HOUTHOFF

CLIMATE CHANGE AND ITS IMPACT ON THE BOARDROOM SUMMIT

KEY TAKEAWAYS

“Climate change is starting to affect people’s lives, and more importantly, it’s getting a consumer voice.”

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Marloes Brans
Head of Climate Change | Enviromental Law and Spatial Planning Law

In only a couple of years, climate change has undergone a revolution. It used to be the domain of environmentally conscious frontrunners and now it is the most urgent topic on political and media agendas. The question that lies ahead is what position this topic has on the board's agenda.

Allow me to spoil the outcome of the summit *Climate change and its impact on the boardroom* upfront. The impact is enormous and that is not solely due to the changing climate itself. The forces behind this come from many directions.

To name a few, just from this spring:
The Network for Greening the Financial System, which is made up of central banks, supervisors and international organisations, including the Dutch Central Bank, issued a report on climate change as a source of financial risk. Four recommendations were made, including: incorporating climate-related risks into prudential supervision, and engaging with financial firms to ensure that climate risks are understood and discussed at board room level, considered in risk management and embedded into strategy. Obviously, this will in turn affect financial firms and their clients.

Furthermore, shareholders large and small are demanding climate action from various oil companies. And although almost all resolutions have so far been denied, it shows climate support is increasing. The pressure is also building on organisations that receive sponsorship from polluting companies. And UEFA was under scrutiny for unnecessarily relocating football teams and their fans causing extra CO_2 emissions.

Standard & Poor's, known for its stock market indices, has introduced an ESG version of its S&P 500 – ESG stands for environmental, social and governance – valuating the traditional S&P 500 companies against ESG criteria. Of those companies, over one quarter were excluded due to not complying with the ESG values, including companies like Netflix and Alphabet, the Google parent company.

These are developments from just the past few months. We seem to be on the eve of radical developments, which some are calling a climate revolution. During the summit, we had the privilege of having some outstanding presentations from board executives that lead by example, like Hans Winters (CEO of Siemens Netherlands) and Rebekah Braswell (CCO of Land Life Company). We welcomed 30 business leaders from a wide variety of industries, and top tier lawyers from Germany, Italy, Spain and Sweden to shine a wider European light on the matter.

At Houthoff, we take care of our clients by securing their business today and in the future. Therefore, it is our obligation to advise them on where environmental legislation provides for new business opportunities and help them to navigate the risks caused by climate change.

Marloes Brans

"We seem to be on the eve of radical developments, which some are calling a climate revolution."

KEY TAKEAWAYS

The impacts of climate change will be serious and pervasive, affecting almost every facet of business operations.

On 13 June 2019, 30 executives from numerous industries, environmental lawyers and other legal specialists came together to discuss the challenges and conundrums of climate change at Houthoff's 'Climate change and its impact on the boardroom' summit. Despite the variety of people in the room, one thing was very clear: everyone's future business will be heavily influenced by the impact of new climate legislation.

At the beginning of this year, the Dutch Minister of Economic Affairs and Climate Policy, Eric Wiebes, stated that Dutch environmental policy is no more stringent than in our neighbouring countries. According to the minister, the government is committed to using environmental measures in the Netherlands so that we can get a head start on our neighbours. This will give the Dutch more time to develop innovative technologies that can be exported worldwide and gain a leading position. So we know that, at least in the Netherlands, our government is planning to tackle climate change and we need to be prepared for this.

This is just one of the many examples of how climate change impacts every industry. Due to environmental legal measures and the growing environmental component of corporate social responsibility, companies have be proactive about managing climate change. Lawyers can play a key role in this process.

YOU DON'T KNOW THE FINAL OUTCOME

The energy transition is a pathway towards transforming the global energy sector from relying on fossil fuels to becoming zero carbon.

