



WWF Climate Campaign – February 2001

**Environmental agreements: ensuring  
their effectiveness**

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Discussion paper for the Voluntary Agreement  
Sub-Working Group 5 of the European Climate  
Change Programme

Contact: Giulio Volpi, tel: +32 (0)2 743 88 00

Email: [gvolpi@wwfnet.org](mailto:gvolpi@wwfnet.org)

## EXECUTIVE SUMMARY

- The current policy trend towards public deregulation and industry self-regulation tends to portray impacts of EAs in glowing terms, especially in terms of faster achievement of environmental objectives, better cost-effectiveness, and enhanced environmental corporate responsibility.
- Independent research on the effectiveness of past and current agreements shows, however, that EAs are not an easy policy fix to achieve climate protection goals.
- Most EAs have targets that are quite modest or vague and do not deviate clearly from business-as-usual. Most of the time, the CO<sub>2</sub> reduction goals have been achieved prior to the signing of the agreement (eg. German industry declaration and Community EA on washing machines).
- The idea that EAs might be a way to get results with small administrative resources does not hold true. To be an effective counterpart to the industry associations, the public side requires significant commitment of administrative resources.
- Negotiations based on the hypothetical threats (or incentives) that the private counterpart has no reason to judge as credible do not produce effective agreements. This is demonstrated by the weak outcome of the Community EA on automobile's fuel economy.
- When they work, EAs are focused in scope, carefully designed and monitored, and supported by a strong legal basis that ensure compliance through the stick of adopting alternative regulation, levying financial penalties or providing incentives (eg. tax rebates).
- The quality of target setting represents a key factor of success or failure of the agreements. EAs are effective only when targets are pre-defined in a democratic process, because this sets a better stage for negotiations and adds pressure for the public in the implementation stage.
- The experience gained at national level indicates that the environmental effectiveness of EAs depends on parameters that are not easily reproducible at the Community level. Therefore, WWF believes that the scope for effective Community EAs to address climate change is rather limited.
- Until a legal framework for the use of European voluntary agreements is developed, the legitimacy of these policy instruments is doubtful and the Commission should restrain to propose and negotiate further Community agreements.

## 1. INTRODUCTION

Environmental Agreements (EAs) between government and industry have been increasingly seen and used as a new policy tool to achieve environmental and climate protection goals.

In 1996, the European Commission provided a set of guidelines for guaranteeing the transparency, credibility and reliability of EAs developed both at Member State and Community-level (CEAs). The key elements in that respect are: prior consultation with interested parties, a binding form, quantified and staged objectives, the monitoring of the results as well as the publication of the agreement and the results obtained. However, as it will be argued in this paper, the current experience with national level agreements indicates a tremendous gap between theory and practice.

The objective of this paper is to provide WWF views on the design and use of environmental agreements for climate policies. It reviews the lessons drawn by national experience with EAs. On this basis, it presents the key criteria to ensure the environmental effectiveness of future EAs. Finally, it analyses the potential use of EAs at European level and concludes that there is little scope to develop European environmental agreements to deliver climate protection.

## 2. WWF VISION ON ENVIRONMENTAL AGREEMENTS

WWF believes that EAs could be valid elements of a policy mix to implement stringent climate protection policies, provided that the following basic objectives are met:

- **Promote effective environmental improvements:** EAs should guarantee the achievement of Kyoto's emissions reduction targets. Furthermore, EAs need to be able to embrace initiatives that go beyond win-win opportunities (by changing the "goal-posts") if climate change is to be successfully addressed -which requires emissions reductions that go significantly beyond the targets agreed at Kyoto.
- **Support cutting-edge technological development:** given the significant potential for new and innovative climate friendly technologies, EAs should address existing barriers and underline the hidden win-win benefits. They should "force" these technologies to reach their appropriate level of industry penetration and should establish new markets.

