

Posted by Joan Russow  
Tuesday, 16 October 2018 08:24 -

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in November 2015 I wrote

**At COP 21 in Paris. Ban Ki Moon urged the negotiators to negotiate with a global vision not with national interests (COP 21, Press, Conference, 2015)**

**A global vision would be to address article 2 and at a minimum to immediately close the tar sands to end all subsidies for fossil fuel, to calculate the carbon budget for Canada, to divest in fossil fuels and to reinvest in renewable energy, to conserve sinks - such as old growth forests and bogs (not just as a means to offset emissions), to strengthen conservation of biodiversity, to avoid all false solutions such as nuclear, geo-engineering and biofuels which would all violate principles within the UNFCCC, promote nature-based solutions along with solar energy, wind energy, wave and geothermal and to compensate for historical emissions, and to institute a fair and just transition for workers affected negatively by the new vision and to reduce and reallocate the military budget and transfer the funds to address climate change**

**A real global vision, however, would be time lines and targets in line with existing and emerging science such as 20% below 1990 by 2018, 30% below 1990 levels by 2019, 40% below 1990 levels by 2020, 60 % below 1990 levels by 2025, 75% below 1990 below 1990 levels by 2035 and 100% below 1990 emissions by 2040, and reaching Decarbonization with 100% socially equitable ecologically sound renewable energy,**

Written in Paris when I attended COP21 2015 in November

## the Dutch Court Decision: is a Precedent to be used in a case before the Supreme Court of Canada

Posted by Joan Russow

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In July 2015 I wrote

[AnAnalysis of the Dutch Court Decision: could this be a Precedent to be used in a case before the Supreme Court of Canada?](#)

4304 readings



[Justice News](#)

Posted by Joan Russow

Monday, 06 July 2015 14:06

**Dutch case □ should influence the commitments made by Canada to COP21 in Paris. Canada sho**

By Joan Russow PHD

Global Compliance Research Project

Before COP21, The Trudeau government should make a commitment based on the principles of the

## the Dutch Court Decision: is a Precedent to be used in a case before the Supreme Court of Canada

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After doing a content analysis of the successful Dutch Court Case, brought by environmentalists against the principle of capital access etc.

### A CONTENT ANALYSIS OF THE DUTCH COURT DECISION

Joan Russow PHD

Global Compliance Research Project

SEE COURT DECISION AT <http://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBDHA:2015:7196&keyword=urgenda>

\*\*\*\*ENDORSED THE PRINCIPLE OF FAIRNESS

Posted by Joan Russow  
Tuesday, 16 October 2018 08:24 -

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The principle of fairness (i) means that the policy should not only start from what is most beneficial to

\*\*\*\* AFFIRMED THE OBJECTIVE OF THE UNFCCC IPCC

The UN Framework Convention on Climate Change and the IPCC

4.11.

Well before the 1990s, there was a growing realisation among scientists that human caused (anthro

2.37, as follows: to achieve stabilization of greenhouse gas concentrations in the atmosphere at a le

4.15.

The IPCC reports referred to here also state that the anthropogenic greenhouse gas emissions nee

4.16

\*\*\*\* SUPPORTED THE NORM % BELOW 1990 BY 2020

2.19

The parties agree that the severity and scope of the climate problem make it necessary to take mea

25% below 1990 levels by 2020 is less than previously agreed to 24,398 million metric tons

2,72 Previously Netherlands stated it remains important for the developed countries to take the lea

4.26.

In the period 2007-2009, the Netherlands initially focused its climate policy on a reduction target of 3

European Union

2.76 The European Union's objective of reducing greenhouse gas emissions by 20% is within reach

4.25.

In the European context, in response to AR4/2007, the European Council considered that the indus

\*\*\*\*ACKNOWLEDGED GAP PERCEIVED BY UNITED NATIONS ENVIRONMENT PROGRAMME

4.79.

