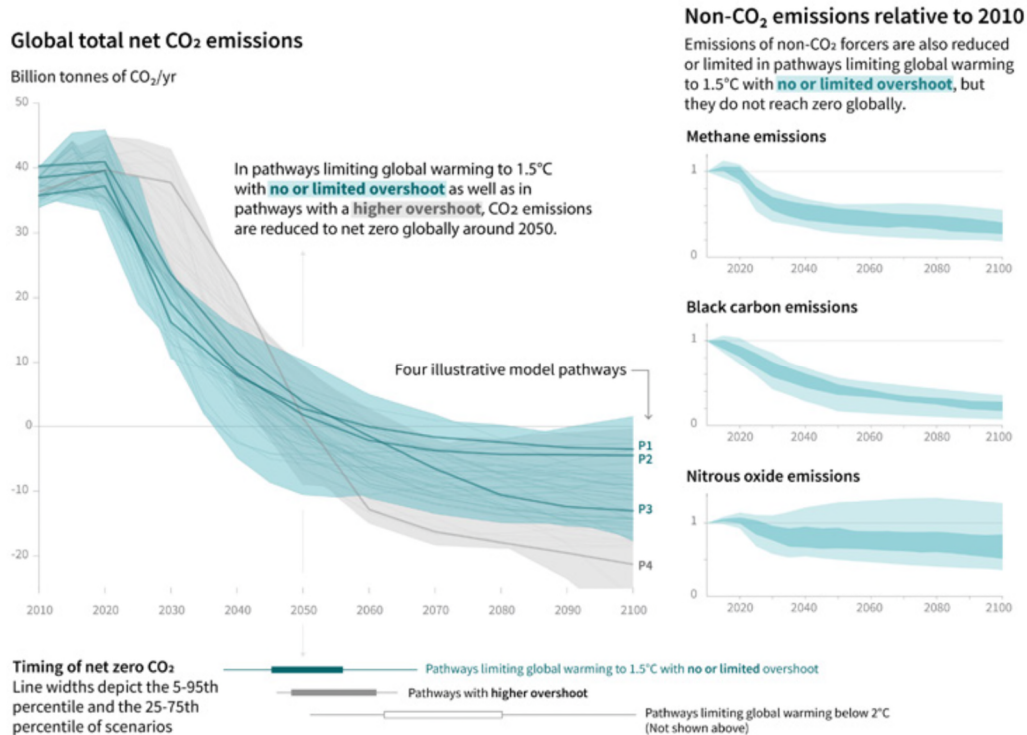


## I. Understanding the climate crisis – no less than a liveable future for humankind on our planet is at stake

- As apparent from the below diagrams<sup>1</sup> an immediate and steep reduction of GHG (in particular CO<sub>2</sub>) emissions is conditio *sine qua non* – according to established scientific insight – to attain the goal of limiting global warming to 1.5°C above pre-industrial levels.



