:** respecting the good functioning of the internal market, agreements related to products should not impose any restriction, unless they are justified and shown not to be arbitrary or discriminatory.

7. Examples of Long-Term Agreements on Energy Efficiency and Climate Change – Brief Overview

The agreements are described in more detail under item 12.

7.1. The ACEA EU Long-term Agreement

In July 1998 ACEA (the European Automotive Manufacturers Association) made a voluntary Commitment to reduce new car CO₂ emissions, with an environmental agreement between ACEA and the Commission being finalised in early 1999. The central ACEA commitment is to reduce its new car fleet average from 186g CO₂/km in 1995 to 140g/km by 2008 -- this represents a 25% reduction. This 140g/km target will mainly be achieved by technological developments and market changes linked to these developments.

Good results are already being produced; the average CO₂ emissions of ACEA's new car fleet reduced from the 186g/km 1995 baseline to 174g/km in 1999 (a 6% cut). This CO₂ performance is totally consistent with achieving a 2003 indicative range of 165-170g (another element of ACEA's Commitment), and the 2008 central commitment.

Another significant aspect of its voluntary Commitment is ACEA's pledge to review, in 2003, the potential for additional CO₂ reduction towards 120g/km by 2012. Here the prospects for the development of new breakthrough technologies will be an essential ingredient.

7.2. Voluntary commitments for electrotechnical products

The following EU-wide agreements were developed in collaboration between the European Commission and industry :

- ?? Voluntary Commitment on reducing energy consumption of household dishwashers (European Committee of Domestic Equipment – CECED)
- ?? Voluntary Commitment on reducing standing losses of domestic electric storage water heaters (CECED)
- ?? Voluntary Commitment on washing machines (CECED)
- ?? Voluntary Commitment by the consumer electronic industry on reducing the energy consumption of audio products in stand-by mode (European Association of Consumer Electronics Manufacturers – EACEM)
- ?? Voluntary Commitment on electric motors (European Committee of Manufacturers of Electrical Machines and Power Electronics – CEMEP)

7.3. The Belgian Approach to Long-term Agreements

Some sectors have proposed to conclude a long-term agreement on improvement of energy efficiency since 1996, e.g. the paper industry, as an alternative to European or national energy/CO₂ taxation schemes. Recently, Belgian authorities have become positive towards such agreements so that some sectors are now engaged in the negotiation of sectoral agreements at regional level. Two different approaches are adopted in the two different regions concerned :

- ?? In Wallonia, a first approach consists of a commitment on the improvement energy efficiency (% of reduction of specific primary energy consumption) over a certain period of time (2000 – 2010) The principle of a tax exemption is supported by the Walloon authorities.
- ?? In Flanders, a benchmarking approach is proposed by the authorities. In this approach which is very similar to the present Dutch bench-marking approach, large companies are invited to compare themselves with the top of the world (as far as energy efficiency is concerned) and to reach this top within a fixed period (2002 – 2012). The principle of a tax exemption is also supported by the Flemish authorities.

7.4. The French Approach to Long-term Agreements

There is a long history of French industry initiatives to increase energy efficiency either by purely voluntary actions or in co-operation with the specialised government agency (AFME before, ADEME now). Examples are given of six sectors, namely, the aluminium industry, the glass industry, the cement industry, the steel industry and the chemical industry.

It can be added that French industry is ready to enter into long-term agreements (LTA) with the government for the period 1990-2012. These LTA's would fix targets (either absolute or specific) and must be accompanied by the opening of an emissions trading system.

7.5. The German Approach to Long-term Agreements

Agreement on Climate Protection between the Government of the Federal Republic of Germany and German Business

In 1995, German industry undertook a voluntary pledge to reduce its specific CO₂ emissions or specific energy consumption on a voluntary basis by up to 20 % by the year 2005 (1987

as a base). The declaration covered more than 70 % of industrial final energy consumption and industrial electricity generation. It covers a great part of the energy utilities supplying final energy to households and to minor consumers.

German industry's global warming prevention declaration quickly became the object of criticism, which led to the updating of the objectives in March 1996 and to making the commitment firm. Another innovation consisted in the further establishment of a CO₂ monitoring scheme. The first monitoring report was presented to the public for the first time in Kyoto 1997. The second report was submitted in 1999, the third report has been published in December 2000.

Since 1990, industry's CO₂ emissions have been cut by 47 million tonnes and a cut of 31 million tonnes has been achieved in the public electricity supply sector. Thus between 1990 and 1998 energy-induced CO₂ emissions dropped by 27 % and by 17 % in industry and the energy sector respectively.

The new Agreement on Global Warming Prevention of German Business was signed in November 2000. German Business commits itself to reduce the specific emissions of all six greenhouse gases (CO₂, CH₄, N₂O, SF₆, HFC and PFC) by a total of 35 % by the year 2012 as against 1990. In connection with this, German Business agrees to make additional efforts to achieve a specific reduction in CO₂ of 28 % as compared to 1990.

7.6. The Dutch Approach to Long-Term Agreements

Since 1992, some 30 long term agreements (LTAs) on energy efficiency have been contracted by industry and 14 with other sectors as part of energy conservation policy. LTAs are voluntary agreements between the Ministry of Economic Affairs and a particular business sector.

Each branch committed itself to improve its energy-efficiency by around 20%, compared to the 1990 levels, by the year 2000. Individual companies drafted energy efficiency plans as a means of meeting this target. The energy efficiency target (as percentage) was based on an inventory or evaluation of possible or potential energy savings within the sector (carried out under supervision of NOVEM).