- **Be transparent and democratic:** Transparency is a crucial issue for EAs to be a credible policy tool. It is vital that civil society, represented by Parliament and NGOs, are actively involved in the design and implementation of the agreements.
- **Ensure corporate responsibility.** The challenge of climate change requires industry to implement pro-active environmental actions. EAs should be used to encourage corporate environmental responsibility and reward truly innovative climate solutions.

### 3. LESSONS FROM THE PAST

The current policy trend towards public deregulation and industry self-regulation tends to portray impacts of EAs in glowing terms, especially in terms of faster achievement of environmental objectives, better cost-effectiveness, and enhanced environmental corporate responsibility. However, empirical analysis from independent research<sup>1</sup> on the current experience with national environmental agreements warns against any simplistic conclusions. The following lessons can be drawn:

- **Environmental effectiveness.** Most national and Community environmental agreements have targets that are quite modest or vague and do not deviate clearly from business-as-usual. Among others, two clear examples include:
  - *The Declaration by Germany Industry on Global Warming* (1995, amended in 1996) With this EA, the German industry committed to reduce specific CO<sub>2</sub> emissions by up to 15% by 2005. However, more than 80% of this reduction (65 out of 78 Mtons CO<sub>2</sub>) was already achieved prior to the agreement, between 1990-1995.
  - *The CEA on energy efficiency of domestic washing machines.* In this case, the European Committee of Manufacturers of Domestic Equipment (CECED) committed to reduce specific energy consumption in washing machines by 20% between 1994-2000. However, most of the savings were reached already before the agreement was signed (1997). In fact, the energy saving between the years 1994 and 1998 is claimed to be 22%.
- **Cost-effectiveness.** The idea that EAs might be a way to get results with small administrative resources does not hold true. To be an effective counterpart to the industry associations, the public side requires significant

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<sup>1</sup> See in particular, Final Report of the Concerted Action on Voluntary Agreements (CAVA Network, 2001), and Voluntary Agreements in Energy Policy - Implementation and Efficiency (VAIE Project, 2000).

commitment of administrative resources. It has been estimated that scaling-up of the Danish scheme to the European level would require a responsible agency with a staff of 600-1,000 people. Even in the case of EA with branches dominated by few larger companies, an administrative capacity of the same absolute size as in the Netherlands or Denmark would be needed. (Helby 2000).

- **Need for a negotiating threat.** Negotiations based on the hypothetical threats (or incentives) that the private counterpart has no reason to judge as credible are unlikely to produce effective agreements. They may even produce agreements that are counterproductive as they create obstacles to effective environmental action and discredit the concept of environmental agreements. This is demonstrated by the weak outcome of the Community EA on automobile's fuel economy (see below, Annex 1).
- **Focus.** At national level, EAs tend to be focused. The Danish and French authorities have focused on energy-intensive industries, while the Dutch emphasise that EAs are relevant for industries with a well-functioning industry association, demonstrating an effective commitment to compliance and involving companies covering at least 80% of the specific industry's consumption.

The major lesson that can be drawn from the analysis above is that environmental agreements are not an easy policy fix to achieve climate protection goals. When they work, EAs are focused in scope, carefully designed and monitored, and supported by a strong legal basis that ensure compliance through the stick of adopting alternative regulation, levying financial penalties or providing incentives (tax rebates).

The quality of target setting represents the principal factor of success or failure of the agreements. EAs are effective only when targets are pre-defined in a democratic process, because this sets a better stage for negotiations and adds pressure for the public in the implementation stage. Accordingly, special emphasis has to be put on the stage of preparation and negotiation of the EAs if they are to succeed.