Siemens Netherlands is a company that works at the heart of the energy transition on the advancement of energy-efficient and resource-saving technologies. Hans Winters, its CEO, sets the scene of the summit by explaining why the debate on climate change shouldn't be about speed or volume: "It should be about technology and innovation. There is a gap between who is investing in renewables and who is gaining from them. This problem is mainly caused by an inefficient grid. It is essential for sectors to work together so they can optimise the supply chain, transport and storage of energy." A lack of capital isn't a blocking factor in this transition. Winters says: "It's not easy to invest in technology because it's not determined which technology will be the best choice. Most developments are still in their starting phase. For example, we could use hydrogen energy to drive trains, cars or trucks. It's not new but not many companies use it because it's not economically feasible. There are a lot of uncertainties because you don't know the final outcome."

TWO YEARS AGO I NEVER EXPECTED TO BE WORKING ON THIS AND NOW MY DESK IS FULL OF FILES ON THIS SUBJECT

Climate change and the transition are terms that seem to be inextricably linked. The impact of the energy transition becomes even clearer when Dominik Wendel, Partner at German law firm Noerr and Walter van Overbeek, Partner at Houthoff, both specialising in the automotive sector, discuss the effects of climate change on the car industry.

Wendel sees the impact of climate change rapidly increasing: “Two years ago I never expected to be working on this and now my desk is full of files on this subject.” He thinks it will not take long before the internal combustion engine vanishes. “The car industry is under tremendous pressure because of the CO_2 emission target of the EU. The impact is almost revolutionary. To enforce the above mentioned emissions targets the original equipment manufacturer in Europe will have to pay heavy emission premiums if they miss their target.”

“Some very well-intended CO_2 reducing initiatives between peers have met, unfortunately for them, with strict EU competition law penalties.”

Are electric vehicles the only solution? Wendel: “An immediate rise in sales could have undesirable effects for the original equipment manufacturer: On average an EV has 60% less parts than a combustion engine vehicle. Batteries would account for close to half of EV prices, transferring large parts of added value to suppliers as well as becoming dependent on battery suppliers. EVs are already a controversial technology, for example, because of the environmental costs of lithium extraction and because the electricity mix is not clearly considered in most CO_2 emissions calculations.”

It’s safe to say that automotive companies need to transition into future-proof business models. Not only the manufacturer but also the suppliers, their distribution network and the dealers need to be altered. “It will be more about function on demand. Where car dealers now make a profit by selling extra functionalities on a car, it will change into a system where the car already has all functionalities but they only need to be activated. The profit margin of car dealers will therefore decrease considerably.”

PLAY THE GAME BUT DON’T FORGET THE RULES

Climate change has evolved from a non-financial, ethical matter to one that presents foreseeable risks to businesses. When the topic of risk comes up, it’s clear that the audience is questioning the current regulations. Play the game but stick to the rules or change the rules so you can play the game?

If it’s up to Greetje van Heezik, EU law and competition law Counsel at Houthoff, it’s still about playing the game but sticking to the rules: “The financial risks and competitiveness often constitute barriers to investment in more sustainable business models and production methods, such as low-emission or innovative circular techniques. In order to tackle the ‘first mover’ barrier, companies seek cooperation with competitors or demand financial or other support from the government to preserve the market position. Although the objective of these initiatives is beneficial to the environment, the competition rules or the State aid rules may impose restrictions on cooperation with a competitor or limit the conditions on which a government may support the initiative. Therefore, the assessment of the impact on competition remains crucial for the compliance of initiatives. Some very well-intended CO_2 reducing initiatives between peers have met, unfortunately for them, with strict EU competition law penalties.”

While all aspects of the transition that the world is in come with both opportunities and risks, the consensus of the summit is that the opportunities are larger. Still, it is the role of the lawyers to also point out what risks may arise simultaneously.

Albert Knigge, Managing Partner and litigation expert at Houthoff, points out why climate change risks could have the same impact as we have seen during the financial crisis: “The transition to a lower-carbon economy may entail extensive policy, legal, technology and market changes to address mitigation and adaptation requirements related to climate changes, which may pose

varying levels of financial and reputational risks to organisations." What kind of consequences do we have to think about if certain financial risks are not properly disclosed? Knigge explains: "Broadly speaking one can create a taxonomy of climate change-related litigation risks with three categories: 1) a failure to mitigate emissions, 2) a failure to adequately manage the physical or economic transition risks, including an inaccurate disclosure of relate financial exposure, and 3) regulatory compliance claims arising from laws and standards introduced to implement the economic transition, including anti-regulatory litigation that seeks to challenge the implementation of these policies." So, how should companies deal with these types of risks? According to Knigge: "The best way a company can protect itself against these claims is by disclosing these financial risks."