Companies' main obligations include to draw up an energy-efficiency plan for every site, to monitor the progress of their energy-efficiency programs, and to submit an Annual Report on energy-efficiency to NOVEM. The Ministry of Economic Affairs undertook to make available an appropriate package of financial incentives for the duration of the agreement.

The annual study on the results of the LTAs showed that the industrial sectors had reached an energy efficiency improvement in 1999 of 20,4%, hence the target for 2000 had already been achieved in 1999.

Since most LTAs expired at the end of 2000, in November 1999 energy-intensive sectors and the government concluded the so-called "benchmarking agreement". Through this agreement (or covenant) energy-intensive industries pledge to be among the world leaders in terms of energy efficiency for processing installations by no later than 2012. In exchange, the government agreed not to impose any extra specific national measures governing energy conservation or CO₂ reduction on the participating companies.

The participating companies will have to set this level themselves, with the help of an independent consultant, by means of an international benchmark. Dutch plants will need to individually measure themselves against the average energy efficiency of the best region in the world or with the best 10 per cent of the globally structured installations. If it is impossible to define the world leader, a best practice-approach will be used to define the world lead.

7.7. The British Approach to Long-term Agreements

The climate change levy (CCL) will be a tax on the use of energy in industry, commerce and the public sector, with offsetting cuts in employer's National Insurance Contributions (NICs) and additional support for energy efficiency schemes and renewable sources of energy. To be introduced from April 2001, it will apply to the use of gas and coal, liquified petroleum gases and electricity.

The Government recognised the need for special consideration to be given to energy intensive industries. The Government agreed to provide an 80% discount from the levy for those sectors (defined under PPC – Pollution Prevention and Control law) deemed 'energy intensive' in return for reductions in carbon emissions or improvement of their energy efficiency. There are ten major sectors covered in the first wave of the negotiated agreement process, such aluminium, cement, pulp and paper, chemicals, glass, non-ferrous metal etc. In addition, the Department of Environment, Transport and the Regions (DETR) is negotiating with a number of other second wave sectors such as distillers and textiles.

In order to meet the targets, companies and sectors can either increase energy efficiency through the implementation of new technologies and initiatives or acquire carbon permits (which will be converted from carbon equivalent permits to kWh per unit of output) from an emissions trading scheme. Agreements are expected to be signed by November 2000 although a number of issues require further clarification and resolution.

8. Lessons to be drawn

8.1. Benefits

Long-term agreements offer a promising alternative to traditional 'command and control' approaches, by providing flexibility and proactive commitment by the industry. They properly reflect the principle of shared responsibility, and as such are a step towards sustainable development.

1. Encouragement of a constructive approach

In the regulatory approach, industry is often involved at a late stage, which is likely to lead to a defensive attitude on their part.

The dialogue and negotiations prior to the conclusion of the agreement leads to an improved **common understanding** of environmental problems and help to shape sensible environmental policies. It also helps to improve the necessary dialogue between authorities and industry and therefore facilitates the resolution of conflicts.

Industry's involvement in negotiations prior to establishing an agreement, force companies to **think as a sector** about the most cost-effective solutions and how the sector should present itself publicly. It also promotes involvement of companies and their personnel in the policy objectives concerned.

Industry's compliance with an agreement is likely to be the greater since the industry has committed itself voluntarily and publicly. Similarly, the fact that compliance with EU directives is a common concern highlights the limits of regulatory approaches. In this respect, agreements offer an interesting alternative.

2. Cost Effectiveness and Flexibility

Long-term agreements set overall targets, but leave the freedom to industry at company or sectoral levels to decide on how best to reach these targets. This ensures that industry is able to apply the most **cost-effective solutions** according to its specific situation. Flexibility encourages creative solutions and technological innovation in tackling problems.

Agreements can also facilitate permitting procedures by leaving more freedom to industry.

Agreements are efficient through their **specificity**: they sometimes concern very technical issues, which are specific to the sector. In this respect, target oriented solutions are often more cost and environmental efficient.

The search for cost-effective solutions is encouraged to take place:

- ?? At sectoral level: companies are motivated by agreements to share their efforts according to the characteristics of each company/site so as to optimise investments;
- ?? At company level: individual companies will be motivated to define their own most cost-efficient investments.

Authorities can grant some incentives e.g. to small and medium-sized enterprises or capital intensive industries, provided there is no distortion competition in the single market. These incentives can for example consist of

- ?? adopting certain parallel measures, such as measures the availability of certain types of energy;
- ?? co-financing studies aiming at a better knowledge of a given sector/issue;
- ?? Financing information, research and development or training projects.

Agreements are also cost-effective for authorities for:

- ?? the search for and definition of solutions;
- ?? monitoring especially if carried out by industry;
- ?? data collection;
- ?? time gained by negotiation and implementation of the agreement compared with that needed regulate.

3. Long-term Targets and Faster Achievement

Agreements are attractive to both authorities and industries because they are based on long-term targets, allowing for environmental and business planning, since authorities in principle agree not to adopt legislation on the same objective as the agreement (foreseeable character).

The legislative process is often very long. In some cases, for example, when the number of companies involved is relatively small, the conclusion of an agreement can be considerably quicker. It usually takes some four years between the first draft proposal for an EU directive being issued and the time it is adopted and transposed into national law. Once it is transposed the directive still has to be implemented.

8.2. Issues

Several issues need to be addressed:

- the role of the different institutions;
- the legal status of long-term agreements;
- the scope of agreements;
- the relationship between national and EU agreements;
- establishing credibility with other stakeholders.