#### **4. KEY CRITERIA FOR DESIGNING ENVIRONMENTAL AGREEMENTS**

Based on the above lessons, WWF considers the following criteria to be uppermost in designing effective national EAs:

- ***EAs as a complementary instruments.*** EAs should not be independent instruments to address environmental protection and climate change, but are to be used within a portfolio of other instruments, including regulations, taxes, subsidies and technological development programmes. EAs are not a substitute to regulation, as they would then lack the complementary threat of penalties or sanctions which ensure industry's incentive to comply. Experience in the Netherlands and Denmark shows that EAs can be successful only if they are part of a policy mix of instruments, including market instruments and regulations. In Denmark, EAs were launched as a flexible way to allow exemption from the national energy tax. EAs signatories still pay a certain level of tax, and if failing to achieve the targets, will be retrospectively liable for the tax exemption awarded.
- ***Targets.*** Targets play a key role in ensuring that the agreement delivers effective and measurable environmental improvements. Quantitative targets must be ambitious enough to have an impact on the sectors' behaviour. They should go beyond business-as-usual so they can affect future investment decisions and spur technological development. The starting point for negotiations should be how great reduction is needed, and not how much industry thinks it can or wants to deliver. Therefore, targets should be set within the context of a government's existing Kyoto-related emission reduction commitments, and in anticipation of future targets beyond 2010.

To date, targets have been based on short-term cost-effective greenhouse gas (GHG) emissions reductions, which companies put in place already as part of the normal business cycle. More rigorous targets should be based on moving the industry towards international best-practice efficiency levels over a ten-year period. Targets should be reviewed and strengthened, according to technological development and the need for stronger climate action.

- ***Firm-level responsibility.*** EAs should preferably be signed by individual companies - not industry associations- and should relate to specific sites or installations rather than company-wide activities. While industry associations may be a first port of call for discussions on the size of reductions in the sector, signing an agreement with the sector as a whole provides weaker incentives for compliance. This is confirmed by the case of the German Declaration on Global Warming. The poor environmental effectiveness of this EA is, among others, due to the element of collective liability of the German industry, as compared to the individual liability of participating firms of the Dutch Long Term Agreementss. The lack of reports on progress from individual companies resulted in little incentives to

follow the agreement, and provided no clear "sticks" in case of non-compliance.

- ***Transparency and public participation.*** EAs are often promoted as a new policy tool based on multi-stakeholder dialogue and shared responsibility. Although there is certainly a potential, current experience shows clearly that recently agreed EAs lacked transparency as well as multi-stakeholder collaboration. Even in the case of the Netherlands, analysis of EAs negotiations points out the very limited involvement of third parties, such as environmental NGOs. The EA process should be transparent, especially as regards the setting of reduction targets. Civil society should be able to participate in this process from the beginning. Resources should be available to allow an informed participation.
- ***Monitoring and verification.*** It is essential to put in place an effective monitoring mechanism to monitor EA progress and independent verification of it; otherwise the EA is neither credible nor accountable. A progress report on EA implementation should be made mandatory and available to the public, so that the latter can play the key role of "watchdog". However, the level of public availability of results thus far has been very low. In Denmark, results on EA progress are not published; in the Netherlands monitoring reports are confidential; and in Germany while reports are in principle available they have been difficult to get hold of.
- ***Sanctions in case of non-compliance.*** To ensure an additional "stick" in the case of non-compliance, it is vital that EAs contain a set of sanctions. Without sanctions for failing to meet targets, it is not possible to demonstrate that any change has occurred beyond Business-As-Usual trends. Sanctions are also necessary to avoid the free-rider problem, while backing-up pro-active corporate responsibility. Experience in countries like Netherlands, Denmark, and Portugal shows how sanctions are crucial for ensuring compliance. At European level, informal sanctions (i.e. name, blame and shame) seems not to offer a significant incentive for compliance.

As the empirical research shows, the first generation of EAs at Member State level fall short in meeting the above-mentioned criteria, particularly as regards ambitious targets, independent monitoring and, public participation. This raises the crucial question of whether national EAs can deliver the GHGs reductions required to meeting and going beyond the Kyoto Protocol commitments.

To prevent the failure of climate policies, Member States must ensure that the current national EAs are strengthened, according to criteria laid down by the Community guidelines in 1996. Only by improving their current poor

performance, EAs be credible as part of the policy instruments to be used in national climate change policies.