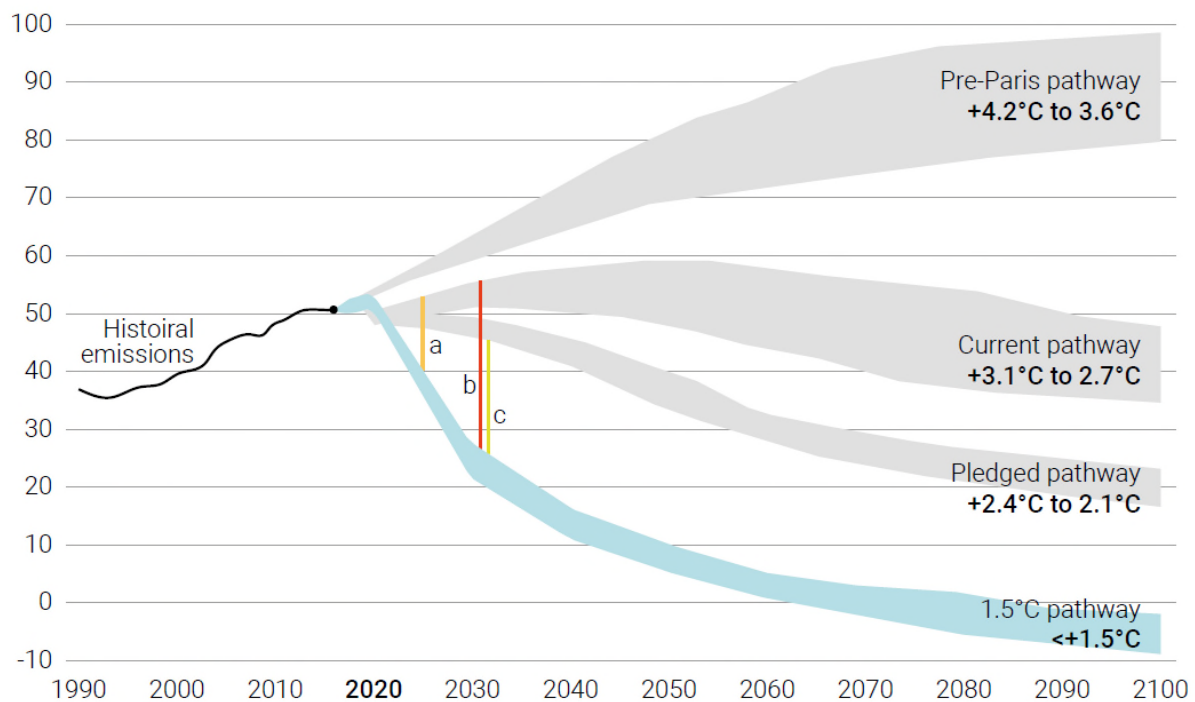
- As shown in the curve on the left, a reduction of CO<sub>2</sub> emissions to net-zero globally by 2050 is indispensable to that end.
- If global temperature rises above 1.5°C above pre-industrial levels it can be predicted that a series of tipping points will be met and a number of ecosystems would irreversibly change and stop fulfilling their climate regulating role. Already for the time period 2040 to 2100 severe negative effects on lives and livelihoods of billions of people are then expected, due to inter alia draught driven food scarcity, water scarcity and extreme weather events.<sup>2</sup> For the period after 2100 these severe negative effects can be expected to continue growing. Achieving a limitation of global warming to 1,5°C above pre-industrial levels is thus of paramount importance for securing the health of our planet and a liveable future for humankind on it.
- We note that due to the GHG emissions having been caused by humankind so far, a temperature rise of 1.2°C above pre-industrial levels is already unavoidable.

<sup>1</sup> Source: IPCC, Special Report on Global Warming of 1.5C, 2019, page 13, available at: [chrome-extension://efaidnbmninnibpcajpcglclefindmkaj/https://www.ipcc.ch/site/assets/uploads/sites/2/2019/05/SR15\\_SPM\\_version\\_report\\_LR.pdf](https://www.ipcc.ch/site/assets/uploads/sites/2/2019/05/SR15_SPM_version_report_LR.pdf)

<sup>2</sup> IPCC, Climate Change 2022 – Impacts, Adaptations and Vulnerability – Summary for Policymakers, - Working Group II contribution to the Sixth Assessment Report, page 16 et seq., available at [https://www.ipcc.ch/report/ar6/wg2/downloads/report/IPCC\\_AR6\\_WGII\\_SummaryForPolicymakers.pdf](https://www.ipcc.ch/report/ar6/wg2/downloads/report/IPCC_AR6_WGII_SummaryForPolicymakers.pdf)

## II. Need for private initiatives to save liveable future for humankind on our planet due to a lack of implementing national and EU wide legislation requiring undertakings to reduce GHG emissions

- The Commission's draft revised horizontal guidelines rightly state at paras. 545 and 546 that where negative effects, for example on the environment, are not sufficiently taken into account by economic operators and consumers respectively or are not sufficiently addressed by public policies or regulators, cooperation agreements between undertakings may become necessary.
- In this regard, it is important to recall that, unaccountably, existing governmental pledges are far from being sufficient to achieve the 1.5°C goal and thus to protect a liveable future on earth for humankind, not to mention that actually enacted mandatory public policies and regulations fall all the more short of serving to this end.
- As apparent from the following graph<sup>3</sup>, according to scientific knowledge, the earth is currently on a pathway involving a 2.7°C to 3.1°C rise in temperature. Even if the emission reduction pledges by governments would be transformed into mandatory public policies and regulations, planet Earth would still be on a pathway to a 2.1°C to 2.4°C temperature rise.



