



Compliance under and after Kyoto

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Overview of Kyoto compliance

- First commitment period: 2008 – 2012
- Countries have been given a total emissions budget for the 5 years – five times the emissions target on base year. They can exceed the budget in some years, mitigate more in other years as long as they meet the cumulative five years budget
- If a country is found to have exceeded its emissions budget it will have to mitigate the exceeded amount multiplied by 1.3 in the **next commitment period** using only domestic emission cuts
- A country in non-compliance with its 2012 target has 100 days after the expert review of its final emissions inventory to make up any shortfall – buy credits



How countries are performing?

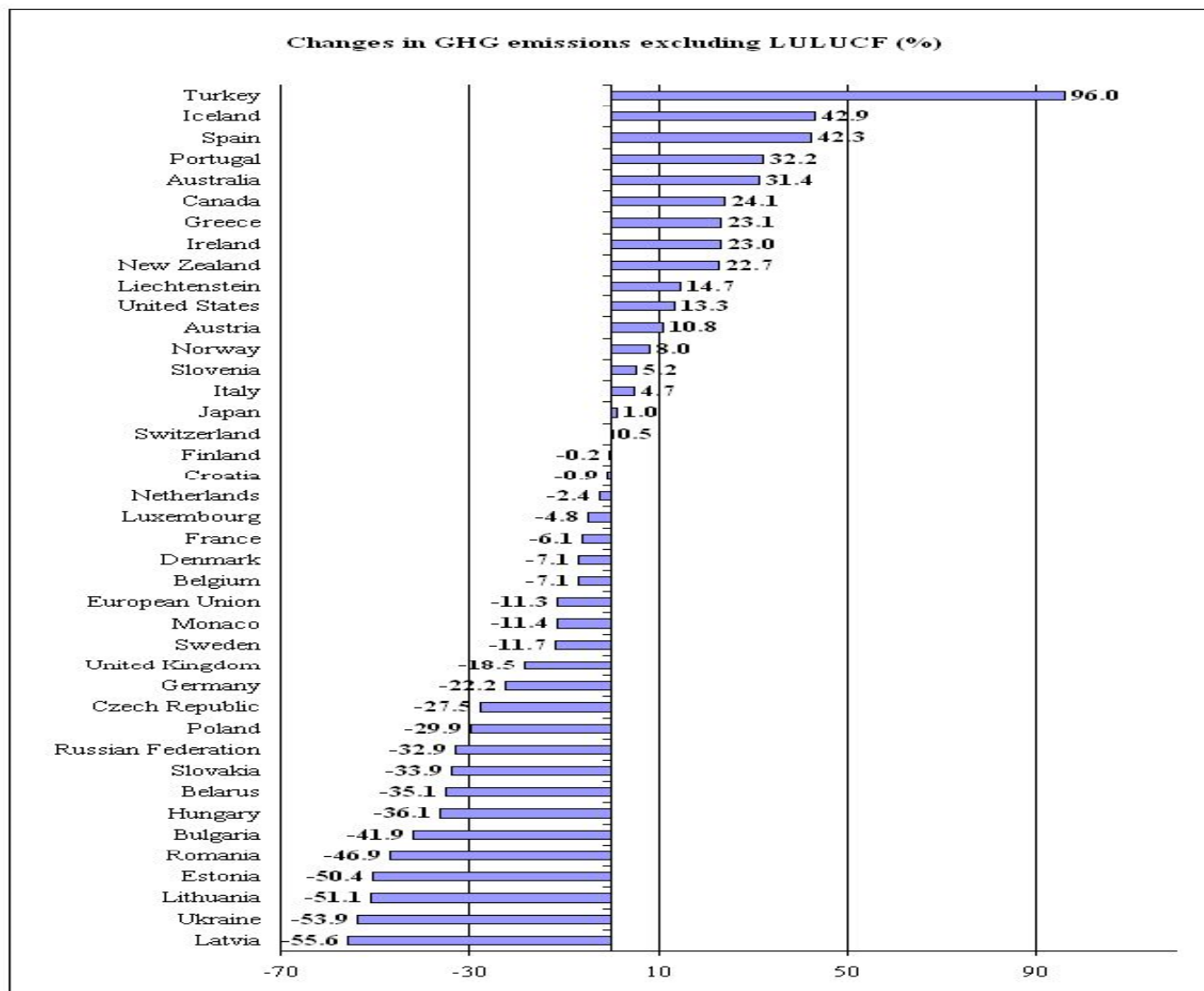
- Canada's target is 94 % of base year emissions. Instead the emission levels have risen 30% plus. *Officially Canada has announced that it will not be able to meet Kyoto targets*
- Japan, New Zealand and Australia are off-target
- Japan's emissions is about 1% above 1990 levels – target is 6% reduction over the base year
- Australia's emissions are 30% plus the base year. It is allowed an increase of 8% over the 1990 levels
- New Zealand raised its emissions excluding LULUCF by 23% (62% including LULUCF). The target is to keep emissions at same level as base year