It is an established fact that climate change is a global problem and therefore requires global accou

\*\*\*\* CONFIRMED NO DISPUTE ABOUT SCIENCE

4.16

It is not disputed between the Parties that dangerous climate change has severe consequences on

.\*\*\*\* ACCEPTED THE CREDIBILITY OF IPCC

4.12

The UN Climate Change Convention also made provisions for the establishment of the IPCC as a g

## Executive SUMMARY

According to the latest findings of the Intergovernmental Panel on Climate Change (IPCC), without t

\*\*\*\* TOOK AS A GIVEN ANTHROPOGENIC (HUMAN-CAUSED) CAUSES OF CLIMATE CHANGE

2.18

In 2013-2014, the IPCC published its latest insights into the scope, effects and causes of climate ch

\*\*\* OPPOSED DELAYING OF ACTIONS

Lastly, when action is delayed, options to achieve stringent levels of climate protection are increasin

2.19

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Delaying mitigation efforts beyond those in place today through 2030 will eliminate below 2°C relative

2.30 although later-action scenarios might reach the same temperature targets as their least-cost co

4.58.

With the precautionary principle (ii) the UN Climate Change Convention expresses that taking meas

*"1. EXECUTIVE SUMMARY*

*According to the latest findings of the Intergovernmental Panel on Climate Change (IPCC), without urge*

This global transition to low emissions can be achieved without compromising growth and jobs, and

All countries need to act urgently and collectively.



4:32 Urgenda argues that the first graph – whose information is detailed further in the second and th

\*\*\*\* REFERRED TO RANGE OF TARGET 1.5 OR 2 DEGREE RISE

2. What emission levels are anticipated for 2020?

Global greenhouse gas emissions in 2020 are estimated at 59 GtCO<sub>2</sub>e per year under a business-a

3. What is the latest estimate of the emissions gap in 2020?

(...) Least-cost emission pathways consistent with a likely chance of keeping global mean temperat

6. What are the implications of later action scenarios that still meet the 1.5°C and 2°C targets?

2.49.

At the climate conference in Cancun in 2010, the parties involved issued various decisions, includin

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“Recalling its decision 1/CP.13 (the Bali Action Plan) and decision 1/CP.15 (...),

*Noting*□

resolution 10/4 of the United Nations Human Rights Council on human rights and

*Further recognizes*□

that deep cuts in global greenhouse gas emissions are required according to science

*Durban 2011*

2.51.

The parties at the climate conference in Durban in 2011 issued several decisions. Decision 1/CP.17

“

*Recognizing*□

that climate change represents an urgent and potentially

*Noting with grave concern*□ the significant gap between the aggregate effect of Parties’ mitigation pledges in

IPCC has stated in each of its reports how certain or uncertain its observations and findings are.

4.14.

Posted by Joan Russow  
Tuesday, 16 October 2018 08:24 -

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In AR4/2007 and AR5/2013, the IPCC has established that a worldwide climate change is taking place

\*\*\*\*ACKNOWLEDGED SEVERITY AND URGENCY

2.19

The parties agree on the severity and scope of the climate problem make it necessary to take measures

2.49.

At the climate conference in Cancun in 2010, the parties involved issued various decisions, including

“Recalling its decision 1/CP.13 (the Bali Action Plan) and decision 1/CP.15 (...),

*Noting*□

resolution 10/4 of the United Nations Human Rights Council on human rights and

*Further recognizes*□

that deep cuts in global greenhouse gas emissions are required according to science

2.60

## “2. THE CLIMATE CHALLENGE: REACHING THE 2°C OBJECTIVE

Strong scientific evidence shows that urgent action to tackle climate change is imperative. Recent s

## “1. EXECUTIVE SUMMARY

According to the latest findings of the Intergovernmental Panel on Climate Change (IPCC), without t

Durban 2011

2.51.

The parties at the climate conference in Durban in 2011 issued several decisions. Decision 1/CP.17

“ Recognizing that climate change represents an urgent and potentially irreversible threat to human

Noting with grave concern the significant gap between the aggregate effect of Parties’ mitigation ple

2.52.

At the Durban conference, the Parties also agreed that a new legally binding climate change conver

In a European context

4.83.

Due to the severity of the consequences of climate change and the great risk of hazardous climate c

The State must do more to avert the imminent danger caused by climate change, also in view of its

Therefore, the State should not hide behind the argument that the solution to the global climate prob

2.3:

“Sustainable development is development that meets the needs of the present without compromising

\*\*\*\* ADVOCATED CALL TO ACTION

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2.71.

The “New energy for the climate program of the Clean and Sustainable Project” (

*project Schoon en Zuinig* from 2007, in which the then cabinet formulated its climate policy, contains as a

“Climate change calls for action, as it threatens our security, food supply, water management and b

## **B. Reasons for these proceedings**

2.6.