## **5. ARE COMMUNITY ENVIRONMENTAL AGREEMENTS FEASIBLE?**

The national experience suggests that there are a number of limitations on the use of environmental agreements for Community level climate policies. These include:

- **Legal basis of CEAs.** Lacking a legal basis in the Treaty, the Commission has adopted non-binding agreements by the use of Commission Recommendations. This approach raises fundamental questions about the role of the European Parliament and Council in deciding the commitments, the monitoring and enforcement aspects of CEAs.
- **Administration capacity.** The public task of negotiating and monitoring EAs requires significant administrative resources and information knowledge from the public side. Given its current economic and administrative resources, it is questionable whether the European Institutions, and particularly the Commission, could be able to handle the complexity of effective environmental agreements.
- **Negotiating incentives and threats.** A successful negotiation requires public authorities to table bargaining chips, such as a regulation or a tax. Is this possible at EU level? Given the complex European policy-making process, it is doubtful whether the European Commission has the same capacity of national governments to table credible negotiating threats, such as fiscal measures or regulations, or to provide incentives.

Concrete examples of these limitations can be found in Community environmental agreement negotiated with the automotive manufacture association (ACEA) - see Annex 1 for a detailed assessment.

Given the above analysis, WWF believes that the scope for effective European agreements to address climate change is limited. The pre-conditions for successful EAs are more likely to be met at Member States than at Community level. Furthermore, until a legal framework for CEAs is clarified, the legitimacy of these agreements is doubtful and the Commission should restrain to negotiate or propose further agreements.

## **6. CONCLUSIONS**

EAs could be valid elements of a policy mix to implement stringent climate protection policies, provided that they: promote effective environmental improvements; support cutting-edge technological development; ensure corporate



responsibility and; are negotiated and implemented in a transparent and democratic process.

Empirical research shows, however, that the first generation of EAs at Member State level falls short in meeting these criteria. In particular, EAs do not deliver ambitious targets, independent monitoring, and public participation. This raises the crucial question about the whether national EAs can deliver GHGs reductions beyond business-as-usual to meet Kyoto commitments.

To prevent the failure of climate policies, it is crucial that Member States strengthen the current agreements and, in the future, consider carefully the rationale and the preconditions for success before deciding to develop a climate policy based on negotiated agreement.

Finally, Member States experience indicates that the environmental effectiveness of EAs depends on parameters that are not easily reproducible at the Community level. Therefore, we believe that the scope for effective European agreements to address climate change is limited.

## **ANNEX 1: THE ACEA ENVIRONMENTAL AGREEMENT**

### **1. Background**

In 1995, the European Council approved a Community Strategy to reduce CO<sub>2</sub> emissions from passenger cars to an average of 120 g/km for newly registered cars by year 2005, at the latest 2010. The strategy is based on three policies: a) a voluntary fuel economy agreement; b) a fiscal framework for Member States and, c) a fuel economy labelling scheme.

In 1998 a voluntary agreement was reached between the European Commission and ACEA under the terms of which the industry is committed to reduce average CO<sub>2</sub> emission figures from all new cars to 140 g/km by 2008. This compares to a starting point of 186 g/km in 1995. An intermediate target was set for 2003 up to 170 g/km. The industry has also undertaken to make available to the market cars that emit 120 g/km by 2000 and to undertake further improvements beyond 2008. In 1998, equivalent commitments were made by the Japanese and (Japan Automobile Manufacturers Association – JAMA) and Korean (Korea Automobile Manufacturers Association –KAMA) automobile industries, which have to achieve the target by 2009.

### **2. Review of the ACEA agreement**

The ACEA agreement represents the first Community-level agreement aimed at climate change protection. A quick assessment of this agreement against WWF criteria for EAs (as well as Community guidelines) shows a number of fundamental shortcomings- weak targets, lack of compliance systems, poor public participation - which are likely to undermine the EU strategy to reduce CO<sub>2</sub> emissions from cars.