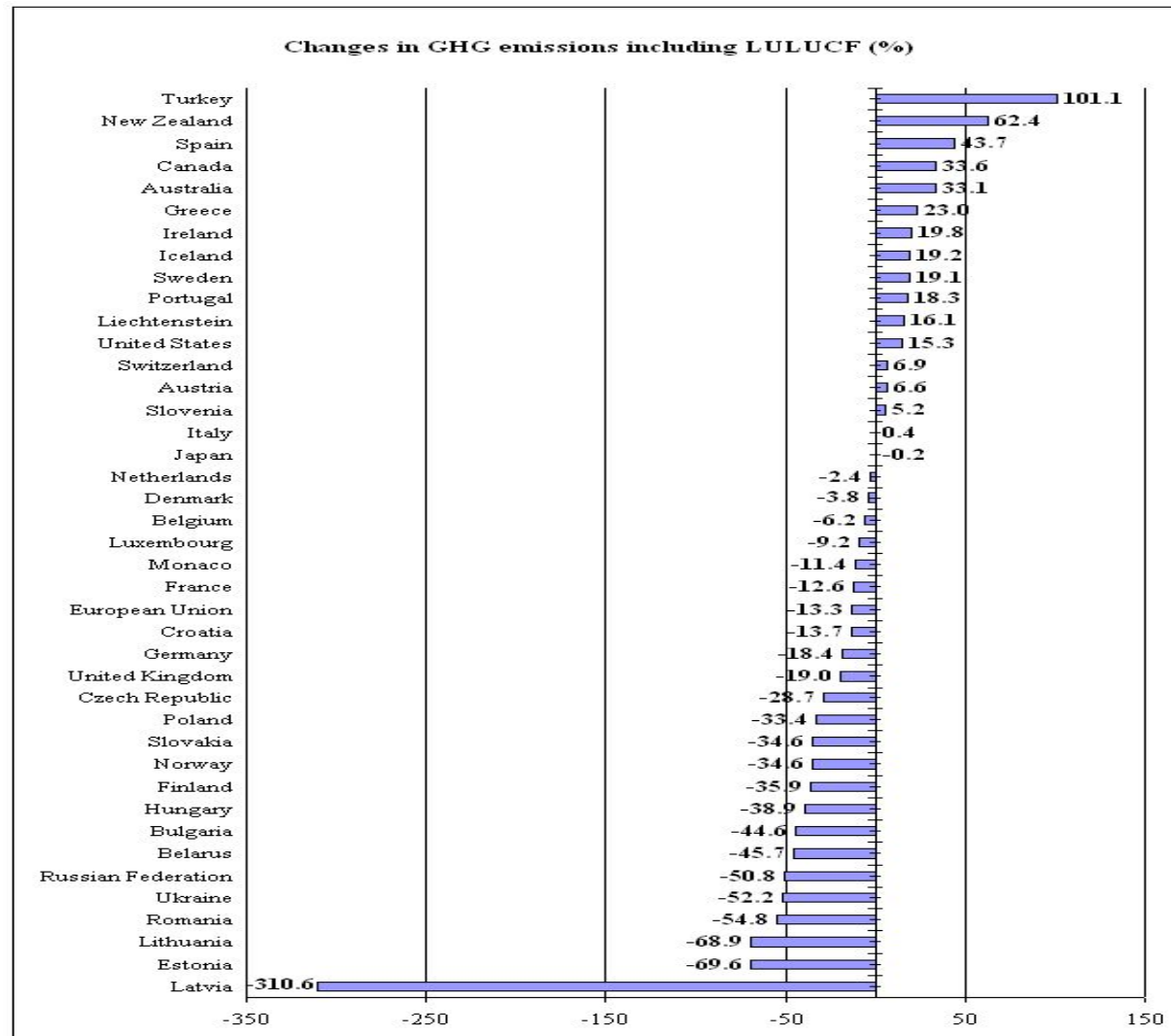
How countries are performing?