In its letter to the Prime Minister dated 12 November 2012, Urgenda requested the State to commit

In her letter dated 11 December 2012, the State Secretary for Infrastructure and the Environment re

“I share your concerns over the absence of sufficient international action as well as your concerns th

The most important thing is to eventually have a stable and widely supported policy framework which

It is also clear that collective, global actions are required to keep climate change within acceptable l

IPCC

2.8.

The Intergovernmental Panel on Climate Change (IPCC) is a scientific body established by the United Nations.

2.9.

“Fifth Assessment Report” from 2013/2014 (hereinafter: AR5/2013).

*AR4/2007*

2.12

In this report, the IPCC – in so far as currently still relevant – established that a global temperature rise of 1.5°C to 2°C is likely to be reached by 2030.

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“Confidence has increased that a 1 to 2 oC increase in global mean temperature above 1990 levels

\*\*\*\*FACTORED IN BIODIVERSITY

2.71.

The “New energy for Work programme of the *Check and Sustain* Project” (

*project Schoon en Zuinig* from 2007, in which the then cabinet formulated its climate policy, contains as a

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“Confidence has increased that a 1 to 2 oC increase in global mean temperature above 1990 levels

2.71

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\*\*\*\* WARNED OF IRREVERSIBLE THREAT

2.12.

In this report, the IPCC – in so far as currently still relevant – established that a global temperature r

“Confidence has increased that a 1 to 2 oC increase in global mean temperature above 1990 levels

3. The Parties should take precautionary measures to anticipate, prevent or minimize the causes of

*Durban 2011*

2.51.

The parties at the climate conference in Durban in 2011 issued several decisions. Decision 1/CP.17

“ *Recognizing* that climate change represents an urgent and potentially

2.63

“When the EU decided in 2008 to cut its greenhouse gas emissions, it showed its commitment to ta

2.71

“Climate change calls for action, as it threatens our security, food supply, water management and b

In summary, after the amendment, Urgenda’s claim involves the court, with immediate effect:

to rule that:

(1) the substantial greenhouse gas emissions in the atmosphere worldwide are warming up the earth

(2) the hazardous climate change that is caused by a warming up of the earth of 2° C or more, in an

2.51

“ Recognizing that climate change represents an urgent and potentially irreversible threat to human

3.2.

Briefly summarized, Urgenda supports its claims as follows.

The current global greenhouse gas emission levels, particularly the CO<sub>2</sub> level, leads to or threatens

4.8

In defending the right of not just the current but also the future generations to availability of natural r

4.14

. In AR4/2007, the IPCC furthermore has stated that a temperature rise of more than 2 °C over the

4.32.

From the foregoing it follows that it is currently very probable that within several decades dangerous

4.32.

From the foregoing it follows that it is currently very probable that within several decades dangerous

4.49.

The scope of protection based on various articles of the ECHR regarding environmental issues has

“(a) The right to life is protected under Article 2 of the Convention.

This Article does not solely concern deaths resulting directly from the actions of the agents of a State

1. (...) in some situations Article 2 may also impose on public authorities a duty to take steps to guarantee

2. It is not possible to give an exhaustive list of examples of situations in which this obligation might

\*\*\*\* AFFIRMED PRECAUTIONARY PRINCIPLE

2.38

3. The Parties should take precautionary measures to anticipate, prevent or minimize the causes of

Article 191 of the Treaty on the Functioning of the European Union (TFEU) currently reads as follows

Article 191

1. Union policy on the environment shall contribute to pursuit of the following objectives:

– preserving, protecting and improving the quality of the environment;

– protecting human health;

– prudent and rational utilisation of natural resources;

– promoting measures at international level to deal with regional or worldwide environmental problems

2. Union policy on the environment shall aim at a high level of protection taking into account the diversity of geographical situations

4.19.

Given the severity of the problem of hazardous climate change, climate scientists have investigated

4.58.

With the precautionary principle (ii) the UN Climate Change Convention expresses that taking measures

the precautionary principle;

- the prevention principle.

4.61.

With the principle of a high protection level, the EU expresses that its environmental policy has high

4.62.

Article 191, paragraph 3 TFEU also means that in determining its environmental policy, the EU takes

- the available scientific and technical information;

4.64.