#### ***A) VA targets***

The content of the agreement is technically outdated. The target of 140 g/km was designed to bring about cars that would drive 100 km on 5 litres of petrol. However, recent OECD research shows that a 50-80% improvement in fuel economy would be technically possible using existing commercial technologies at little extra cost over 10-15 years. More importantly, the agreement falls short of the emission reductions necessary in the transport sector. In contrast, its impact is not even likely to stabilise CO<sub>2</sub> emissions from passenger cars at 1999 levels by 2010. Analysis carried out by the Dutch government (1999) demonstrates that most of the agreement's impacts had already been assumed in the official business-as-usual projections. Table 1 shows that the agreement contribution to the Dutch reduction target is negligible, between 0 and 0.4 Million tonnes of CO<sub>2</sub>.

In other words, the ACEA commitment will have approximately the same emission reduction effect as raising tire pressure (equal to -0.3 Mtonnes CO<sub>2</sub>).

Furthermore, the agreement's objective is not sufficiently ambitious to support a technological shift from the current internal combustion engine towards low-emission technologies such as electric or hybrid engines, not to mention hydrogen-based fuel cells. Although these technologies are more or less close to commercial production, barriers of higher costs and lack of supportive infrastructure still delay their large-scale development. The terms of the ACEA agreement are clearly not designed to support the introduction of needed zero emission technologies but to assist the maintenance of the conventional car model.

***Table 1. Environmental effectiveness of the ACEA agreement - the Dutch example***

<i>Measure</i>	<i>Impact (CO<sub>2</sub> Mtonnes)</i>
Dutch Kyoto reduction target	<b>- 50</b>
ACEA agreement impact in the Netherlands	<b>- 0.4</b>
Measures to rise tire pressure in the Netherlands	<b>- 0.3</b>

*Source: Dutch Ministry of Environment, 1999, Kyoto Implementation Strategy*

### ***B) Democratic deficit and lack of transparency***

The negotiation of the ACEA VA process was marked by an important democratic deficit: the process bypassed the European Parliament (EP), the only directly elected EU institution and failed to ensure civil society participation. While the EP was informed and could offer its opinion, which may or may not be considered, it had no decision-making power. Furthermore, civil society participation has been quasi non-existent with NGOs consulted only once. Because negotiations have been carried out “behind close doors”, the danger of regulatory capture materialised and led to the agreement of very weak targets.

It is clear that future exclusion of the EP from policy initiatives, such as VA negotiation, would lead to an unacceptable result: the lack of democratic participation in the EU policy making process. For this reason, the EP asked for new legal guidelines for Community wide agreements, before the Commission develops new However, as of December 2000, two years after the conclusion of the ACEA agreement, while the European Commission has not issued these guidelines yet, the negotiation of new EAs has been announced by the EU Council and by the same Commission services.

Other important limitations of the fuel-efficiency agreement include:

### ***C) Weak Monitoring***

The agreement includes statistical and holistic monitoring schemes in order to monitor both the ACEA progress and the agreement's assumptions. In March 2000, the European Parliament and EU governments have agreed that every year a "Joint Report" with ACEA (and the other two associations), is drafted and agreed between the parties, and attached to the Commission's Communication to Council and the EP. This would appear to meet Commission guidelines on EAs, requiring data to be independently verified. However, at least until the official EU database is established in 2001/2, monitoring data will be coming from the car association's source.

Under ACEA pressure, the Commission agreed that the performance statistics for individual manufactures should not be published. This is due to the fact that individual car manufacture contributions will not be directly quantifiable (the so-called collective responsibility or liability). However, disclosure of information for individual manufacturers is vital to allow the public, including NGOs, to compare different performances and thus encourage pro-active behaviour and compliance from individual companies. Finally, at it stands now, the monitoring mechanisms could also lead to renegotiations of targets. In fact, the monitoring procedure will take into account, amongst other things, legislated policies which might neutralise fuel economy improvements and the availability of fuel of a sufficient quality.

### ***D) Lack of enforcement mechanism***

A further problem with the ACEA agreement is the lack of any enforcement mechanism. The agreement does not contain sanctions for non-compliance and measures to address the issue of internal free riders- that is car companies which do not deliver their reductions. In other words, the industry will effectively be its own watchdog. Given the highly competitive characteristics of the car industry and the collective responsibility of the VA, internal free riding is a likely outcome. In this case, the even modest target of 140 g/km may not be achieved. And some warning signs are coming up.

