

CLIMATE CHANGE LEGISLATION IN

NETHERLANDS

AN EXCERPT FROM

The 2015 Global Climate Legislation Study A Review of Climate Change Legislation in 99 Countries



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Netherlands

Legislative Process

As a constitutional monarchy, the key institutions in the Netherlands' legislative process are the Upper House (Senate) of the Parliament, with 75 members elected by the 12 provinces, and the Lower House (House of Representatives) with 150 directly elected members. Elections for both Houses take place at least every four years. Senate elections last took place in 2011 and the next is planned for 2015. The last election for the House of Representatives was held in 2012 and the next is expected to take place in 2016. Besides the national government, the provinces and 441 municipalities are also major actors, particularly in implementing the outcomes of the legislative process.

Legislation can be introduced by one or more members of the government or one or more members of the Lower House. Draft laws (bills) usually originate from recommendations either by a royal commission or a parliamentary committee. Once the preparatory work is completed by one or more ministries, the bill is discussed in the Cabinet. If accepted, it is sent to the Monarch's secretariat, in their capacity as Head of State. From there the bill is sent to the Council of State (of which the Monarch is the President) for advice. This body chiefly pays attention to the legal quality of the bill and generally does not concern itself with political merit. Its report is sent directly to the relevant Minister(s) who, in turn, must respond with a more detailed report to the Monarch. The bill is then presented to the Lower House, which consigns the bill to a committee, where it is discussed and potentially amended, before being debated in plenary and then passed to the Upper House. The Upper House has no right of amendment; it must either accept or reject the bill. Once the Monarch and Minister(s) responsible have signed the Act, it is published in the Bulletin of Acts, Orders and Decrees. Unless the Act decrees otherwise, it comes into force on the first day of the second calendar month following its date of publication.

Approach to climate change

The Netherlands is particularly vulnerable to the impacts of climate change due to its high population density, river deltas and its location at and below sea level. The country has, therefore, particular interest in flood management and resiliency building. The approach to climate change combines adaptation and mitigation measures integrated within the overall objective of sustainable development.

As an EU member state, the Netherlands' climate policy is largely determined by agreements at the European level, such as the decision on burden-sharing of the EU's Kyoto Protocol commitments and the European Emission Trading Scheme (EU ETS), as well as European legislation regarding renewable energy, energy

efficiency and the overall 2020 emission reduction target. Although the Netherlands has a number of climate programmes, there is no law dedicated to climate change. Instead, most policies and programmes have their legal basis in the Environmental Management Act. However, in June 2014, a proposal for an Environmental Act was submitted to the House of Representatives and is expected to enter into force by 2018. It should simplify the existing complex and fragmented environmental legislation, and integrate 26 different laws and regulations, including the Spatial Planning Act, the Water Act and the Crisis and Recovery Act. It is expected to reduce administrative burdens and shortened procedures (for example for permitting).

The National Climate Agenda (2013) sets out the country's three main themes and eight associated actions to tackle climate change: broadly-based coalitions of companies and public players globally, regionally and nationally; mitigation; and adaptation. Priority sectors for climate policy are energy efficiency in new and existing buildings and reducing emissions from agriculture and industry.

The Ministry of Infrastructure and the Environment is the co-ordinating body of programmes and policies related to climate change.

Energy Supply

Although some progress has been made towards a sustainable energy transition, the energy mix continues to be dominated by fossil fuels. Natural gas supplies 47% of energy needs and oil 38%, up from 35% in 1990. The country has invested heavily in fossil power generation, particularly gas- and coal-fired capacity.

The Netherlands plans to meet its future energy needs using all fuels, including nuclear, and increasing renewable energy from the 4% it represented in 2010 to 14% by 2020. The Intergovernmental Wind Energy Agreement (BLOW) under the CEP aims to increase onshore wind power capacity to 6,000 MW by 2020. Subsidies for investments in renewable energy are channelled via the Stimulating Renewable Energy Production (SDE) scheme, which replaced the Environmentally Friendly Electricity Production Programme (MEP) in 2008. It puts a ceiling on subsidies based on estimates of electricity and gas prices.

In September 2013 around 40 private and public parties reached a covenant on the development of renewable growth. The Energy Agreement implemented a comprehensive climate and energy policy programme aimed at long-term sustainability and set out agreed short to medium-term measures in 10 pillars. One of these pillars was the increase of renewable energy production from the current 4.3% to 14% in 2020. The agreement identified the need for additional wind farm projects to be developed to reach a total of 4,450MW by 2023 (with 1,000MW already in place or under construction). The government allocated a maximum of EUR18bn (USD22.6bn) to subsidies for renewable energy (SDE+) for offshore wind, commensurate with these targets. The full amount will be

committed before 2020 to account for a wind farm construction period of four years.