As has been stated before, the Parties agree that due to the current climate change and the threat of

4.76

Moreover, the State cannot postpone taking precautionary measures based on the sole reason that

4.79.

This argument does not constitute an established fact that is limiting of the Dutch Supreme Court

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\*\*\*\* MENTIONED THE PREVENTION PRINCIPLE

4.61.

With the principle of a high protection level, the EU expresses that its environmental policy has high

Comment joan russow

## **1. Misconstruing the precautionary principle**

**In all of them they gave their definition of the precautionary approach as the following:**

**"The Framework outlines guiding principles for precautionary measures and their application in**

**The application of "precaution", "the precautionary principle" or "the precautionary approach" r**

**I interpret this in the following way: The application of "precaution", "the precautionary principle**

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**approach” recognizes that the absence of full scientific certainty [that it is safe] shall not be used**

**[ If the emphasis is on science that demonstrates that it is safe; it is easy to ignore evidence that**

**On the Other hand the version in the Convention on Biological Diversity reads**

**"where there is a threat of significant reduction or loss of biological diversity, lack of full scientific**

**[If the evidence is on examining science that could indicate that the substance or practice could**

**It should be noted that funding research outside of industry is much more prevalent. and current**

**\*\*\*\* AFFIRMED THE TRANSBOUNDARY PRINCIPLE**

2.36

Recalling also that States have, in accordance with the Charter of the United Nations and the principle



Reaffirming the principle of sovereignty of States in international cooperation to address climate change

Determined to protect the climate system for present and future generations, (...)"

## BACKGROUND FOR TRANSBOUNDARY PRINCIPLE (JOAN)

### **Canada has signed and ratified the UN Convention on the Law of the Seas (UNCLOS 1982)**

Under Art 194 2 of the Law of the Sea is the obligation

To take all measures necessary to ensure that activities under their jurisdiction or control are so conducted as to

And also Canada made a commitment in the universally adopted Rio Declaration to abide by principle

States have, in accordance with the Charter of the United Nations and the principles of international

This principle places a duty on all states to act to prevent actions on their own states from impacting

2.37.

\*\*\*\* PREFERRED MITIGATION OVER ADAPTION

2.51.

The parties at the climate conference in Durban in 2011 issued several decisions. Decision 1/CP.17

“ Recognizing that climate change represents an urgent and potentially irreversible threat to human

Noting with grave concern the significant gap between the aggregate effect of Parties’ mitigation ple

2.8.

The Intergovernmental Panel on Climate Change (IPCC) is a scientific body established by the Unit

2.17.

The IPCC report also [6](#) states that mitigation is generally better than adaptation:

“Over the next 20 years or so, even the most aggressive climate policy can do little to avoid warming

*AR5/2013*

The IPCC report also [6](#) states that mitigation is generally better than adaptation:

“Over the next 20 years or so, even the most aggressive climate policy can do little to avoid warming

*AR5/2013*

4.14.

In AR4/2007 and AR5/2013, the IPCC has established that a worldwide climate change is taking place

2.18

In 2013-2014, the [IPCC](#) published its latest insights into the scope, effects and causes of climate change.

“Warming of the climate system is unequivocal, and since the 1950’s, many of the observed changes are unprecedented in recent decades and centuries.”

Each of the last three decades has been successively warmer at the Earth’s surface than any preceding decade since 1850.

The globally averaged combined land and ocean surface temperature data as calculated by a linear trend show a clear upward trend since 1950.

Human influence has been detected in warming of the atmosphere and the ocean, in changes in the hydrological cycle, and in the timing and intensity of extreme weather events.

\*\*\*\* EXAMINED RANGE OF EMISSION LEVELS

4.79

Therefore, the court arrives at the opinion that the single circumstance that the Dutch emissions only

Therefore, the court arrives at the opinion that the single circumstance that the Dutch emissions only

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2.19

Delaying mitigation efforts beyond those in place today through 2030 will estimate to be substantially

with annual GHG emissions of about 155 GtCO<sub>2</sub>e in 2030 are characterized by substantially higher

2.20.

The following has been observed about the scope of the emissions:

“Total anthropogenic GHG emissions have (Despite a increase over 1970 to 2014 China large

\*\*\*\*CONSIDERED IMPORTANCE OF PER CAPITA CALCULATION

2.28.