9. EU-Wide Agreements

9.1. Are EU-wide agreements feasible in the short future ?

a) Process industries

It must be recognised that past and present national energy and other policies have led to different situations between the EU Member States. This presents an obstacle to undertaking an EU-wide agreement including quantified targets. However, a long-term agreement can be a two-level process. The framework to set the rules and measures (e.g. monitoring) that apply to the industry as a whole can be defined at EU level, while the quantified targets and detailed conditions are most likely to be defined at national level, taking account of specific national situations.

b) Products

As shown in points 7.1 and 7.2 above, a number of EU agreements were developed on products (cars, electrical and electronic equipment, detergents, ...). Because of internal market considerations, these types of agreements can only be at European level. It has to be noted that, at present, there is no clearly established European political procedure for the endorsement of EU-wide agreements on products. In fact, the agreements on products were acknowledged under different forms by the European Commission.

In the car industry, some key reasons made it possible to conclude an EU-agreement including the fact there are few and large players which are international companies and the fact that the targets agreed with ACEA will interact with emission limits for cars that are regulated at EU level for the single market. In the electrotechnical sector, the following conditions played a key role in the development of agreements : the existence of a limited number of players representing a large share of the market and the possibility to establish quantitative measurable targets, open to public scrutiny.

9.2. Subjects on which an EU-wide agreement seems to be possible

- ?? Monitoring of some emissions
- ?? Reduction of the use of some substances
- ?? Energy efficiency
- ?? Collection of data

10. Links between Long-term Agreements and Other Instruments

The cost-effective use of agreements should be part of a policy mix, with the interaction of the policies and measures carefully considered.

In the past, these considerations have often been lost from view. For instance, the public authorities have taken an interest in certain economic instruments such as taxes, which represent a tool which is less effective, efficient and predictable than agreements. Wherever taxes are under consideration, which would result in high economic impacts due to strong international competition, it is difficult to conceive that parties to an agreement would not be exempt from the tax, this being necessary to ensure that finance is not diverted away from investment to meet the agreed objectives of lower emissions and improved efficiency.

UNICE has already often had occasion to highlight the major weakness of energy/CO₂ taxes as instruments for improving industrial energy efficiency, and this is one of the reasons why it supports long-term agreements and a series of other measures.

Today's climate change policies, for example, ought to select from a series of instruments, using each of them in the most appropriate way, to ensure cost and environmental effectiveness. In this way companies can be encouraged to make optimum choices and the international competitiveness of industry sectors can be protected and improved. Also for European Voluntary Agreements it is necessary to provide a connection with other complementary instruments that, by their nature, have more relevance at national level, e.g. incentives, tax credits.

Agreements must not impose an uneven burden sharing at EU level, which would make competition difficult for some sectors in some areas. Applied appropriately, agreements may in fact help address some of the difficulties of the need for a level playing field in the Community.

11. Conclusions

UNICE believes that long-term agreements are the most cost-effective tools for improving energy efficiency and to help reach the Kyoto targets, because:

- ?? they are cost-effective – companies are most suited to define the most cost-effective measures and agreements have a light administrative burden sufficient to monitor delivery;
- ?? they deliver quickly – much more rapidly than legislation would do and
- ?? they encourage commitments by all parties within industrial sectors - scope for agreements is part of promoting a proactive attitude by companies and associations that will promote best practice, and help underpin compliance.

Agreements also offer the advantage of allowing long-term planning for both authorities and business.

UNICE acknowledges that most existing operational agreements are at national level, as part of Member States implementing policy. EU agreements are particularly appropriate when commitments made (e.g. ACEA on CO₂ emissions from cars) interact with achieving harmonised single market standards. This does however not mean that EU agreements are not possible. One can for example imagine an EU-wide agreement setting a framework and monitoring scheme to support and complement the national agreements. Energy efficiency agreements may be appropriate at Community level for some industry sectors, especially relatively coherent energy intensive sectors. EU framework agreements can also be helpful to encourage a consistent approach in industry sectors across Member States, minimising potential market barriers.

UNICE strongly believes that agreements should be one of a mix of policies, with interactions carefully considered. Agreements have the potential to deliver more predictably than fiscal instruments by setting agreed targets, rather than just prices.

The following examples of national agreements show how different agreements can be but also how existing agreements have already delivered significant results.

12. Examples of Long-term Agreements – Detailed description

12.1. The ACEA EU Long-term Agreement

In July 1998 ACEA (the European Automotive Manufacturers Association) made a voluntary Commitment to reduce new car CO₂ emissions, with an environmental agreement between ACEA and the Commission being finalised in early 1999. The central ACEA commitment is to reduce its new car fleet average from 186g CO₂/km in 1995 to 140g/km by 2008 -- this represents a 25% reduction. This 140g/km target will mainly be achieved by technological developments and market changes linked to these developments; more specifically, European manufacturers have high expectations for direct injection gasoline and diesel engines.

ACEA's Commitment is extremely ambitious, both technically and economically, and goes far beyond any "business as usual" scenario. It demonstrates the seriousness with which the European industry takes its environmental responsibilities, with manufacturers gearing resources to attain the collective 140g/km target. The Commitment is based on: the full availability of fuels of sufficient quality to enable application of needed technologies; equivalent reduction commitments by competitors; unhampered diffusion of CO₂-efficient technologies; and the acceptance of innovative vehicle concepts.

