

CLIMATE CHANGE LEGISLATION IN BELGIUM

AN EXCERPT FROM

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



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Belgium

Legislative Process

The Kingdom of Belgium is a federal parliamentary democracy under a constitutional monarchy. The national government was created through the 1993 revision of the 1831 Constitution, which has been amended several times, most recently in May 2014. The national government is composed of three Communities (Flemish, French and German-speaking) and three Regions (Flemish, Walloon and Brussels-Capital), each with its own executive and legislative bodies. The Parliament, jointly with the King who heads the federal executive, have the right of legislative initiative. The Constitutional Court is the highest judicial body. On the federal level, the bicameral Parliament consists of a Senate representing the federated entities (60 seats; 50 senators from federated entities, 10 co-opted; elected for a five-year term) and a House of Representatives representing the citizens (150 seats; members directly elected by popular vote for a five-year term; proportional representation). The last federal election was held on 25 May 2014, and the next is scheduled for 2019.

The Constitution is the highest-ranking legal norm, followed by, in descending order, federal Special Acts (which require special majority and organize division of powers and operational rules of public institutions); federal Acts and federated entities' Decrees and Ordinances (the legal value of the latter being restricted to the territorial boundaries of the concerned region); and royal, government and ministerial orders implementing the Acts or Decrees. In addition, an 'Agreement on Co-operation' can be adopted among the federated entities and the national government, and is often used in climate change policy in cases where actions need to be co-ordinated at the national level. A draft Act is voted in plenary session of one or both of the Parliament Chambers depending on its content. It is then transmitted to the King, who gives his assent and promulgates the Act after countersignature by the relevant Minister. The Act generally takes effect the 10th day after publication in the official Gazette.

Approach to Climate Change

Belgium ratified the Kyoto Protocol in 2002. It submitted its first National Communication to the UNFCCC in 1997 and its 5th communication in 2014. The next communication to the UNFCCC is being prepared. For the second commitment period (2012-2020), Belgium has committed to the joint EU "20-20-20" targets of the "climate and energy package". It is required to reduce its GHG emissions from non-ETS sectors by 15% by 2020 (base year 2005), source 13% of its non-ETS sectors final energy consumption from renewable sources by 2020, and improve energy efficiency.

The 'Belgian Federal Public Service of Health, Food Chain Safety and Environment', together with the Federal Public Service Economy and Finance, are responsible for preparation and monitoring of federal environmental and climate change policies, such as product efficiency, large energy infrastructures and planning of gas and electricity networks, energy pricing and taxation, nuclear energy and off-shore wind power, national airports and railways, taxation of vehicles and motor fuels, and technical vehicle

standards. The Inter-ministerial Conference for Environment and the Committee for Co-ordination of the International Environmental Policy are in charge of co-ordination and preparation of climate change related matters within broader environmental policy and Belgian representation in relevant international institutions. The National Commission for Climate has a permanent Secretariat and is composed of representatives of the federal Government and the three regions. It is responsible for preparing and implementing national climate change policy and reporting to the EU and international institutions, as well as approval of projects for the Kyoto Protocol Joint Implementation and Clean Development Mechanisms. Other bodies are responsible for preparation of regional and national GHG inventories or co-ordinate energy-related matters (e.g. the Interregional Environmental Agency).

Climate change policy has been consolidated in the National Climate Plan (2009-2012). Since 2013, the National Climate Commission has been engaged in extending this Plan until 2020. The process has been slowed down by the lack of agreement among the regions and the National government on burden-sharing of non-ETS targets for 2013–2020 and determination of the share of renewables per region. The climate policies of the different authorities focus on six sectoral strategic priorities: optimisation of energy production, rational use of energy in buildings, increased efficiency in industrial processes, developing sustainable modes of transport, fostering sustainable management of agriculture and forests and strengthening efforts in waste management. There are also additional, cross-cutting priorities, including support for research and development, education, awareness-raising and training of various target groups, implementation of flexibility mechanisms (CDM, JI), and integration of climate matters into development aid policy.