IT'S ALL PART OF A WIDER SUSTAINABILITY AGENDA

New and more far-reaching environmental law will create more risks to keep in mind when running a business in the Netherlands.

Climate-related risks play a big part in the regulatory role of the Dutch Central Bank. It fits the wider development of making the financial world more sustainable. "The EU is making it specific and binding. The growth of the green parties in Europe will increase the importance," explains Roel Theissen, Counsel at Houthoff. "The pressure of regulators will increase sustainable financing. It's all part of a wider sustainability agenda and it will impact on the availability and pricing of loans."

"The pressure of regulators will increase sustainable financing."

Fortunately, the options for sustainable financing are growing. Shareholder communities are more focused on sustainable investment. Jessica Terpstra, Partner at Houthoff and Monica Colombera, Partner at Italian firm Legance, illustrate the different options in their presentation. Terpstra notes: "We see, for example, a growth in specific government funding for the energy transition." Another development impacting the financial sector is green bonds. Green bonds are used exclusively to finance projects or activities with a demonstrable positive impact on the environment or climate.

CLIMATE CHANGE IS GETTING A CONSUMER VOICE

During the summit, it becomes abundantly clear that the topics, although they come from different industries, contain a lot of overlap. Corporate social responsibility is cross-sectoral and the call for companies to put this high on the agenda is clearly audible. The environmental part of CSR is becoming increasingly important. It's not all about the money anymore. You need to have a clear purpose, for your shareholders, your customers and for new talent.

Consumer attitudes are also changing. Wendel: "It started with dieselgate in 2015. People felt cheated by car makers and changed their attitude towards cars. Now you see that people don't want a car specifically, instead they want mobility." Winters also sees a change in the attitude of the stakeholders towards companies: "The tone is changing. It's not all about profit anymore. Shareholders want to know the purpose of your company and what you are doing to reduce your carbon footprint. Companies have an intention to look at the consequences for themselves but there is a need to focus more on the impact on the supply chain or the impact it will have on your customer."

Land Life Company saw a business opportunity in climate change and specifically the corporate turn towards sustainability. It was founded in 2013 with the conviction that a business approach and innovative technology solutions can be a force for good. It plants trees on a large scale. Rebekah Braswell recognises the role of the consumer: "Climate change is starting to

affect people's lives, and more importantly, it's getting a consumer voice."
The company responds to the growth of the importance of corporate social responsibility by offering opportunities for companies to help with reforestation. "We see that companies are looking for alternative ways to reduce their carbon footprint during this transition time. 'You are leaving a legacy and destroying the planet and you can't fix it 100% but what will you do in the meantime?'"
"We see companies using this as a way to engage the customer: if you use our service, we will plant a tree for you. It is a way to make the customer happy about the consumer choices they are making."