<sup>3</sup> Source: Net-zero Asset Owner Alliance Target Setting Protocol – Second edition, available at <https://www.unepfi.org/net-zero-alliance/resources/target-setting-protocol-second-edition/>; See also IPCC, Climate Change 2022 – Mitigation of Climate Change; Working Group III Contribution to Sixth Assessment Report of the IPCC – Summary for Policymakers, page 19 (point B.6.4), available at [https://report.ipcc.ch/ar6wg3/pdf/IPCC\\_AR6\\_WGIII\\_SummaryForPolicymakers.pdf](https://report.ipcc.ch/ar6wg3/pdf/IPCC_AR6_WGIII_SummaryForPolicymakers.pdf)...

### **III. Proposal for a *safe harbour* for private initiatives aimed at combatting global warming**

Based on the above, a safe harbour should in our view be created for sustainability agreements that meet the following criteria:

- 1. The sustainability agreement has as its main objective the reduction of GHG emissions and thus aims at limiting global warming.**
- 2. The relevant initiative cannot be expected to be similarly effective in terms of reduction of GHG emissions if it was carried out by each undertaking individually. Effectiveness, *inter alia*, follows from ideally meeting scientifically elaborated reduction curves.**

We believe that many sustainability agreements from various sectors aimed at reducing GHG emissions by setting reduction targets generate the more effect the more undertakings from the relevant sector participate in them. The second condition will in our view, therefore, in most cases be met by sector initiatives that entail committing to GHG emission reduction targets, such as net-zero emissions by 2050.

- 3. The substance of the relevant initiative may not collectively go beyond what is necessary to achieve the 1.5°C goal**

Sustainability initiatives in our view would be covered by the suggested safe harbour only if they are not going beyond what is necessary – according to the latest scientific insight – to safeguard a liveable future for humankind on our planet. We note that scientists have identified pathways to net-zero aligned with the objective of limiting global warming to 1.5°C for a number of GHG emitting sectors, such as coal, oil&gas, etc. These pathways describe the amount of emission reduction (often in 5-year intervals until the year 2050) that is possible and needed in a given sector to achieve the 1.5°C goal overall.

Sustainability agreements within individual sectors that set GHG emission reduction targets aligned with these pathways thus give as much adaptation time to customers, suppliers and other commercial partners as humankind and the earth can afford. Joint initiatives that set stricter targets as required by a scientific pathway to net-zero applicable to the relevant sector (e.g. a zero emission target by tomorrow) would not be covered by the suggested safe harbour.

- 4. The relevant agreement only prescribes reduction targets and pathways, not individual measures members eventually take to meet these targets.**

The suggested safe harbour in our view shall be limited to initiatives that only prescribe GHG emission reduction targets and pathways for emission reductions, but leave it to the initiative's members how to attain those targets and pathways.

For example, agreements that would pertain to a particular customer or supplier individually and e.g. require the initiative's members to cut the amount of supply or purchase vis-à-vis that customer or supplier would not be covered by the suggested safe harbour.

By contrast, agreements foreseeing a phase out of supplies to a specific GHG intensive sector by a certain date (e.g. year 2035) in line with science based pathways to net-zero developed for that sector would meet the condition.

However, it cannot be excluded that players in such GHG intensive sectors that do not want to take their share in combatting global warming or want to take it in a period longer and or at a pace slower then scientifically indispensable, might *de facto* suffer a lack of supply or purchase, given that the undertakings legally committing themselves to these scientifically indispensable targets will adopt their individual supply or purchase to these targets.

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