Sub-national activity

Most climate change mitigation and adaptation initiatives have been undertaken at the regional level. The regions have each adopted particular climate policy plans or strategies, as well as other specific legislation. The Flemish government adopted the Flemish 2013-2020 Climate Policy Plan (2013), including mitigation and adaptation plans. The Plan contains concrete measures for 2013-2020 in the non-ETS sectors (provisional target of 15% emissions reduction), in particular for transport and building sectors, the most GHG-intensive non-ETS sectors in Flanders. The Walloon Parliament adopted the Climate Decree (2014), which should enable Wallonia to meet its commitments to cut GHG emissions (ETS and non-ETS) by 30% by 2020 and by 80-95% by 2050 compared to 1990 levels. The Brussels Code for Air, Climate and Energy (2013) contains measures regarding energy efficiency, renewables, sustainable transport, air quality and climate. It should help the Brussels region to reach the target of 30% GHG emissions reduction by 2025. The federal authority and the regions also participate in climate-related research on different levels, including international co-operation (e.g. a joint project with Burundi on the exploitation of observations from climate research).

Energy supply

The main energy policy priorities include reorganising the gas and electricity market to encourage increased competition and transparency, phasing out nuclear energy by 2025, climate change mitigation, ensuring security of supply, and diversification of energy sources. Responsibility for energy is divided

between the national government and the regions. Measures to promote renewable energy sources are mainly taken at the regional level. The federal Government is mainly responsible for regulation and development of off-shore renewable energy – mainly wind facilities in the North Sea. Seven concession zones have been defined and the first installations (so far in one zone only) are expected to be completed in 2015. They should reach total capacity of around 2 TWh (2.5% of electricity production). Belgium is also considering building an artificial island in its territorial coastal zone that would allow production of pumped-storage electricity to solve the problem of intermittency of renewables.

In response to EU requirements, the National Renewable Energy Action Plan proposed measures to achieve a 13% share of renewable energy in gross final energy consumption by 2020 (from around 7% today). The Commission for Regulation of Electricity and Gas monitors the functioning of the electricity market and approves transmission and distribution tariffs for use of the grid.

The two key climate policy tools to promote renewable and high-efficiency electricity generation are the ETS mechanism and green certification schemes. They are supplemented by financial support schemes (subsidies, grants and tax reliefs). The federal support system issues green certificates for offshore wind, hydro, geothermal, tidal energy, and some solar power installations. Flanders, Wallonia and Brussels-Capital each have a green certificate system to support development of renewable energy sources.

Energy demand

Energy intensity has declined since 1990 by around 1% per year. In 2011, buildings were the leading end-consumer of primary energy (33.7%), followed by industry (30.9%) and transport (20.7%). Since 2013, Belgium has adopted an indicative energy efficiency target for 2020: 18% reduction of primary energy compared to reference scenarios, converted into a final consumption target of 32.5 Mtoe by 2020.

On the national level, measures to support energy efficiency are listed in the 3rd National Energy Efficiency Action Plan (2014) elaborated in line with EU requirements. The federal measures include organisation of consumer information programmes, implementation of the EU ‘Eco-design’ and ‘Energy labelling’ directives, and creation of buildings standards. However, federal support for energy efficiency (tax reductions for low-/zero-energy houses, green loans) has been reduced over 2012-2013, as responsibility for energy savings has shifted to the regions. The latter have introduced buildings standards, appliances certificates, and agreements with industry sectors on energy efficiency improvement and GHG emissions reductions. The Flemish government adopted the Energy Renovation Programme 2020, aiming to ensure that all existing homes have insulated roofs, double glazing and new efficient boilers by 2020. In 2012, the Walloon Region launched “Ecopack” interest-free loans and energy subsidies to stimulate energy efficiency upgrades in housing. The Brussels-Capital Region provides subsidies called Energy Bonus 2013 for residential, industrial and service sector buildings.

Carbon pricing

The EU ETS, introduced in 2005, is Belgium's main carbon pricing initiative. The profits resulting from the auctioned EAU within the EU ETS mechanism are to be reinvested in measures aimed at further cutting GHG emissions, modernising production and grid infrastructure, and developing clean technologies.

Energy taxation rates are among the lowest in the EU. In 2010, revenues from energy taxes in terms of GDP reached just 1.3%. A national excise tax on fossil fuels (excluding natural gas and electricity) was introduced in 2004 for firms without environmental objectives agreements, leading to almost all industry sectors concluding such an agreement. Since 2008 a levy has been applied to the production of nuclear power.