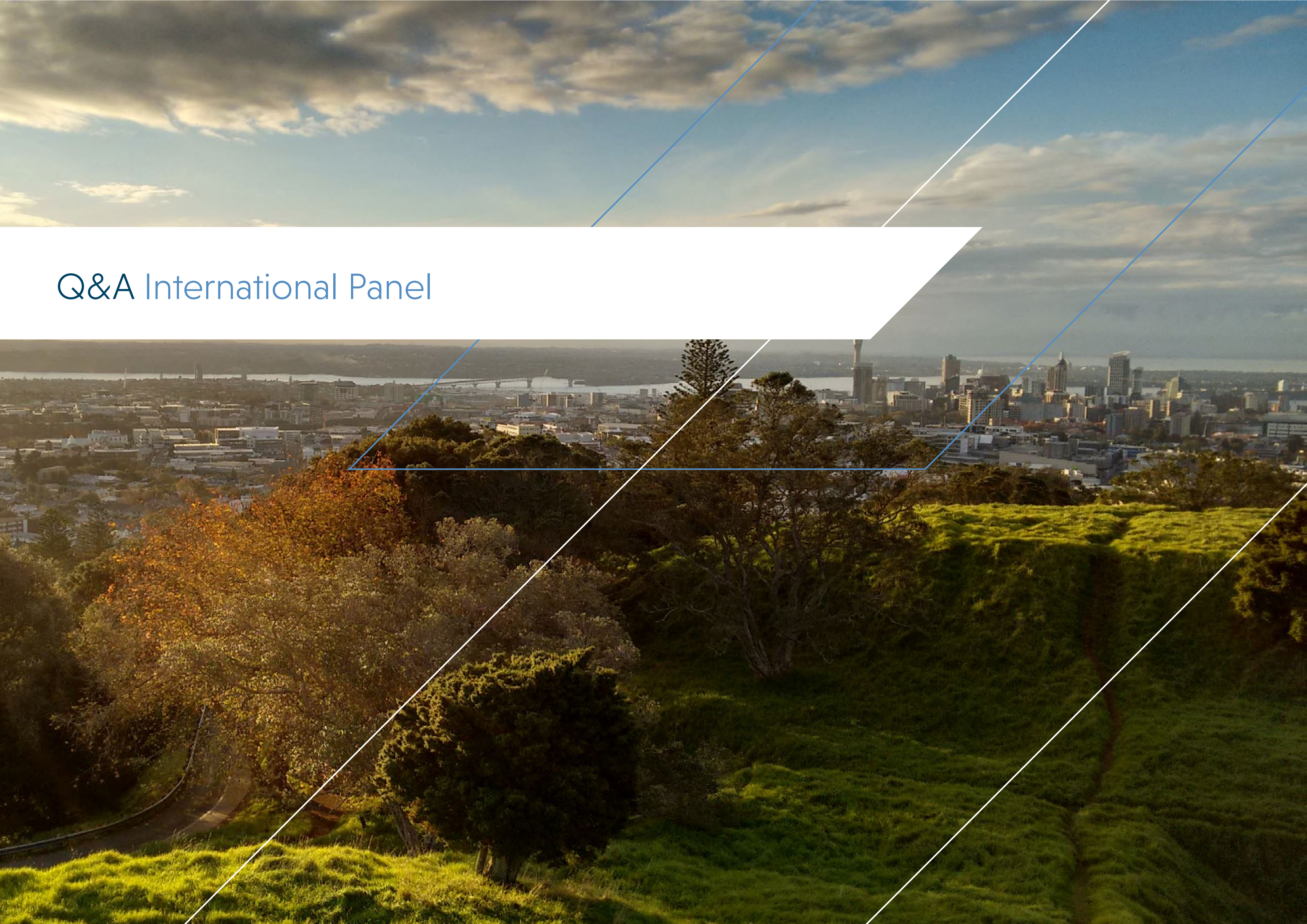
The increase in people's awareness of climate issues is also an important topic when it comes to employee engagement and attracting new talent. In order to attract and retain young talent, companies need to support and strengthen the CSR policy of their organisation but they have to make sure staff get involved too. Young people not only want to see good things happen, but they also want to be part of it. Land Life Company experiences this as a business driver for reforestation.

"Climate change is starting to affect people's lives, and more importantly, it's getting a consumer voice."

ENSURE YOU ARE FUTURE-PROOF

If only one conclusion could be drawn from the summit, it is that the impact of climate change should be on the top of every board's agenda. With a clear goal in mind, choices have to be made to ensure a future-proof business model. Whether you have questions about liability issues, funding, competition cases or new business models, dealing with the impact of new national and international environmental laws requires extensive knowledge and expertise. Whatever the area of law or sector, Houthoff has the specialists to interpret these laws, reduce risks and explore opportunities.

Q&A International Panel



Monica Colombera
Partner | Project Financing
Legance

What role can you play, as a lawyer, in relation to the challenges that your clients face concerning climate change?

There is an increasing perception of the importance of the goals defined by climate change legislation, both European and Italian. Lawyers and advisers in general have an important role in translating brilliant ideas in transactions. Our role has become much more dynamic than in the past. Among others, we are currently working on a standalone storage project for which is difficult to qualify in the legislation actually in force. We are liaising with the TSO and ARERA, the Italian regulator, to define the regulatory framework for the projects to be implemented.