- The EU-15 has a "bubble" agreement where the total emission cuts should be 8% of 1990 levels
- EU as a whole is set to meet the target at the moment due over achievement by Germany and the UK
- **Denmark, Italy and Austria** are on the path to fail their internal EU commitments according to a EU report using 2009 figures with planned measures, trading and carbon sinks counted in.
- According to the same report Lichtenstein (2.3% of target), Switzerland (4.5% off target) and Croatia (1.3% off target) are on a path to fail the treaty as well including planned measures and use of trading and carbon sinks

How countries are performing?



How countries are performing?





Meeting the target?

- How countries use carbon trading, “LULUCF Loophole” and hot air will be crucial to if they will meet or fail the target.
- Stopping a second commitment period
- Passing on excess unendingly to subsequent commitments
- Negotiating the next commitment with excess in mind
- Leaving the treaty
- ***What can the civil society do to ensure compliance with Kyoto targets?***



Legal action?

- Lawsuit filed Canadian NGOs against the government for failing to meet Kyoto target as KP is part of domestic law
- The Canadian Supreme Court decided against the NGO's stating that it was a political decision that needs to be decided at elections, not the court
- Possibility of similar lawsuits in other countries?



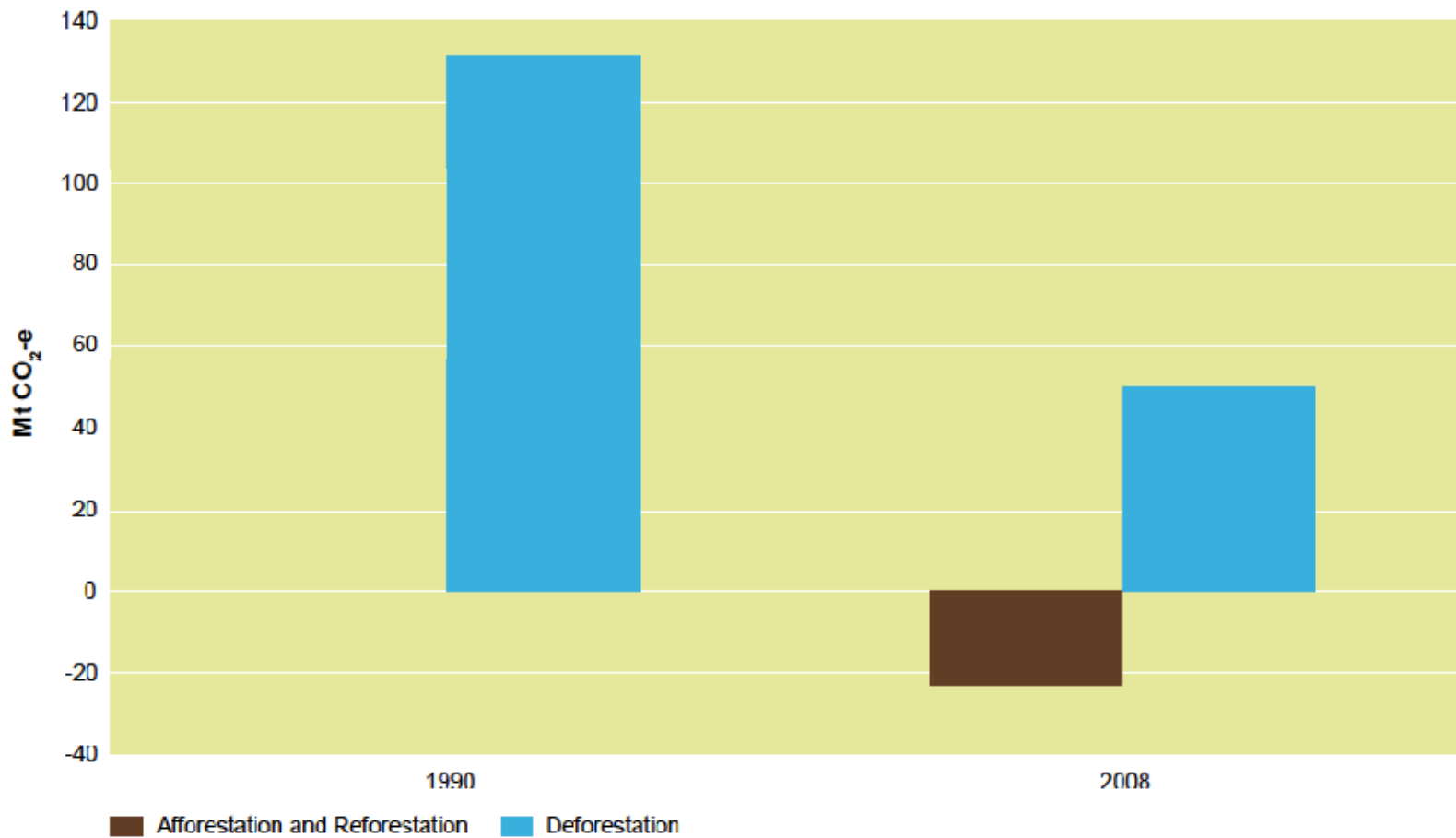
Key questions

- In absence of a second commitment period, how can compliance in the first one be ensured?