In October 2014 the Minister of Economic Affairs submitted a legislative proposal for offshore wind to Parliament. The bill implements an important part of the roadmap for reaching the targets set in the Energy Agreement. The roadmap provides for a new roll-out schedule of 700MW of offshore wind capacity per year for five consecutive years; an offshore grid ('socket on the sea'); the repeal of previously granted licences; newly designated licence areas; and a new combined application procedure for a licence and SDE+. In parallel, a revision of the Gas Act and Electricity Act 1998 is on the legislative agenda and expected to be submitted as a legislative proposal in early 2015.

Carbon pricing

The Netherlands participates as an EU Member State and Annex-1 party to the Kyoto Protocol both in the EU ETS and the Clean Development Mechanism (CDM) as well as the Joint Implementation (JI) mechanism under the Kyoto Protocol. Relevant legislation in these areas implements commitments made at the international and EU level.

The Netherlands is expected to raise own contribution to climate finance from EUR200m (USD310.5m) in 2013 to EUR1.2bn (USD1.86bn) by 2020. The Government aims to fund at least 50% of this budget to come from private sources under the coalition agreement. The country also contributes to climate funds that finance climate adaptation and mitigation in developing countries, which includes the Climate Investment Funds, the Least Developed Countries Fund and the upcoming Green Climate Fund.

Energy Demand

The Netherlands has a number of laws and policies in place that reduce CO₂ emissions by improving industrial efficiency, including measures that implement the Environmental Management Act and the Energy Investment Tax Deduction regime under the corporate tax system. Measures to reduce energy demand are usually formulated in long-term agreements. These include the sustainable production of energy for electricity and heat, including the use of biomass. Energy efficiency efforts have focused on industry, buildings, transport and agriculture. Most measures were initiated under the 2007 Clean and Efficient Programme (CEP) at the national level or the Stimulating Local Climate Initiatives remittance scheme at the local level. Currently, the Energy Agreement and Climate Agenda act as the main frameworks.

Legislation in the building sector consists of both implementing EU directives and further national development. Relevant EU directives are the Eco-design directive and the Energy Performance of Buildings Directive (EPBD). Targets include improving energy efficiency by up to 50% and constructing energy neutral new buildings by 2020. These objectives are detailed in the Build Environment Innovation Agenda. Measures include financial instruments such as

subsidy schemes, lowering VAT for insulating glazing, tailor-made energy advice, energy investment tax deductions, implementing EU legislation such as the mandatory Energy Performance Certificate, and setting a standard for privately-owned buildings by making new government buildings 25% more energy efficient than official requirements and striving for CO₂-neutral government buildings via purchasing CO₂-neutral energy.

REDD+ and LULUCF

According to the Sixth National Communication to the UNFCCC (2013), development of a nature network called the National Ecological Network (also known as Nature Network Netherlands) has been a central theme of the nature and forest policy for the Netherlands. It is a “cohesive network of high-quality nature wetland and terrestrial reserves” and 560,000 ha of such network was completed by 2011. An additional 80,000 ha will be converted into nature reserves by 2027 through afforestation and reforestation. These are managed in adherence to the principles of sustainable forest management.

Transportation

Key legislation to reduce emissions in transportation includes the implementation of European directives on biofuels. The Dutch legislation implements the European Renewable Energy Directive target of 10% renewable energy in transport in 2020 (road vehicles and mobile machines) and places targets for the coming years.

Fiscal policy with more favorable tax regime for efficient cars is in place. When registering a new passenger vehicle or motorcycle, a tax has to be paid calculated on the basis of absolute CO₂ emissions. The lower the CO₂ emissions, the less tax is paid – in some cases tax exemptions apply. Consumers are thus encouraged to buy environmentally friendly cars.

Electric vehicles are supported in order to further increase emission efficiency. Under the framework of MIA/Vamil (tax refund on environmental investment), electric cars are eligible for support through the Action Plan Electric Mobility if CO₂ emissions are lower than 50g/km. The overall policy goal is 15,000-20,000 electric cars in 2015 and 1m by 2025; in 2012 there were 4,000 registered electric vehicles in the Netherlands.

The Lean and Green programme started in 2008 to support transport companies to reduce carbon footprint. A “Lean and Green Award” is given to organisations working to reduce CO₂ emissions by 20% in five years’ time. If the objective in the plan of action is actually achieved, the organisation is awarded a Lean and Green Star.