Is the impact of climate change/climate legislation on your client's priority agenda?

The climate change focus is clearly impacting the approach of a large number of clients. Those operating in the energy sector are exploiting new opportunities. For example, also due to favourable legislation implemented in 2018, we are now working on various waste-to-fuel projects for the production of biomethane necessary to meet the goals for green energy in the transportation sector. In addition, corporations in general are sensitive to the climate change issue. Among others there are a number of large companies which have voluntarily decided to have a portion of the energy acquired from renewable energy sources.

What impact do you expect climate change to have on the business of your clients over the next five years?

Taking into account the priority that the government has put on the issue, I expect that in the next years we will see a lot of focus on this issue. We are noting that financial institutions are already giving priority to projects having a climate change angle.

What can other countries learn about this topic from the jurisdiction in which you operate?

Goals defined by the Italian government are even more ambitious than the European targets. There is a good level of cooperation with institutions like ARERA and a constructive debate among associations to define the right framework to implement new projects.

What is your best general advice to board members concerning the impact of climate change?

Climate change initiatives and opportunities are frequently based on cooperation among various stakeholders and interested parties. Sharing of information and monitoring development may generate new opportunities.

Dominik Wendel

Partner | Automotive & New Mobility

Noerr

What role can you play, as a lawyer, in relation to the challenges that your clients face concerning climate change?
Climate change is increasingly becoming a fundamental legal disruptor or 'whole of the legal system' problem. There are many ways in which climate change is starting to manifest as a legal, financial and reputational issue for clients in practice. Climate change is not only directly relevant to areas such as renewable energy projects and emissions trading and reporting, but is also creating liability and litigation risks. As a lawyer one can already see three broad trends in climate litigation: (a) climate change as a rights-based issue, (b) climate change as a financial issue, and (c) increasing oversight and enforcement of existing laws.

Where governments fail to act to protect the rights of citizens, courts step in. This evolution of climate change from an environmental or ethical issue to squarely a financial concern opens the door to litigation risks such as claims for failing to mitigate the impacts of climate change under public and private nuisance, negligence, failure to warn, trespass and unjust enrichment laws as well as claims for failure to disclose climate-related risks to shareholders. Non-compliance with emissions standards is no longer an acceptable way of doing business.

Clients' attitudes towards climate change risk vary significantly from sector to sector. Often clients want lawyers to advise them on risks that will have immediate financial consequences. In some sectors, however, such as the pensions industry and broader institutional investment, long-term thinking is part of their fiduciary duty and clients in that area are much more interested in how climate change is becoming a material financial risk. Lawyers can give new, decisive momentum to attitudes towards climate change risk.

Is the impact of climate change/climate legislation on your client's priority agenda?
I am constantly advising automotive original equipment manufacturers.
In order to control the emissions of the automotive sector, in all major countries tough emissions targets were being set to reduce the vehicle traffic's contribution of CO_2. The road emissions make roughly 7% of the global CO_2 emissions.
In order to reduce the CO_2 emissions, governments are setting ambitious targets for the automotive industry as an annual fleet average value of 95gCO_2/km emission (e.g. in Europe 95% of all registrations in 2020, 100% as of 2021).

"I cannot guarantee that we will be compliant in 2021," said Dieter Zetsche, Daimler's former CEO, in January 2018 when a reporter asked him whether Daimler would be able to reach the European Union's 2021 limit for CO_2 emissions. However, things were getting even worse for the OEMs.
On 17 December 2018, the EU announced even tougher thresholds for CO_2 emissions: the limit will be reduced by 15% from 2025, lowering it to roughly 81gCO_2/km, and by 37.5% starting from 2030, lowering it to roughly 60gCO_2/km. Using regular combustion engines in vehicles, it will not be possible to meet these targets. In all cases, pure combustion engines will vanish over time.
In a nutshell: the impact of climate change/climate legislation is being given top priority on my clients' priority agenda.