REDD+ and LULUCF

Approximately 22% of Belgium is covered with forests, mainly in the Walloon region. Reforestation and forest conservation are encouraged through general forestry legislation, primarily at the regional level. The Forest Code, which dates back to 1854, is now also regionalised. Belgium also contributes financially to REDD+ projects directly or through the Global Environmental Facility (GEF), and participates in various forest certifications schemes. Additional climate change-related measures are being carried out in the agriculture sector, focusing on reducing GHG emissions mainly through decreasing production (livestock) and improving agricultural practices (waste recovery, combating soil degradation, etc.).

Transportation

Belgium is a transit and export-oriented economy, with a constantly growing transport sector (GHG emissions up by over 30% between 1990 and 2011). Federal and regional initiatives mainly focus on shifting road traffic growth towards rail or waterways and improving public transport provision, promoting car-sharing and upgrading infrastructure. Drivers are also encouraged to use low-energy vehicles (information, tax incentives) and use them in moderation (eco-driving). The transport sector was formerly under federal competency but most responsibilities have been transferred to the regional level since 2011. Federal green car support granting a 3-15% sales price equivalent reduction were abolished in 2012 and tax deductions for investment in electric cars were phased out by the end of 2010. There is still a federal quota for 9% annual sale of bio-ethanol and 6% annual sale of biodiesel for providers of petrol and diesel, and tax deductions for companies with low fuel consuming car fleet. The regions have adopted several measures to decrease GHG emission from transport, such as the Walloon and Flemish car registration tax reflecting CO₂ emissions or the country-wide distance-based toll system for vehicles above 3.5 tonnes (expected to become operational after 2016).

Adaptation

The National Climate Change Adaptation Strategy has been in place since 2010 and a National Adaptation Plan based on the Strategy is being developed. The Strategy reflects the increasing vulnerability to climate change, especially in coastal zones, river flood prone areas and urban areas. On the regional level, Flanders has an adaptation strategy within its Climate Policy Plan 2013-2020 and working groups on adaptation strategies have been established in the other regions, as well as at the

federal level. A number of research programmes have been launched to improve the understanding of the effects of climate change, such as the Inter-regional project 'Future cities'. Climate change considerations have also been mainstreamed into different plans, programmes and projects, such as spatial planning (CCASPAR), marine spatial plan, water purification management plans and studies ('AMICE' project), rural development (GISER unit), Brussels transport plan, the winter/summer plan of the railways, Master Plan for Coastal Safety, and the National Environmental Health Action Plan.

Belgium: Legislative portfolio

Name of law	Special Act to reform the finance of the Communities and the Regions, the extension of the tax autonomy of the Regions and the finance of new competences
	1 July 2014
	<p>The Act establishes a mechanism to incentivise climate action as part of the National Climate Strategy and contributes to reaching European and International objectives. It is based on a multiannual reference trajectory for GHG emissions reduction in the residential and tertiary building sectors (excluding industrial buildings), specific for each region. A financial bonus is attributed to a region when it exceeds its assigned objective, to be invested in emission reduction policies. If a region fails to meet its assigned objective, a financial penalty is foreseen, calculated on the difference between the reference trajectory and actual emissions, to be invested in emission reduction policies by the national government.</p> <p>This mechanism is to be financed with revenues from auctioning of the emission quotas assigned to Belgium (which are yet to be distributed between the regions and the national government through the domestic-burden sharing, currently being discussed). In order to ensure that a sufficient part of the auctioning revenues is preserved, a bonus ceiling is set at a level equal to the national government's share of auctioning revenues, while the penalties ceiling is set at 50% of the regional share of the auctioning revenues.</p>

Name of law	Act on Biofuel Blending Obligation
Date	17 July 2013
Summary	<p>The Act provides for companies that sell petrol E5 or E10 or diesel oil to integrate in the fuel mix a volume of sustainable biofuels within one calendar year. The quota obligation applies to all registered oil companies offering petrol or diesel products for consumption. The providers of petrol E5 or E10 or diesel fuels have to ensure that biofuels make up a certain volume (see below) of the company's total annual sale of fuel by the end of each calendar year. The following volumes apply: E5: 4% v/v, E10: 9% v/v, and Diesel: 6% v/v. If a provider fails to fulfil the quota, they must pay a fine of EUR900 (USD1,129) per 1,000 litres of biofuels that was not blended with the annual amount of petrol or diesel products sold.</p>