Despite being extremely demanding, the European industry favoured the voluntary approach, not least because it provided the flexibility needed to preserve the rich diversity of product offering within Europe's car industry -- for the benefit of customers and the European economy. Further the auto industry has to establish its product plans many years in advance, and a stable CO₂ vision is an essential ingredient.

Good results are already being produced; the average CO₂ emissions of ACEA's new car fleet reduced from the 186g/km 1995 baseline to 174g/km in 1999 (a 6% cut). This CO₂ performance is totally consistent with achieving a 2003 indicative range of 165-170g (another element of ACEA's Commitment), and the 2008 central commitment.

ACEA's Commitment is at the heart of the Community's overall strategy to reduce CO₂ emissions from cars, and will provide a very substantial contribution to EU emission reductions of greenhouse gases needed to comply with the Kyoto commitment. A Commission/ACEA brochure on the car CO₂ agreement states that *"the achievement of ACEA's CO₂ emission target for all new cars sold in the EU will contribute about 15% of the total emissions reductions required from the EU under the Kyoto Protocol"*. The emissions base case developed in the Auto-Oil II programme shows that reductions of this magnitude will allow a stabilisation of road transport CO₂ emissions by 2004-2005.

Another significant aspect of its voluntary Commitment is ACEA's pledge to review, in 2003, the potential for additional CO₂ reduction towards 120g/km by 2012. Here the prospects for the development of new breakthrough technologies will be an essential ingredient. The European industry has therefore launched a CO₂ R&D Programme, with wide participation from across the sector's research base (car manufacturers, suppliers, research establishments, universities), to identify, develop and demonstrate new technologies and system concepts enabling reduction of CO₂ emissions from vehicles. To ensure effective delivery of sustainable reductions, this Programme now needs to receive fuller, more active support and co-operation from Community and national research programmes.

Although there is strong evidence that the central 140g/km commitment in 2008 will be achieved, there are still "external factors" that could blow achievement off-course. The main risks are seen to be:

1. The non-full market availability of fuels with a sufficient quality to enable the application of technologies needed for the industry to achieve its CO₂ commitment.
2. New legislative measures -- such as on safety, emissions, noise or recycling -- that often offset fuel efficiency gains by imposed "mutually exclusive" demands, or undermine the European industry's financial viability.
3. The introduction of measures which might hamper the diffusion of the CO₂ efficient technologies.

12.2. The Belgian Approach to Long-term Agreements

Some sectors have been proposing to conclude a long-term agreement on improvement of energy efficiency since 1996, e.g. the paper industry, as an alternative to European or national energy/CO₂ taxation schemes. Recently, Belgian authorities have become positive towards such agreements so that some sectors are now engaged in the negotiation of sectoral agreements at regional level. Two different approaches are adopted in the two different regions concerned :

- ?? In Wallony, a first approach consists of a commitment on the improvement energy efficiency (% of reduction of specific primary energy consumption) over a certain period of time (2000 – 2010). Deep energy audits are at the base of this approach. The committed potentials of energy savings at enterprise level are to be summed up in a sectoral objective. These energy audits, financially supported by the regional authority, have started. The conclusion of the sectoral agreement is foreseen for early 2001. The principle of offering tax exemptions is supported by the Wallonia authorities.
- ?? In Flanders, a benchmarking approach is proposed by the authorities. In this approach, which is very similar to the present Dutch benchmarking approach, large companies are invited to compare themselves with the top of the world (as far as energy efficiency is concerned) and to reach this top within a fixed period (2002 – 2012). The application of this approach in the Belgian context is being currently discussed. The principle of applying tax exemptions is also supported by the Flemish authorities.

This principle of the tax exemption for sector committing themselves to such voluntary sectorial agreements is not only recognised by the regional authorities but also by unions and environmental NGO's which reached a consensus on this issue with the employers' organisation within the Federal Council for Sustainable Development.

12.3. The French Approach to Long-term Agreements

There is a long history of French industry initiatives to increase energy efficiency either by purely voluntary actions or in co-operation with the specialised government agency (AFME before, ADEME now).

Hereafter the examples will be restricted to 6 sectors where recent actions have taken place.

1/ Aluminium

Between 1990 and 2000, Aluminium Pechiney's voluntary commitment is equivalent to a 34% decrease in its absolute emissions of greenhouse gases while on the same period the production increase of 30%.

Other elements of the Aluminium Pechiney commitments over the period 1990-2000 have been:

- Reduction of 2% of the specific electricity consumption.
- Reduction of 7% of the specific use of thermal energy.
- Reduction of 19% of specific CO₂ emission.

2/ Steel

For the period between 1990 and 2000, the French Steel Federation has pledged to:

- reduce its specific energy consumption by 11%,
- Reduce specific CO₂ emissions by 16% (corresponding to a 12% absolute reduction on the basis of current production forecasts).

This will be achieved by:

- restructuring production, notably by increasing the volume of recycled steel
- improved process control (higher ore yields, hot charging, etc)

It may be reminded that specific energy consumption fell by 41% between 1950 and 1990.

3/ Cement

For the period between 1990 and 2000, the French cement industry has pledged to:

- achieve a 25% reduction in total CO₂ emissions resulting from fossil fuel consumption,
- achieve a 10% reduction in emissions per ton of manufactured cement

To attain this objective, the French cement industry will grasp all available opportunities, namely:

- the use of best available technologies when upgrading cement production plants,
- increased use of substitute fuel, since cement kilns provide a very efficient means to recover energy from waste,
- Optimisation of cement composition.

The energy required producing a ton decreased by 22% between 1970 and 1990.