What impact do you expect climate change to have on the business of your clients over the next five years?
The impact is almost revolutionary. To enforce the above mentioned emissions targets, the OEMs in Europe will have to pay heavy emission premiums in case they miss their target. Cars sold by an OEM within the EU in 2021 must not emit more than 95gCO_2/km on average (for light passenger vehicles), to avoid facing a fine equal to EUR 95 per gCO_2/km above the limit and per vehicles sold. An OEM that sells 2m vehicles across the EU in 2021 with an average level of emissions of 100gCO_2/km would have to pay a EUR 950 million fine. Thus, electrification of future vehicles is a necessity which involves several major issues to be solved:

(a) range of electric vehicles (EVs) to be extended, (b) charging infrastructure to be expanded, (c) cost of the battery and fuel cell systems to be decreased. OEMs have to invest heavily in research and development and infrastructure. Some brands have no EVs in their range and are trying to catch up before 2021 (e.g. by entering into CO_2 pooling agreements in order to purchase CO_2 credits). All in all, facing the difficulties to reduce emissions fast enough, in the next five years the OEMs will be moving at an even faster pace toward EVs, hoping to considerably reduce the average emissions.

What can other countries learn about this topic from the jurisdiction in which you operate?

A recent trend in German environmental law concerns the air quality in major cities. After a Federal Administrative Court ruled in February 2018 that German cities are allowed to ban certain diesel cars in city centres, there an increasing number of such bans have been issued at a local level.

Further, climate litigation is a new type of environmental claim. In May 2018, ten families from the EU (one from Germany) filed a climate lawsuit against the EU at the European General Court and asserts that the EU's existing 2030 climate target to reduce domestic greenhouse gas emissions by at least 40% by 2030 is inadequate and not enough to protect their fundamental rights to life, health, occupation and property. Three German families filed a claim against the government in October 2018 before the German Constitutional Court, arguing that the government is violating their constitutional rights by failing to take measures to meet the national 2020 climate protection target.

What is your best general advice to board members concerning the impact of climate change?

Investors, regulators and other stakeholders are challenging companies to take responsibility by taking an integrated, strategic approach to addressing climate change. Boards will play a critical role in this as they have the important duty of ensuring the long-term stewardship of their companies. Climate change is simply another issue that drives financial risk and opportunity, which board members have an inherent duty to address with at least the same diligence as any other board meeting topic. Board members are accountable to shareholders for the long-term health of their companies, so they are also responsible to shareholders for overseeing effective management of climate-related impacts and should use the best available information to boost their companies' resilience in the face of a variety of different policy and economic outcomes. Boards need to determine how to effectively embed climate into existing board and committee structures to enable adequate oversight of the issue. Companies need to assess the materiality of climate-related risk and opportunities so that the board can determine whether the management team's response is adequate. Thus, any corporate strategy put forward by the board should have integrated a range of potential climate scenarios in order to increase the directors' confidence that their strategic decisions are resilient. Finally, climate governance should entail adequate reporting and disclosure, including voluntary climate-related reporting. Boards should be willing to disclose the financial implications of climate-related risks and opportunities of their company. Current and emerging regulation may force companies to enhance their climate disclosures. Climate disclosure to investors and other stakeholders could help mitigate the risks of failing to report such relevant information.

Johan Cederblad
Partner | Environmental Law
Vinge

What role can you play, as a lawyer, in relation to the challenges that your clients face concerning climate change?

On a general note, the Swedish legislation regarding climate change affecting companies and individuals has been focused on taxes and subsidies aiming at encouraging or discouraging certain behaviours that are perceived as being harmful to the environment or the climate. The introduction of such new taxes and new administrative systems, for example green certificates, often require legal advice in the initial phases. Once the systems have matured, the need diminishes. We expect that such advice will be more in demand as the climate change appears to increase the complexity in rules designed to counteract the change.

On a more specific level, we have in recent years assisted in a large number of matters in relation to the change to renewable energy. In such cases, we have assisted, for example, in project development of wind and solar farms, negotiations of power purchase agreements in order to sell or purchase renewable power. We believe that we may develop these kind of services further and we also see a trend that our clients request these type of services.

Is the impact of climate change/climate legislation on your client's priority agenda?