Adaptation

The Netherlands contributes to climate change adaptation internally and internationally. The Delta Programme is a showcase project for the Netherlands to protect the country against current and future flooding and to ensure

sufficient supply of freshwater. This Programme is a national joint venture that bridges the central government, provincial and municipal authorities, water boards, civil society organizations and business community. The latest since its inception in 2011, the Fifth Delta Programme (2015) contains measures to improve flood protection and reduce water shortages.

The 2006 National Programme for Spatial Adaptation to Climate Change (ARK) is another key adaptation project, which is a joint effort of national and local government departments. The National Adaptation Strategy resulted from this programme in 2007. According to National Climate Agenda, the Cabinet has opted for three-pronged approaches to climate change and adoption is one of the three approaches; actions for climate adaptation include publication of a Climate-proof City Charter (part of the Delta Programme) to covenant stakeholders, incorporation of climate adaptation provisions in the government guidelines (“Guidance for the objectivity of planning”) and the Healthy Urbanisation project by the Ministry of Infrastructure and the Environment to connect people, ideas and knowledge for a liveable, secure, assessable and climate-adapting society. The Government is working on an adaptation strategy, which is due to be translated into a new National Adaptation Strategy by 2017.

Climate change mitigation and adaptation are major themes for international development co-operation policy. International development programmes that aim to: reduce carbon emission by increasing the use of sustainable energy and preventing deforestations; and to adapt to climate change in water and agricultural sectors; have been supported by the Dutch government.

Netherlands: Legislative Portfolio

Name of law	Delta Act on Water Safety and Fresh Water Supply (Delta Act)
Date	1 January 2012
Summary	<p>This Act is designed to protect the country from risks associated with sea level rise, soil subsidence, drier periods and extreme rainfall. It establishes the following (so-called 5 Dutch Ds together with the Delta Act):</p> <ul style="list-style-type: none">• Delta Programme• Delta Fund• Delta Commissioner• Delta Decisions <p>The Delta Programme (DP) aims to secure water and freshwater supply in sustainable manner by 2050, in order to adapt to potential extreme weathers in the future. The Act stipulates that a Delta Programme is created every year: it is presented to the Parliament annually on Prinsjesdag, the state opening of Parliament in September. Delta Programmes should contain the following:</p> <ul style="list-style-type: none">• Plans to ensure sufficient supply of fresh water• Plans to protect the country from high water• Time schedule of the Programme• Overview of Programme cost

DP2011 was the first to be created and DP2015 was submitted to the Parliament in 2014 for adoption. DP2015 focuses on disaster prevention and new approaches include:

- New water safety standards
- Predicting availability of fresh water for agriculture, industry and nature
- Climate-proof and water-robust spatial planning

Delta Fund provides the financial foundation to plan and operate the Delta Programme, with the budget allocated by the Cabinet. The Delta Commissioner is in charge of the Delta Programme. The Commissioner is responsible for:

- Makes and submits an annual proposal of the Delta Programme to co-ordinating members and other members of the administration involved with the Programme
- Promotes consultation with stakeholders (administrative bodies, business community and civil society organizations) and bring involved parties together horizontally (within the Kingdom) and vertically (between various tiers of government)
- Monitors, reports and advises co-ordinating member and members of administration on the implementation progress of the Delta Programme.

The final political responsibility of the Delta Programme lies with the co-ordinating Minister of the Infrastructure and the Environment, to whom the Delta Commissioner reports.

Sub-programmes of the Delta Programme have led to the five Delta Decisions that sets out preferred strategies for the focused areas. The 2014 proposal of the Delta Decisions are:

- Delta Decision on Water Safety (focuses on new water safety standard)
- Delta Decision on Fresh Water (modification to water system)
- Delta Decision on Spatial Adaptation (more water-robust and climate-proof spatial design and (re)development)
- Delta Decision on the Rhine-Meuse Delta (water distribution from the Rhine)
- Delta Decision on the IJsselmeer region (freshwater supply, discharges into the Wadden Sea and water level of the IJsselmeer, Markermeer and Randmeren)

Name of law	Crisis and Recovery Act
Date	March 2010
Summary	This bill was introduced in March 2010 to promote economic recovery after the financial crisis. Its main instruments focus on accelerating decision-making processes and administrative court proceedings on various activities beneficial to economic growth and employment, especially in sustainability, green energy and innovation. These include construction of housing, wind farms, small scale wind turbines, as well as innovative energy neutral floating 'eco-home' and others. One of the core objectives of the Act is to ensure that court proceedings against any decision implementing a project mentioned in the Annexes are conducted as efficiently and swiftly as possible, thus promoting an earlier realisation of the relevant projects.