Per capita emissions in the Netherlands in 2010 were 12.78 tons CO<sub>2</sub>-eq. and in 2012 11.72 tons C

Posted by Joan Russow  
Tuesday, 16 October 2018 08:24 -

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4.79.

It is an established fact that climate change is the most serious and urgent of the Dutch Supreme Court

3.1.

In summary, after the amendment, Urgenda's claim involves the court, with immediate effect:

to rule that:

(1) the substantial greenhouse gas emissions in the atmosphere worldwide are warming up the earth

(2) the hazardous climate change that is caused by a warming up of the earth of 2° C or more, in an

PER CAPITA(3) of all countries which emit a significant number of greenhouse gases in the atmosphere

3.2.

Briefly summarized, Urgenda supports its claims as follows.

The current global greenhouse gas emission levels, particularly the CO2 level, leads to or threatens

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2.21.

The IPCC expects [that](#) temperatures on earth will have increased by 3.7 to 4.8°C by 2100 and that

“Without additional ~~efforts to reduce~~ GHG emissions, the world is on a trajectory for this assessment

2.27.

In 2010, the Dutch share in the global emissions was 0.42%; the Chinese share in that year was 21

2.28.

Per capita emissions in the Netherlands in 2010 were 12.78 tons CO<sub>2</sub>-eq. and in 2012 11.72 tons C

UNEP

2.29.

The UNEP, referred to in 2.8, has issued annual reports about the “emissions gap” since 2010. The

2.30.

The “executive summary” of the Emissions Gap Report 2013 includes the following:

“(…) This report confirms and strengthens the conclusions of the three previous analyses that current

As a result, after 2020, the world will have to rely on more difficult, costlier and riskier means of mee

(…)

2. What emission levels are anticipated for 2020?

Global greenhouse gas emissions in 2020 are estimated at 59 GtCO<sub>2</sub>e per year under a business-a

3. What is the latest estimate of the emissions gap in 2020?

(…) Least-cost emission pathways consistent with a likely chance of keeping global mean temperat

6. What are the implications of later action scenarios that still meet the 1.5°C and 2°C targets?

Based on a much larger number of studies than in 2012, this update concludes that so-called later-a

(…) although later-action scenarios might reach the same temperature targets as their least-cost co



2.29

Global greenhouse gas emissions in 2020 are estimated at 59 GtCO<sub>2</sub>e per year under a business-as-usual scenario.

3. What is the latest estimate of the emissions gap in 2020?

(...) Least-cost emission pathways consistent with a likely chance of keeping global mean temperature below 2°C by 2100.

6. What are the implications of later action scenarios that still meet the 1.5°C and 2°C targets?

Based on a much larger number of studies than in 2012, this update concludes that so-called later-action scenarios can meet the 1.5°C and 2°C targets.

(...) although later-action scenarios might reach the same temperature targets as their least-cost counterparts, they are generally more expensive.

2.31.

Chapter 2 of the report contains the following section:

“2.4.5 Pledged reduction effort by Annex I and non-Annex I countries

For Annex I parties, total emissions as a group of countries for the four pledge cases are estimated

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2.32.

In contrast to previous reports, the Emissions Gap Report 2014 mainly focuses on the “carbon diox

budget may not exceed 3,670 gigatonne (hereinafter: Gt). According to the UNEP, at the beginning

\*\*\*\*□

SUPPORTED PRINCIPLE OF COMMON BUT DIFFERENTIATED RESPONSIB

2.36.

The purpose of the Convention, in brief, is to reduce greenhouse gas emissions and thereby preven

“Acknowledging that the global nature of climate change calls for the widest possible cooperation by

2.38.

Article 3 of the UN Climate Change Convention contains the following principles, among other thing

1. The Parties should protect the climate system for the benefit of present and future generations

\*\*\* AFFIRMED THE OBJECTIVE OF THE UNFCCC IPCC

\*\* SUPPORTED THE NORM % BELOW 1990 BY 2020

The harper government does not accept the norm 30% below 2005 by 2030

\*\*\*ACKNOWLEDGED GAP PERCEIVED BY UNITED NATIONS ENVIRONMENT PROGRAMME T

\*\*\* CONFIRMED NO DISPUTE ABOUT SCIENCE

Many of the members of the Harper government still question the science

.\*\*\* ACCEPTED THE CREDIBILITY OF IPCC

Often discredits the findings of the IPCC

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**\*\*\* OPPOSED DELAYING OF ACTION**