Name of law	Royal Decree on the Tax Regulation Mechanism and Excise Duty Exemptions for Rapeseed Oil Biofuels
Date	10 March 2006
Summary	<p>The Decree provides for the support of biofuels production through an excise duty exemption. The fuel from rapeseed oil produced by a physical or legal person that directly sells its production to the end consumer without intermediary can be exempted from excise duty. The exemption equals the excise rate of the fuel the rapeseed oil replaces. The following conditions apply:</p> <ul style="list-style-type: none"> • Rapeseed oil shall be used as a biofuel • The natural or legal person producing the rapeseed oil shall sell it to the end consumer without intermediary <p>The Decree is a follow-on to broader legislative support to biofuels production through tax exemptions (bioethanol, fatty acid methyl ester), which expired in May 2014.</p>

Name of law	Act-Programme (including the Creation of the Fund for General Reduction of Energy Costs)
Date	27 December 2005
Summary	The Act-Programme establishes the 'Fund for general reduction of energy costs' to support energy-saving measures adopted by the most vulnerable households. The Fund offers low-interest or 0% rate loans to finance energy efficiency measures for individual households (maximum EUR10,000 (USD12,549) /year/household). The poorest households that could qualify for support by the Fund are identified through co-operation between local government and local 'social action unit'. Energy audits are carried out and the most relevant energy efficiency investments are identified. The details of the loan are agreed upon between the Fund and the local government entity, which is also the guarantor of 95% of the total amount of the loan. The debt ceiling of the Fund is EUR 150 million (USD 188 million).

Name of law	Act on the Progressive Phase-out of Nuclear Energy from 2015 to 2025
Date	31 January 2003 (latest amendment 24 December 2013)
Summary	The Act provides for the gradual phase-out of nuclear energy for commercial electricity production. It prohibits the construction of new nuclear power plants and sets a 40-year limit on the operational period of existing plants (most of which were constructed in 1974 or 1985 and would need to be decommissioned over the 2015-2025 period anyway). The 2013 amendment postpones the nuclear phase out and shutdown of the last nuclear reactor to 2025. The first reactor to be shut down will be Doel 1 in February 2015. The operators of the reactors to be shut down in 2025 are to pay an annual charge in exchange for the operation extension. The revenues from this mechanism are to be used as part of financing for the federal green certificate scheme. The progressive phase-out of nuclear starting in 2015 is to be accompanied by energy market restructuring measures, including reduction of energy consumption by the largest (industrial) energy consumers.

Name of law	Co-operation Agreement on the National Climate Plan and the National Climate Plan
Date	Co-operation agreement from 14 November 2002; Plan from 2008
Summary	<p>The National Climate Plan (2009-2012) consolidates Belgian climate change policy, and defines the 11 main axes of Belgium's climate strategy:</p> <ul style="list-style-type: none"> • Energy production optimisation • Efficient use of energy • Industrial sector initiatives • Development of sustainable transport • Prioritisation of sustainable management of agricultural and forest ecosystems • Continued efforts in waste management • Increased climate change research • Awareness-raising on climate change mitigation options • Increased direct initiative of public authorities in reducing the GHG emissions • Use of flexibility mechanisms (JI, CDM) • Integrating the climate dimension into development aid policy

The co-operation agreement was the basis for the elaboration of the first National Climate Plan, as well as establishment of the National Climate Commission. The Plan offers a detailed description of all existing formally approved climate change related measures for each sector (energy, industry, transport...) and cross-cutting issues (awareness-raising, exemplary role of the federal Government, etc.).

The Agreement establishes a National Climate Commission which monitors the implementation of the co-operation agreement, co-ordinates internal climate policy, and monitors and evaluates the National Climate Plan implementation and fulfilment of reporting obligations to the European and international level. The main tasks of the Commission thus include:

- Approval of official reports under the UNFCCC, the Kyoto Protocol, and EU Directives and Decisions

- Evaluation of co-ordination and co-operation between the federal and interregional level on implementation of policies and measures adopted on the basis of the National Climate Plan.
- Advice to the Co-ordinating Committee for International Environmental Policy and the Interdepartmental Commission for Sustainable Development.