- How will it impact the future of international climate negotiations and politics if some countries are let-off despite non-compliance to agreed Kyoto targets?
- What legal instrument is available under the international law to civil society /governments to enforce compliance of Kyoto targets outside the aegis of UNFCCC?
- What kind of compliance mechanism must be designed in the new pledge and review regime with respect to GHG emission reduction and funding?

LULUCF Loophole - Australia



Figure 18: Net land use, land use change and forestry emissions from 1990 and 2008





LULUCF Loophole - Australia

- Under the UNFCCC , all emissions from the human use of the land are reported in the LULUCF sector.
- In contrast, under KP (Article 3.3) accounting provisions, emissions from this sector for the commitment period 2008–2012 are limited to:
- Afforestation and Reforestation—emissions and removals from forests established on agricultural land since 1990.
- Deforestation—emissions and removals from the direct human-induced removal of forest and replacement with pasture, crops or other uses on land that was forest on 1 January 1990.



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LULUCF Loophole - Australia

- The base year (1990) estimate was done using UNFCCC LULUCF reporting format excluding emissions or removals due to forestry.
- However, commitment period LULUCF is being done using KP accounting provision.
- Essentially, Australia enlarged its base year emissions and therefore got higher initial assigned amount.
- So even when, its LULUCF emissions are 30% higher than 1990 levels, it can still claim to be 'surplus' on LULUCF