**There must be a global target for greenhouse gas emission reductions of a**

The harper government postpones target to 2030

**\*\*\*REFERRED TO RANGE TARGET 1.**

Harper government cried foul when the African Caucus declared that if there were a global rise of 2

**\*\*\*ACKNOWLEDGED SEVERITY AND URGENCY**

The harper government minimizes the severity and urgency

**\*\*\*FACTORED IN BIODIVERSITY**

**\*\*\*WARNED OF IRREVERSIBLE THREAT**

The Harper government does not perceive climate change to be an irreversible threat

**\*\*\*AFFIRMED PRECAUTIONARY PRINCIPLE**

At Rio = 20 the Harper government deleted reference to the precautionary principle

\*\*\*MENTIONED THE PREVENTION PRINCIPLE.

\*\*\*AFFIRMED THE TRANSBOUNDARY PRINCIPLE

\*\*\* PREFERRED MITIGATION OVER ADAPTION

\*\*\* EXAMINED RANGE OF EMISSION LEVELS

\*\*\*\*\* CONSIDERED IMPORTANCE OF PER CAPITA CALCULATION

The harper government dismisses the high per capita contribution

To fossil fuels

\*\*\*□

SUPPORTED PRINCIPLE OF COMMON BUT DIFFERENTIATED RESPONSIBILITY

At Rio +20 the Harper deleted reference to this principle

\*\*\*EXAMINED CLIMATE CHANGE AND THE DEVELOPMENT OF LEGAL AND POLICY FRAMEWORK

Posted by Joan Russow

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At numerous COPs, the Harper government has obstructed strong legal obligations

\*\*\*

AFFIRMED THE PRINCIPLE OF RIGHTS OF FUTURE GENERATIONS

\*\*\* APPLIED RIGHT TO LIFE AND DUTY

\*\*\* ENDORSED THE PRINCIPLE OF FAIRNESS

**D** . EXAMINED CLIMATE CHANGE AND THE DEVELOPMENT OF LEGAL AND

2.34.

In light of climate change, agreements have been made and instruments have been developed in a

In a UN context

*UN Framework Convention on Climate Change 1992*

2.35.

In 1992, the UN Framework Convention on Climate Change (hereinafter: the UN Climate Change C

2.36.

The purpose of the Convention, in brief, is to reduce greenhouse gas emissions and thereby prevent

“Acknowledging that the global nature of climate change calls for the widest possible cooperation by

Recalling also that States have, in accordance with the Charter of the United Nations and the principl

Reaffirming the principle of sovereignty of States in international cooperation to address climate cha

Determined to protect the climate system for present and future generations, (...)”

2.37.

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Article 2 of the UN Climate Change Convention describes the objective as follows:

The ultimate objective of this Convention and any related legal instruments that the Conference of the Parties may adopt is to stabilize the concentrations of greenhouse gases in the atmosphere at a level that prevents dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time-frame which allows for adaptation to the changes that are inevitable.

2.38.

Article 3 of the UN Climate Change Convention contains the following principles, among other things:

1. The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities, taking into account their development stages.

(...)

3. The Parties should take precautionary measures to anticipate, prevent or minimize the causes of climate change and to mitigate adverse effects, where there are threats of serious or irreversible damage, without waiting for a complete scientific assessment of the risk.

4. The Parties have a right to, and should, promote sustainable development. Policies and measures to protect the climate system should take full account of the need to ensure sustainable development.

2.39.

The signatories to the UN Climate Change Convention constitute two groups of countries: (1) the developed country Parties and other Parties included in Annex I and (2) the developing country Parties, not included in Annex I.

The developed country Parties and other Parties included in Annex I commit themselves specifically to the following:

( a ) Each of these Parties shall adopt national policies and take corresponding measures on the mitigation of climate change.



( b) In order to promote progress to this end, each of these Parties shall communicate, within six mo

2.40.

The article thus means that the Annex I countries, separately or jointly, have assumed the obligation

2.41.

2.41.

Several countries of the group of Annex I countries, including the Netherlands, have furthermore co

2.43.

In the Protocol, the signatories set as their objective for the period 2008-2012 to reduce the mean a

2.44.

Several countries, including the United States and China, did not ratify the Protocol and Canada wit

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2.45.

On 8 December 2012, an Amendment to the Kyoto Protocol was adopted in Doha (Qatar). In the Am

2.46.