Name of law	Environmental Management Act
Date	1 May 2004
Summary	In fields such as environmental permits, CO ₂ emissions trading, waste prevention, water quality and landfill policy, most environmental regulations affecting GHG emissions are based on the Environmental Management Act. It is also the legal basis to enforce commitments by companies not covered under the ETS that are undertaken within Long-Term Agreements and the Benchmarking Covenant.

The Act lays out enforcement of legal measures, allocating responsibilities for enforcement

and monitoring among authorities. Sanctioning options include demanding compliance at the expense of the violator, financial penalties, withdrawal of operating licences and criminal sanctions such as high financial penalties or imprisonment up to six years.

Name of law	Electricity Act
Date	30 June 1998
Summary	<p>The Electricity Act (E-Act) 1998 is an important basis for the creation of the electricity market in the Netherlands. By establishing this market, producers and suppliers of electricity were able to offer electricity on a market.</p> <p>The Act allowed for distribution companies and large consumers could buy electricity from generators other than the local one. While the Act limited large-scale production to the existing generators, it also allowed self-generation by industry and CHP production by industrial firms or by joint ventures involving distribution companies. The Act forced distribution companies to take in all electricity that was locally generated and supplied to them, and to pay a feed-in tariff essentially equal to the avoided costs.</p> <p>The E-Act also established, as of August 1, 1998, DTe, the independent regulator for the energy sector, as a chamber of the Dutch competition authority NMa. DTe was charged with supervising the sector and had the responsibility to guarantee non-discriminatory access to the grid for generators and to regulate the prices of the captive end users. The law forced energy companies to split their tariffs into network tariffs (including systems services) and tariffs for energy use as of the year 2000. DTe regulated the network tariffs and the final tariffs of the captive users, with the law imposing an RPI-X formula and the “1996=2000 principle” stating that overall prices in the year 2000 could not be higher than those that prevailed in 1996.</p> <p>As of 1 April 2014, the regulation for the feed-in tariff (SDE+) for 2014 has opened. This regulation includes the following features: a budget ceiling is established for all types of renewable energy such as wind, geothermal, solar photovoltaic, biomass and hydro phased opening a ‘free category’ to enhance investments in certain technologies; feed-in tariff granted for a certain period (5, 12 or 15 years); a maximum subsidy amount for the Netherlands, to be determined annually (EUR3.5bn, USD5.4bn in 2014).</p> <p>Since its introduction in 1998 several amendments have been made to incorporate new elements such as the transposition of EU Directives. Several changes have been introduced in the E- Act in 2010, such as smart metering and congestion management rules for electricity) in order to improve the Dutch energy market. The Electricity Act 1998 is currently being amended.</p>

Netherlands: Executive Portfolio

Name of Policy	Climate Agenda: resilient, prosperous and green
Date	October 2013
Summary	<p>The Climate Agenda for 2030 outlines a climate approach focused on assembling a broadly-based coalition for climate measures and on a combined approach to climate adaptation (by designing a resilient physical environment and preparing society for the consequences of climate change) and mitigation (by reducing greenhouse gas emissions).</p> <p>It reaffirms the Dutch commitment to achieve a CO2 reduction of 80% to 95% by 2050 compared to 1990, and the need to strengthen action on climate mitigation and adaptation. The Climate Agenda confirmed the government’s support for a European GHG emissions reduction objective of at least 40% below 1990 levels by 2030, low-carbon</p>

technology innovation and reform of the EU ETS to match the pathway of the EU low-carbon roadmap

The Climate Agenda builds on the 2011 Climate Letter and the 2013 Energy Agreement, but takes a longer-term view as to measures for achieving the 2050 emissions reduction objectives.

It includes a new agenda for research and innovation, outlining the steps that must be taken in the period between 2020 and 2030. Matters of equal importance are how the ETS instrument will improve and expand, the role that emissions standards can play, the innovation push and steps necessary in relation to pricing and fiscal greening.