4/ Lime

During the 1990-2000 period, the fat and magnesium lime works are committed to reduce their CO₂ emissions per ton of quick lime produced, by 5%.

5/ Glass

For the period between 1990 and 2005, the French packaging glass industry has pledged to reduce CO₂ emissions by 27% per unit volume of manufactured packaging through combined efforts in all areas:

- a recycling target of 75% for packaging glass by the year 2002,
- energy conservation (gradual replacement of less efficient furnaces still in service), technical improvements,
- Rational use of energy sources.

In the year 2000, specific CO₂ emissions by the French glass industry will be three times lower than in 1960.

For the 5 examples above, concerning commitments by the aluminium, steel, cement, lime and glass industry, the targets have been discussed with the French Ministry of Environment and the commitments have been made official and public in documents signed by the Ministry of Environment and the relevant industry or industrial sector. Monitoring is on a yearly basis.

6/ Chemical

Between 1980 and 1990, the French chemical industry decreased its specific energy consumption by over 30%. Moreover, she is a partner inside the European Chemical Industry Council (CEFIC) of the Voluntary Energy Efficiency Programme (VEEP 2005) which is a commitment by the chemical sector to reduce its specific energy consumption by 20% between 1990 and 2005.

In addition, RHODIA has committed to reduce its GHG emissions (6 gases) by 30% in 2010 compared to 1990. This is accomplished in good part through reductions in N₂O emissions.

It can be added that French industry is ready to enter into Voluntary Negotiated Agreements (VNA) with the government for the period 1990-2012. These VNA's would fix targets (either absolute or specific) and must be accompanied by the opening of an emissions trading system.

12.4. The German Approach to Long-term Agreements

Agreement on Climate Protection between the Government of the Federal Republic of Germany and German Business

1. Basis

German industry's declaration on global warming prevention is the most comprehensive and politically the most important case of the application of a voluntary undertaking in Germany. It thus has a key role for the application of voluntary instruments in general.

The first conference of the parties contracting to the UN Framework Convention on Climate Change in Berlin in 1995 was the occasion for German industry to undertake a voluntary pledge to reduce its CO₂ emissions or its energy consumption. Industry agreed to undertake special efforts on a voluntary basis in order to reduce its specific CO₂ emissions or specific energy consumption by up to 20 % by the year 2005 (taking 1987 as a base). With this agreement, industry shouldered its share of the responsibility which Germany as a whole had taken upon itself within the framework of its national climate policy.

This offer of a voluntary, quantified achievement in global warming prevention was naturally linked with the expectation that the government would consequently forego "compulsory measures". Through the politically binding declaration "acceptance" of this voluntary undertaking by the German government, it took on the more expanded character of a solid agreement.

The spectrum of the obligations summed up in the framework of German industry's global warming prevention declaration ranges from such differing industrial areas as the potassium industry, the iron industry, chemical industry or the textiles industry to enterprises in the gas sector, municipal enterprises or public electricity utilities. It thus offers a common roof covering a variety of concrete and completely different individual achievements and unites them into a clear political commitment.

The declaration covers more than 70 % of industrial final energy consumption and industrial electricity generation. It covers a great part of the energy utilities supplying final energy to households and to minor consumers.

2. Further development since 1995

The decision by the German government to dispense with more far reaching measures was in no small way responsible for imposing a considerable pressure of legitimacy on what is so far the most comprehensive and politically most important example of a voluntary pledge. It comes therefore as no surprise that German industry's global warming prevention declaration quickly became the object of both objective criticism and of some attacks that were violently polemical. This led to the dynamic further development of the undertaking since 1995.

Perhaps more than any other voluntary agreement, German industry's global warming prevention declaration shows that voluntary pledges are not rigid agreements which must remain sacrosanct for years but must rather adjust to

- changes in overall political conditions
- changes in scientific findings
- Growing insights into the capacity of enterprises.

The first central stage in the process of carrying forward German industry's global warming prevention declaration came in March 1996 with the updating of the objectives. In line with international practice, 1990 was adopted as the base year for the cutting of emissions.

Moreover, the phrase "up to" was deleted so that now a firm commitment has been given for the reduction of the specific CO₂ emissions or energy consumption of 20 %.

In addition, part of the individual declarations on which the undertaking is based were made more concrete with absolute minimum obligations being written into them.

The second major innovation in the further development of the voluntary undertaking was the establishing of CO₂ monitoring. Its goal is to scrutinise at yearly intervals the progress achieved under the pledge with a view to the overall objective. Acting in concert, German industry, the Ministry for the Environment and the Ministry for Economics agreed to commission the Rhineland-Westphalia Institute for Economic Research (RWI) with the implementation of monitoring.

3. Success achieved

The RWI's first monitoring report was presented to the public for the first time in Kyoto 1997. The RWI's second report has been submitted in 1999, the third report is to be published towards the end of the year 2000. They record the development observed in the years 1997 and 1998. They make clear that the reductions in impact on the climate for which industry is responsible are not merely the automatic consequences of macro-economic development but the result of targeted technical measures and of the management of energy consumption.

Even in a changed political setting, the German federal government has recognised the voluntary commitment of industry over the past years. Industry continues to play the control role in fulfilling Germany's pledges on climate policy.

The present German government also recognises that since 1990 industry's CO₂ emissions have been cut by 47 million tonnes and a cut of 31 million tonnes has been achieved in the public electricity supply sector. Thus between 1990 and 1998 energy-induced CO₂ emissions dropped by 27 % and by 17 % in industry and the energy sector respectively. The German government gives explicit recognition to the substantial contribution that German industry's declaration on global warming prevention has made to this success.