Japan, the Russian Federation and New Zealand did not commit to a particular reduction target for 1

2.49.

*At the climate conference in Cancun in 2010, the parties involved issued various decisions, including Th*

*“Recalling its decision 1/CP.13 (the Bali Action Plan) and decision 1/CP.15 (...),*

*Noting*  *resolution 10/4 of the United Nations Human Rights Council on human rights an*

4. *Further recognizes*  *that deep cuts in global greenhouse gas emissions are r*

2.50.

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At the Cancun climate conference in 2010, the Annex I countries also took the decision which contains

“Decision 1/CMP.6 The Cancun Agreements: Outcome of the work of the Ad Hoc Working Group on

(...)

Recognizing that Parties included in Annex I (Annex I Parties) should continue to take the lead in combatting

Also recognizing that the contribution of Working Group III to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC) is a valuable contribution to the scientific understanding of the climate system and the impact of climate change, and that the contribution of Working Group III to the Fourth Assessment Report of the IPCC is a valuable contribution to the scientific understanding of the climate system and the impact of climate change,

4. Urges Annex I Parties to raise the level of ambition of the emission reductions to be achieved by 2020

*Durban 2011*

2.51.

*The parties at the climate conference in Durban in 2011 issued several decisions. Decision 1/CP.17 states*

*“Recognizing that climate change represents an urgent and potentially irreversible threat to human societies and the planet as a whole, and that the climate system is being altered in such a way as to pose a danger to human health, food security, ecosystems, and the global environment, and that the climate system is being altered in such a way as to pose a danger to human health, food security, ecosystems, and the global environment,*

*Noting with grave concern the significant gap between the aggregate effect of Parties’ mitigation pledges in the national communications submitted under the Convention and the level of mitigation required to meet the goal of limiting the increase in global average temperature to below 2°C above pre-industrial levels, and that the climate system is being altered in such a way as to pose a danger to human health, food security, ecosystems, and the global environment,*

2.52.

*At the Durban conference, the Parties also agreed that a new legally binding climate change convention*

*In a European context*

2.53.

Article 191 of the Treaty on the Functioning of the European Union (TFEU) currently reads as follows:

Article 191

1. Union policy on the environment shall contribute to pursuit of the following objectives:

- preserving, protecting and improving the quality of the environment;
- protecting human health;
- prudent and rational utilisation of natural resources;
- promoting measures at international level to deal with regional or worldwide environmental problems.

2. Union policy on the environment shall aim at a high level of protection taking into account the diverse geographical situations of the various regions of the Union.

In this context, harmonisation measures answering environmental protection requirements shall include

3. In preparing its policy on the environment, the Union shall take account of:

– available scientific and technical data,

– environmental conditions in the various regions of the Union,

– the potential benefits and costs of action or lack of action,

– the economic and social development of the Union as a whole and the balanced development of i

4. Within their respective spheres of competence, the Union and the Member States shall cooperate

The previous subparagraph shall be without prejudice to Member States' competence to negotiate i

2.54.

Under Article 192 TFEU, the European Parliament and the Council, acting in accordance with the or

2.55.

Article 193 TFEU currently reads as follows:

Article 193

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The protective measures adopted pursuant to Article 192 shall not prevent any Member State from maintaining or introducing more stringent protective measures. Such measures must be compatible with the Treaties. They shall be notified to the Commission.

2.56.

Partly as a follow-up to the Kyoto Protocol, the EU formulated its environmental objectives and priorities

“Article 2                      *Principles and overall aims*”

2. The Programme aims at:

— emphasising climate change as an outstanding challenge of the next 10 years and beyond and

long term objective of a maximum global temperature increase of 2 °Celsius over pre-industrial levels

2.57.

The European Union subsequently converted its objectives in European regulations, including by

2.58.

The preamble to Directive 2009/29/EC amending Directive 2003/87/EC so as to improve and extend

“(6) In order to enhance the certainty and predictability of the Community scheme, provisions should

(13) The Community-wide quantity of allowances should decrease in a linear manner calculated from

(14) This contribution is equivalent to a reduction of emissions in 2020 in the Community scheme of

2.59.