Name of Policy	Energy Report
Date	June 2011
Summary	<p>This document is prepared by the government every four years to establish energy and climate policies. In 2011, the government presented the latest version of the Energy Report, which outlined the ambition to become more sustainable in energy and less dependent on fossil fuels in the transition to a low-carbon economy by 2050.</p> <p>As presented in this report, the three pillars of the Dutch energy strategy are to ensure reliable energy supply at competitive prices and green growth as primary economic objectives, while maintaining an international approach in the long-term transition to a sustainable energy supply.</p> <p>To expand the share of renewable energy, the government proposes a two-track policy. The long-term approach aims to make renewable energy competitive with grey energy. The short term approach aims to achieve the European target for renewable energy in the Netherlands of 14% in 2020. This target should be achieved by using for instruments: Sustainable Energy Incentive Scheme Plus (SDE+); obligation for use of biofuels in the transport sector; co-firing with biomass in coal-fired power stations; and import of renewable energy.</p> <p>The document sees the European Emissions Trading System (ETS) as the most important instrument for reducing carbon emissions. It acknowledges the need to improve the investment climate by reducing the regulatory burden and by facilitating more efficient control. This will involve an evaluation into the Electricity Act 1998 and the Gas Act, to assess the scope for deregulation, reduction of control costs and the administrative burden and the costs associated with compliance.</p>

Name of Policy	New Energy for Climate Policy: The Clean and Efficient Programme (CEP)
Date	November 2007, amended 2010
Summary	<p>The CEP was established with three main objectives: setting and implementing firm targets for reducing GHG emissions, increasing the share of renewable energy and improving energy efficiency. It also established specific targets to:</p> <ul style="list-style-type: none">• reduce GHG emissions by 30% from the 1990 level by 2020 (more ambitious than the corresponding EU target)• increase the share of renewables in the energy mix to 20% by 2020• achieve energy efficiency improvements of 20% by 2020• make a 'big step' in the transition to a more sustainable energy system by 2020.

However, the government that took office in 2010 lowered the targets for the level of GHG emissions and the share of renewable energy to the EU-required level. In its Climate Letter 2050 of 2011, the cabinet set out four core elements for achieving a climate-neutral economy by 2050: CO2-free electricity supply, sustainable use of biomass, energy savings and CCS.

Name of Policy	Stimulating Renewable Energy Production; replaced in April 2008 by the Environmentally Friendly Electricity Production Programme (ceased 18.10.2008) Number 410
Date	16 October 2007
Summary	<p>Subsidy scheme to facilitate and incentivise the uptake of renewable energies, intended as last stimulation step in the development of renewable energy technologies. The focus is also on learning effects regarding the specific deployment of renewable technologies and an innovation-based assessment in addition to the cost-effectiveness assessment.</p> <p>Provision of EUR326m (USD506m) between 2007 and 2011 in combination with a rigorous greening of the tax system in line with the Coalition Agreement</p> <ul style="list-style-type: none"> • Deployment of the Sustainable Energy Production subsidy system (SDE) for onshore and offshore wind, biomass and solar electricity • Broadening of the SDE by sustainable (green) gas and more effective stimulation of bio-cogeneration • Option for installations to switch in the long term to a mandatory system for generated energy • Harmonisation of the subsidy with the life span of installations • Requirements for biofuels (sustainability criteria, methane/NOx emissions)

Name of Policy	National Programme for Spatial Adaptation to Climate Change (ARK), (April 2007) Implementation via the National Adaptation Strategy (November 2007), 7222
Date	April 2007
Summary	<p>The Programme recognises that the Netherlands needs to adapt to the unavoidable consequences of climate change and attempt at the same time to realise co-benefits for other sectors. It follows three areas of priority: Raising awareness, forming networks and developing strategy. This is to be achieved via communication of the climate change problem, involvement of all relevant stakeholders to raise awareness and increase support, encouraging co-ordination among stakeholders, clarifying prospects for action and joint development of a national adaptation strategy and adaptation agenda.</p> <p>It also aims to develop and disseminate knowledge and develop a common view to understand climate impacts, their interactions and develop a common view of risks and responsibilities among all stakeholders and develop knowledge via the programmes under the Investments in Knowledge Infrastructure (Subsidies) Decree (BSIK) in this area. It also aims to develop instruments, provide advice on measures and implementation by setting priorities for adaptation measures and capacity building to adapt via projects.</p>

Name of Policy	Energy Investment Tax Deduction Scheme (WEM)
Date	1 January 1997
Summary	Provides a direct financial advantage to companies investing in sustainable energy and energy-saving equipment. The Energy Investment Tax Deduction scheme allows entrepreneurs to deduct 44% of the purchase/production costs for energy-saving equipment from their company's profits for the year in which the equipment was purchased, up to EUR113m (USD175m) annually.

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