According to the Commission's first annual report on the deal, covering the period 1995-99, cuts have being achieved but are not sufficient. To reach their targets, all three associations would have to cut emissions by 2% per year on average. However; over the first reporting period ACEA managed annual improvements of only 1.5%, JAMA 1.15% and KAMA just 0.4%. This means that the

achievements of the three associations so far are emission cuts of 6%, 4.6% and 1.5% respectively. As a result of the EP's demand for a stronger legal framework, the March 2000 monitoring mechanism has included a somewhat weak threat of sanctions against manufacturers for non compliance, but this still leaves the Commission discretion over whether to introduce legislation.

#### ***F) Lack of negotiation threat or incentive***

During the negotiation of the ACEA agreements, there was no threat of regulation if negotiation failed, there also appeared to be no incentive for the industry to negotiate ambitious emission reduction targets. A potential threat was represented by the development of fuel economy legislation. Legislative options have been seriously discussed only twice, both in a Council conclusions in 1991, and at a high-level workshop in 1998. Interesting enough, only after the latter “threat” of CO<sub>2</sub> emission standards, ACEA did accept a more ambitious VA target.

#### ***E) Lengthy agreement***

A common myth about EAs is that their conclusion can be considerably quicker than the adoption of legislation having the same targets. As regards EAs at EU-level, the Commission argued that the average time between the proposal for an environmental Directive and its adoption is well over two years with usually another two-year period for transposition by the Member States. However, the time span required for the conclusion of the ACEA agreement does not confirm this claim. While the VA has taken some four years to complete (1995- 1999), the legislative process is unlikely to take any longer than the average of two to three years. It has been noted that if legislation is to be adopted before 2008, the process may considerably quicker than normal as the institutions have already discussed the issues in considerable depth.

Table 2 below gives an overview of some shortcomings of the ACEA agreement, compared to a VA potentially more effective.

***Table 2: Business-as-usual vs effective fuel economy agreement***

<b>Criteria</b>	<b>ACEA VA – BAU scenario</b>	<b>Effective VA</b>
Target	140 g CO <sub>2</sub> /km by 2008	120 g CO <sub>2</sub> /Km by 2005
Transparency	No company targets	Company targets
Public participation	Targets subject to negotiation	Targets set by the EP
Incentive to negotiate	Little	Fuel economy legislation
Enforcement system	None	Sanction for non compliance
Monitoring	Weakened by assumptions	Independent authority- no assumptions

## LESSONS FROM THE ACEA AGREEMENT

The ACEA agreement represents a key element in the Commission strategy to address climate change through environmental agreement. Theoretically, the ACEA case represented an ideal context for the use of this new policy instrument. Basic conditions were in place: a strong European car industry association representing a large share of the market, a level of trust between government and industry, and concern for the economic effects and competitiveness implications of regulations.

However, the ACEA agreement can not be considered a good example of an effective climate protection measure. It contains a weak target -far from the reductions required to meet the Kyoto commitment, it lacks enforcement dispositions and its design and implementation has not been transparent.

Regarding the debate on the potential and desirability of Community EAs, the ACEA agreement provides the following two important lessons:

- **Need for highly credible threat.** VA negotiations based on weak threats for alternative fiscal or regulatory measures are unlikely to produce ambitious agreements. For instance, the lack of a fuel-economy legislation proposal proved to be particularly detrimental to the Commission's bargaining power. Due to the complexity of the EU legislative process, the Commission's threat of legislation is less direct as compared to that of national governments.
- **Need for needed level of technical capacity.** In the ACEA case, the lack of technical support for the Commission during the negotiation process led to a modest target. Unsupported by specific technical or commercial studies, the target was obtained solely through political bargaining, using data already available. As the Commission could not check ACEA's findings, its bargaining power was weakened considerably.