4. Latest Developments

In view of the conclusions of the monitoring reports of 1997, 1999 and 2000, as well as of European and international undertakings for the implementation of the Framework Convention on Climate Change and the Kyoto Protocol, the Federal Government and German Business held talks on the further development of the Declaration on Global Warming Prevention of German Business starting in early 2000. The two parties agreed to put the declarations, unilateral at present, on a joint basis and thus to emphasise the validity of the commitments for both parties.

In the new "Agreement on Climate Protection between the Government of the Federal Republic of Germany and German Business" as of November 9, 2000 German Business renews and emphasises its commitment to continue making particular efforts to reduce its specific CO₂ emissions as well as other greenhouse gas emissions. With a view to the objectives of the Kyoto Protocol, German Business enlarges its commitment and declares itself prepared, in the sense of this agreement, to reduce the specific emissions of all six greenhouse gases referred to in the Kyoto Protocol (CO₂, CH₄, N₂O, SF₆, HFC and PFC) by a total of 35 % by the year 2012 as against 1990. In connection with this, German Business agrees to make additional efforts to achieve a specific reduction in CO₂ of 28 % as compared to 1990. These reduction targets are valid on the basis of the methods of calculation used by the jointly authorised neutral monitor (RWI) including the assumptions made in this respect. The Federal Government has signed this new agreement viewing it as central building block of its national climate protection programme.

Naturally, from industry's point of view, the future of the new agreement will depend on the extent to which it continues to be viewed as a recognised alternative to other political instruments. The federal German government has made it clear that it is prepared to forego additional environmental statutory regulation for as long as German Business' climate protection agreement is successfully implemented and is further developed jointly by both government and industry. Furthermore, the federal government regards the concessions granted to industry under the first stage of its ecological tax reform as implying recognition of the achievements brought about by the voluntary undertaking.

12.5. The Dutch Approach to Long-Term Agreements

Since 1992, long term agreements (LTAs) on energy efficiency have been contracted for industry and other sectors (agriculture, commercial and non-profit services and energy conversion sectors) as part of energy conservation policy. LTAs are voluntary agreements between the Ministry of Economic Affairs and a particular business sector regarding efforts to improve energy efficiency by a specific percentage within an agreed period. Since 1992, a total of 30 LTAs have been contracted with industry and 14 with other sectors.

All these agreements are very similar in content. The agreement contains obligations at two levels. Each branch has committed itself to improve its energy-efficiency by around 20%, in comparison to the 1990 levels, by the year 2000. The individual companies within the branch will draft energy efficiency plans as a means of meeting this target.

The procedure for drafting the agreements is as follows:

Parties to the agreement

?? the Minister of Economic Affairs;

?? sector Associations;

?? individual companies;

?? NOVEM (Netherlands Agency for Energy and the Environment).

An agreement is concluded between the Minister of Economic Affairs and an industrial sector. The Ministry only concludes an agreement if the majority of companies within a particular sector are prepared to subscribe to it.

NOVEM is an independent organisation which implements the energy-efficiency policy for the industrial sector in general on behalf of the Dutch Ministry of Economic Affairs. It does so by assisting and advising companies that are looking for ways to cut their energy consumption. It also helps to monitor the progress of energy saving programmes.

Content of the agreement

A long term agreement contains an energy-efficiency target for a specified sector, based on an inventory or evaluation of possible or potential energy savings within the sector (carried out under supervision of NOVEM). This is followed by a series of measures by which the companies concerned will seek to achieve the target. The agreement also provides for a system by which the progress of the energy conservation programmes can be monitored.

Target and duration

The target for a particular sector is given as the percentage by which it has to improve its energy-efficiency by the year 2000, this when compared to the 1989 level. The targets vary for each sector, but are mostly in the region of 20% by the year 2000.

Obligations on companies

Companies subscribing to a long term agreement take on the following obligations:

- to draw up an energy-efficiency plan for every site. The company's energy plan describes in detail the measures the company will enforce the next four years. This energy plan is confidential, only NOVEM receives this information;
- to monitor the progress of their energy-efficiency programs, and to submit an Annual Report on energy-efficiency to NOVEM. The total result of all the energy-efficiency improvements in the companies has to meet the target of sector as a whole. This result is made public in the Annual Sector Report.

The contribution of every individual company to a sector objective can vary per company, this as a result of differences in current efficiency and the potential for improvement. In short, if the sector target is 20%, not every company has this same target.

Monitoring

Each year companies are required to submit information to NOVEM on their energy consumption, their energy-efficiency improvement and the main projects and measures implemented.

Obligations on the part of the Minister of Economic Affairs

When concluding a long-term agreement, the Ministry of Economic Affairs undertakes to make available an appropriate package of financial incentives for the duration of the agreement.

- the industry programmes drawn up by NOVEM for evaluation and projects in the field of R&D;
- a scheme to assist demonstrations of new energy conservation technologies;
- a scheme under which companies can obtain financial support to cover energy conservation consultancy activities;
- a subsidy scheme for investments in new energy conservation techniques, such as heat pumps.

Results

The annual study on the results of the LTAs showed that the industrial sectors had reached an energy efficiency improvement in 1999 of 20,4%, hence the target for 2000 had already been achieved in 1999. An evaluation study of the University of Utrecht also showed increased awareness and motivation amongst business for energy conservation and 30 to 50% of achieved energy efficiency could be attributed to the agreement, the rest was autonomous.