Since 2013, the National Climate Commission has been engaged in extending this Plan up to 2020, a process slowed down by the lack of agreement among the regions and the National government on burden-sharing of non-ETS targets for 2013 – 2020 as well as the share of renewable energies per region.

Name of law	Act on Organization of the Electricity Market
Date	29 April 1999 (latest amendment 14 June 2014)
Summary	The Act regulates organisation of the electricity market and contributes to meeting international commitments related to climate change. This is to be done in particular through promotion of renewable electricity generation, among others by providing federal feed-in tariffs, and organising a federal green certificate scheme. It defines the extensive competences of CREG (the Commission for Regulation of Electricity and Gas) in fixing transport and distribution tariffs, as well as regulating the prices of energy to prevent adverse price increases. The Act further guarantees connection of renewable electricity sources to the grid. It also supports the promotion of renewable energies in planning for electricity sources choice, lays down provisions for feed-in tariffs for renewable electricity production not addressed by specific regional regulation, mandates the federal Minister for Energy to stimulate tenders for renewable electricity generation installations and especially wind power, provides for adoption of specific regulation organizing the green certification scheme.

The federal green certificate scheme is further detailed in the Royal order on the Creation of a mechanism to support electricity production from renewable energy sources of 2012 (modifying previous regulation from 2002). The Order requires electricity transmission system operators to purchase green or CHP energy certificates at a guaranteed minimum price. Renewable energy facilities (offshore wind farms, PV facilities commissioned before 01/08/2012, hydro or tidal energy facilities and geothermal energy generation facilities) are entitled to receive this support for 10 years after the facility is commissioned.

Name of law	Act on Co-ordination of Federal Policy on Sustainable Development
Date	5 May 1997 (latest amendment 4 December 2014)
Summary	The latest version of the Act on Co-ordination of Federal Policy on Sustainable Development calls for the development of a long-term vision for Sustainable Development that would include goals for 2050 and be based on interdepartmental and vertical co-operation among between the federal level and federated entities through the specifically created Interdepartmental Commission on Sustainable Development.

A Federal Sustainable Development Plan is regularly elaborated and lays down specific co-ordination measures. So far, two FSDPs have been adopted, one for 2000-2004, the other for 2004-2008. The second FSDP has been extended due to the political context that prevented elaboration of a Plan for 2008-2012 and remains the current federal SD Plan. Three of the six main objectives of the FSDP are “Managing natural resources more responsibly”, “Limiting climate change and increasing the use of clean energy”, and “Improving the transport system”. The measures proposed at the federal level in co-ordination with the regions include promoting alternative modes of transport, setting the right price for energy, promoting energy-conserving buildings and providing better public transport.

Belgium: Executive portfolio

Name of policy	National Climate Change Adaptation Strategy
Date	6 December 2010
Summary	<p>The Strategy was developed by the Belgian National Climate Commission in response to the EU White Paper on Adaptation (2009) and the Belgian National Climate Plan (2009-2013). The three main objectives of the Strategy are:</p> <ul style="list-style-type: none">• improve the coherence of existing adaptation initiatives (evaluation of climate change impacts and vulnerability, existing measures)• improve communication at the national, European and international level• create a National Adaptation Plan <p>The Adaptation Strategy lays down the following principles and considerations to be followed during elaboration of a National Adaptation Plan (currently being developed):</p> <ul style="list-style-type: none">• consideration of particular vulnerability of coastal areas• need for targeted specific adaptation measures and co-operation among all relevant stakeholders• possible side effects from adaptation measures but also potential for win-win measures• adaptation, so far a bottom-up approach, to be further encouraged and communicated through central co-ordinated initiatives especially for monitoring and best-practice sharing• special support is to be provided to the most vulnerable groups <p>Based on the above, the following objectives of a future National Adaptation Plan are proposed:</p> <ul style="list-style-type: none">• Cluster and co-ordinate work on adaptation• Ensure visibility for stakeholders, both in and outside Belgium• Create awareness and raise the sensitivity of actors• Identify and communicate dangers, gaps, risks, possibilities and synergies• Provide policy coherence and a clear structure in which the current activities are to be positioned• Provide basis for individual actors to take preventive measures and incorporate impacts of climate change in their private, business and public planning• Enable co-operation and synergy between the federal, regional and local governments• Ensure that all levels of government can fully control an effective implementation

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