Articles 1 and 9 of the ETS Directive read as follows – following amendment:

Article 1                      *Subject matter*

This Directive establishes a scheme for greenhouse gas emission allowance trading within the Com

This Directive also provides for the reductions of greenhouse gas emissions to be increased so as t

This Directive also lays down provisions for assessing and implementing a stricter Community redu

Article 9                      *Community-wide quantity of allowances*

The Community-wide quantity of allowances issued each year starting in 2013 shall decrease in a li

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The Commission shall, by 30 June 2010, publish the absolute Community-wide quantity of allowance

The Commission shall review the linear factor and submit a proposal, where appropriate, to the Eur

2.60.

The Communication [16](#) of the European Commission to the European Parliament, the Council, the EE

2.60

## *"2. THE CLIMATE CHALLENGE: REACHING THE 2°C OBJECTIVE*

*Strong scientific evidence shows that urgent action to tackle climate change is imperative. Recent studie*

2.62

2020 as part of the Community's efforts to contribute to this global emissions reduction goal. Develo

(3) Furthermore, in order to meet this objective, the European Council of March 2007 endorsed a C



2.63

“When the EU decided in 2008 to cut its greenhouse gas emissions, it showed its commitment to ta

But it has always been clear that action by the EU alone will not be enough to combat climate chang

That was why the EU matched its 20% unilateral commitment with a commitment to move to 30%, a

Since the EU policy was agreed, circumstances have been changing rapidly. We have seen an eco

We have also had the Copenhagen summit. Despite the disappointment of failing to achieve the go

2.64

## 2. MILESTONES TO 2050

The transition towards a competitive low carbon economy means that the EU should prepare for rec

This analysis of different scenarios shows that domestic emission reductions of the order of 40% an

Emissions, including international aviation, were estimated to be 16% below 1990 levels in 2009. W

## 6. CONCLUSIONS

(...) In order to be in line with the 80 to 95% overall GHG reduction objective by 2050, the Roadmap

(...) This Communication does not suggest to set new 2020 targets, nor does it affect the EU's offer

2.65.

On 15 March 2012, the European Parliament adopted a resolution on the Roadmap referred to in 2.

### *"1. EXECUTIVE SUMMARY*

*According to the latest findings of the Intergovernmental Panel on Climate Change (IPCC), without urge*

This global transition to low emissions can be achieved without compromising growth and jobs, and

All countries need to act urgently and collectively. Since 1994, the Parties to the United Nations Fra

Well ahead of the Lima conference, the EU continued to show leadership and determination to tackl

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This communication responds to the decisions taken in Lima, and is a key element in implementing

In a national context

\*\*\*\*

**AFFIRMED THE PRINCIPLE OF RIGHTS OF FUTURE GENERATIONS**

As mentioned briefly above, Urgenda accuses the State of several things, such as the State acting

4.57.

The principle of fairness (i) means that the policy should not only start from what is most beneficial to

4.76.

The State's options are limited further by the private-law principles applicable to the State and ment

“Sustainable development is development that meets the needs of the present without compromising

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Recalling also that States have, in accordance with the Charter of the United Nations and the principle of sovereign equality of States,

Reaffirming the principle of sovereignty of States in international cooperation to address climate change,

Determined to protect the climate system for present and future generations, (...)"

2.37.

\*\*\*\*

REFERENCED THE RESOLUTION 10/4 OF UN HUMAN RIGHTS COUNCIL

2.49.

At the climate conference in Cancun in 2010, the parties involved issued various decisions, including the Cancun Agreements,

"Recalling its decision 1/CP.13 (the Bali Action Plan) and decision 1/CP.15 (...),

*Noting* □

resolution 10/4 of the United Nations Human Rights Council 10/4 of the United Nations Human Rights Council

\*\*\*\* APPLIED RIGHT TO LIFE AND DUTY

4.49.

The scope of protection based on various articles of the ECHR regarding environmental issues has

“(a) The right to life is protected under Article 2 of the Convention.

This Article does not solely concern deaths resulting directly from the actions of the agents of a State

1. (...) in some situations Article 2 may also impose on public authorities a duty to take steps to guarantee

2. It is not possible to give an exhaustive list of examples of situations in which this obligation might

\*\*\*\* ENDORSED THE PRINCIPLE OF FAIRNESS

The principle of fairness (i) means that the policy should not only start from what is most beneficial to

## **the Dutch Court Decision: is a Precedent to be used in a case before the Supreme Court of Canada**

Posted by Joan Russow

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