New developments

Most of the LTAs expired at the end of 2000 and it was decided between government and industry that a distinction should be made between large energy intensive industry and smaller and medium sized companies with high energy use. For the former one a so-called Benchmark Agreement was drafted for the latter one the LTA was adapted to new developments.

LTAs beyond 2000

Negotiations between government and industry are still going on, but the outlines are more or less clear yet:

- ?? the structure of the LTA before 2000 with respect to parties, monitoring, reporting will be continued. However the LTAs will have more individual commitments for companies;
- ?? the energy efficiency target in percentages will be replaced by the obligation to take all measures with a payback period of 5 years;
- ?? the obligation to increase process energy efficiency can be phased out by energy savings measures through recycling, low energy product design, transport and logistics, cooperation on industrial sites and cooperation between suppliers and customers and the use of renewable energy sources;

It is still in discussion if the possibility of emissions trading will be built in in the LTA.

Benchmark Agreement

On 6 July 1999, the Dutch government concluded the Energy Efficiency benchmarking Covenant with industry. In it, the energy-intensive industry pledges to be among the world leaders in terms of energy efficiency for processing installations by no later than 2012. In exchange for this undertaking, the government has agreed not to impose any extra specific national measures governing energy conservation or CO₂ reduction on the participating companies.

Parties

The covenant was signed by:

- ?? The Ministers of Economic Affairs and of the Environment
- ?? The Inter-Provincial Consultative Forum (IPO) on behalf of the provinces.
- ?? Industry is represented by the VNO-NCW Confederation of Netherlands Industry and Employers and by sectoral organisations from various industrial sectors and the electricity production sector.

Companies affiliate themselves to the covenant by means of a Declaration of Participation. All the companies located in the Netherlands can join the covenant, provided they operate premises (locations) with an energy consumption of at least 0.5 Peta Joules per year.

Target

Companies taking part in the covenant enter into a highly ambitious undertaking: they pledge to make be among the world leaders in energy efficiency. The participating companies will have to set this level themselves, with the help of an independent consultant, by means of an international benchmark. In doing so, they will compare their processing plants in the Netherlands with similar plants abroad. The Dutch plants will need to individually measure themselves against the average energy efficiency of the best region in the world or with the best 10 per cent of the globally structured installations. The world lead must be redefined every four years. It will not be possible in every case to do this using a benchmark. In such cases, a best practice-approach will be used to define the world lead. The participating companies must be among the world leaders as soon as possible, but by no later than 2012. Companies indicate in an energy efficiency plan how and when this will happen. The covenant contains criteria governing the rate of investment. Companies must begin by taking the most cost-effective measure, followed by measures that are less cost-effective. If after

this they have not reached the world lead, they can from 2008 onwards also use flexible instruments such as emissions trading, etc.

The appropriate authority will evaluate the energy efficiency plan. Once it has been approved, it will be incorporated into the environmental license. This plan must be reviewed every four years, when the world lead is redefined.

Supervision and monitoring

Effective supervision is crucial for the implementation of the covenant. The Benchmarking Committee is responsible for overall implementation. This Committee contains representatives of all the participating players.

The Benchmarking Verification Bureau has been specially established to monitor the practical aspects of the covenant. This independent bureau verifies for each company all the different stages in the benchmark process. For example, the bureau checks whether the definition of the world lead is adequately underpinned and whether the energy efficiency plan has been properly put together. The bureau also issues advice on this to the participating company and to the competent authority.

Obligations of the government

In exchange for this, the Dutch government agrees to make a reciprocal effort. This involves the Ministers of Economic Affairs and of the Environment ensuring that:

- ?? No supplementary national policy governing CO₂ reduction or energy conservation is imposed on these companies. Hence the government will for example not introduce any new efficiency or CO₂ targets or fix a CO₂ ceiling for the participating companies;
- ?? The costs arising from the obligations of the Dutch government in the field of the Joint Implementation or the trade in emission rights will not be charged directly to the participating companies.

More information can be found on www.benchmarking-energy.com

AGREEMENTS ON ENERGY EFFICIENCY
IN THE NETHERLANDS

Sector	Long Term Agreement 1990-2000		2000-2010	
	contracting date	target improvement	Benchmark Agreement	Long Term Agreement
Steel	1992	20	X	
Cement	1992	21	X	
Textile	1992	20		X
Calcium-silicate brick	1992	23		X
Glass	1992	20	X	
Greenhouse horticulture	1993	50		X
Paper and cardboard	1993	20	X	
Margarine, fats and oil	1993	22		X
Sugar	1993	20	X	
Meat processing	1993	20		X
Breweries	1993	27	X	
Fruit and vegetable processing	1993	16,5 15	X	X
Non-ferrous metals	1993	20		
Construction ceramics	1993	20	X	X
Chemicals	1994	20		X
Industrial laundries	1994	20		X
Dairy industry	1994	19		X
Coffee-roasting plants	1994	20		
Fine-grained ceramics	1994	20		X
Rubber processing	1995	10	X	
Oil refineries	1994/1996	30		
Institutions for training	1996	28		
Chilling and freezing houses	1995	20		X
	1995	20		X
Surface treatment plants	1994	20		X
Asphalt industry	1995	16		X
Plastic and rubber processing	1994	30		X
	1996	20		X
Iron foundries	1996	20	X	
Institutional health care	1996	21		
Carpet industry	1996	25		X
Potato-processing	1993-1996	20-28	X	X
Soft drink industry				
Banking sector	1996	20	X	X
Individual companies	1998	20		X
(Philips,	1998	18		X
KLM, Schiphol Airport,	1998	23		X
Rank Xerox, etc.)	1998	22		X
Oil and gas-exploration				
Mushroom				
Cocoa				
Insurance sector				
Flower bulbs				

12.6. The British Approach to Long-term Agreements

Introduction

The climate change levy (CCL) will be a tax on the use of energy in industry, commerce and the public sector, with offsetting cuts in employer's National Insurance Contributions (NICs) and additional support for energy efficiency schemes and renewable sources of energy.

To be introduced from April 2001, it will apply to the use of gas and coal (at a rate of 0.15p/kwh), liquified petroleum gases (0.07p/kwh) and electricity (0.43p/kwh).

Negotiated Agreements

As part of the process, the Government recognised the need for special consideration to be given to energy intensive industries, given their energy usage. As such, the Government agreed to provide an 80% discount from the levy for those sectors deemed 'energy intensive' in return for the completion of challenging targets for improving their energy efficiency or reducing carbon emissions.

The definition of an 'energy intensive' sector is one which operates processes which will be covered by Parts A1 or A2 of the Pollution Prevention and Control (PPC) Regulations (England and Wales). This applies throughout the UK and has been chosen because sites operating Part A PPC processes are subject to a legal requirement to use energy efficiently. Small sites which fall below PPC size thresholds (with the exception of combustion plant with a thermal output of 50MW or less), but would otherwise be covered by the proposed regulations, will also be eligible for the relevant sector agreement.

Coverage

There are ten major sectors covered in the first wave of the negotiated agreement process.

These include:

- ?? Aluminium
- ?? Cement
- ?? Ceramics
- ?? Chemicals
- ?? Food & Drink
- ?? Foundries
- ?? Glass
- ?? Non-ferrous metals
- ?? Paper
- ?? Steel

In addition, the Department of Environment, Transport and the Regions (DETR) is negotiating with a number of other second wave sectors which include microelectronics, lime, distillers and textiles. A full list of the sectors is included in the Annex to this paper.

Process

Energy Intensive sectors which agree energy or carbon saving targets will be eligible for an 80% discount from the levy. The targets are to be based on implementing all cost-effective energy efficiency measures by 2010. A reconciliation period is expected every two years.

In order to meet the targets, companies and sectors can either:

- ?? Increase energy efficiency through the implementation of new technologies and initiatives.
- ?? Acquire carbon permits (which will be converted from carbon equivalent permits to kWh per unit of output) from an emissions trading scheme.

Agreements are expected to be signed by November 2000 although a number of issues require further clarification and resolution. These include:

- ?? Consistency with draft EU state aid guidelines on environmental protection. Despite progress in the latest draft, points of concern remain. These include a possible requirement to repay CCL discount if targets are not met.
- ?? Interaction between an emissions trading scheme and negotiated agreements. Among the issues of concern are proposals to limit ways in which companies, covered by such agreements, might use trading as a way of meeting their targets.

Pro's and Con's

Since the announcement that a climate change levy would be introduced in April 2001, UK business has lobbied hard to reduce its impact on competitiveness. By offering 80% discounts on the levy, the negotiated agreements have been seen as a useful mechanisms for ensuring that the economic costs of the levy are limited and the environmental gains defined.

Pro's

- ?? The agreements deliver energy efficiency improvements or reductions in carbon emissions (depending on the type of agreement which is agreed). These will help the Government meet it's Kyoto commitment to reduce greenhouse gas emissions
- ?? Offset the cost of the climate change levy for energy intensive sectors, which are regulated under Part A of the PPC Act.

Con's

- ?? A number of sectors have been excluded from the NA process as they are not regulated by Part A of the PPC Act. This approach is deeply flawed and is expected to lead to distortions between and within industrial sectors: 40% of energy used in manufacturing falls outside the scope of CCLAs.
 - ?? Overall, the process to negotiate targets has been a drain on resources for a number of sectors.
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Annex: List of sectors

Adhesive Tape Manufacturers' Association
Aluminium Federation
Brewers & Licensed Retailers Association
British Apparel and Textile Confederation
British Cement Association
British Ceramic Confederation
British Egg Industry Council
British Foundries Association
British Glass Manufacturing Association
British Leather Confederation
British Lime Association
British Meat Federation
British Metals Federation
British Poultry Meat Federation
British Plastics Federation
British Rubber Manufacturers Assn. Ltd
Buxton Lime Ind Ltd
Cementitious Slag Makers Association
Chemical Industries Association
China Clay Association
Confederation of British Metal Forming
Contract Heat Treatment Association
Crisp Malting Group Ltd
Dairy Industry Federation (England & Wales only)
Environmental Services Association
Eurisol
European Powder Metallurgy Association
Fertiliser Manufacturers Association
Film Coating Industry Group
Food and Drink Federation
Gin & Vodka Association
Gypsum Products Development Association
Maltsters Association of Great Britain
Metal Packaging Manufacturers Association
National Association of Master Bakers
National Council of Building Material Producers
National Farmers' Union
National Microelectronics Institute
Non-Ferrous Alliance
Northern Ireland Food and Drink Association
Packaging & Industrial Films Association
Paper Federation of Great Britain
Salt Manufacturers' Association
Scottish Dairy Association
Scotch Whisky Association
Soap & Detergent Industry Association
Society of British Aerospace Companies Ltd
Society of Independent Brewers
Society of Motor Manufacturers and Traders Ltd
Surface Engineering Association
UK Agricultural Supply Trade Association
UK Renderers Association (UKRA)
UK Steel Association
Wood Panel Industries Association