Yes, our impression is that climate change is very much in focus. For example, by purchasing renewable energy, saving energy, green investments such as renewable energy, implementing travel policies etc. However, if this is driven by climate change legislation, this is harder to assess. We believe that much of the work is made not because of the legislation but rather public relations and similar. There are however legal requirements which have led to a change. For example, for many of our clients, it has also been very important to report on their work on climate change. A couple of years ago, legislation entered into force which requires companies of a certain size to issue a sustainability report, which for example, includes information on the environmental impact from the business. Such publicly available reports have a tendency to be put on the agenda.

What impact do you expect climate change to have on the business of your clients over the next five years?

Based on the development of this issue in the last years, we assess that there will probably be even more focus on the climate change issue over the next five years. It may also be that more stringent legislation will be necessary to force certain types of operations to make changes because of the climate change issue. Recently, there has been some discussion in Sweden to limit the possibilities for industries with high emissions of greenhouse gases to expand its operations. We can only speculate, but this might be an area where case law will be more stringent or amended legislation will be introduced.

What can other countries learn about this topic from the jurisdiction in which you operate?

Sweden is fortunate in that respect that most of the electricity is produced with very little emission of greenhouse gases from hydro, nuclear and wind. Sweden has also introduced carbon dioxide taxes in order to provide an incentive for reducing greenhouse gas emissions. However, if this is something that other countries should follow is more of a political question than a legal question. Recently, there have been quite a lot of discussions whether the nuclear will be phased out in the near future or not. This discussion will probably go on.

What is your best general advice to board members concerning the impact of climate change?

Based on our experience, board members should identify the company's impact on climate change and see how this could be developed as a business opportunity.

Maria José Rovira Daudi
Lawyer | Environmental Law and Climate Change
Gomez Acebo & Pombo Abogados

What role can you play, as a lawyer, in relation to the challenges that your clients face concerning climate change?
I help them face new challenges regarding climate change. This usually involves the following actions:

First, the term "climate change" is very broad, so each company must earnestly and honestly define its specific climate change commitments, based on its activity and its capabilities. To do so, I usually ask them to set forth clear questions, such as: What can my greatest contribution to fighting climate change be? What are my most negative impacts? Where, within my organisation, do I want these measures to make an impact? Furthermore, these commitments should be measurable. Companies should tailor the indicators they use to objectively assess their compliance paths. Although it is fine to have references – to observe international models or those of competitors – ultimately, success comes from designing these indicators for use in their specific environment and situation. Finally, I strongly urge my clients to involve all employees, not only their boards and upper company tiers, in defining and adopting the climate change goals to which they will commit. Therefore, they must make an effort to motivate all employees to work towards reaching these goals.

Is the impact of climate change/climate legislation on your client's priority agenda?
Yes, it is. In fact, climate change regulation has made certain companies grow and expand their low carbon activities outside Spain, so it has occasionally triggered a business opportunity. Related to climate change regulation, companies that fell under the framework for Emission Trading System Regulation in 2005 (oil, gas and energy sectors, as well as energy-intensive industrial sectors) had to reduce their GHG emissions. While industrial sectors, in general, met their reduction obligations by purchasing emission allowances in the secondary market; energy companies invested in emission reduction projects in developing countries legalised as Clean Development Mechanisms, (CDMs). Those mechanisms were one of the first climate finance instruments or investments used by Spanish companies in the Kyoto period. Currently, Spanish energy companies (Iberdrola, Endesa, Naturgy, and Viesgo) are continuing to carry out emission reduction projects, in particular, renewable energy plants, mostly in Latin America. These projects not only enable companies to extend their renewable business and reduce CO_2 emissions, but they also transfer knowledge, expertise, technology, and create new jobs. In summary, they support the community itself. With regard to other new obligations related to climate change, one that stands out is the non-financial report. Companies with more than 500 employees must annually file and disclose a "non-financial report". Environmental measures, including those pertaining to climate change, adopted by directors should be included in the report. Failure to do so means companies will have to provide the regulator with justification on why they have not adopted any environmental measures.

These reports must be submitted by boardrooms for a binding vote of the shareholders' meeting and, it is important to note, these reports have the same legal effect as management reports or annual accounts. That means that company directors have the same responsibility to approve the financial accounts as they do the non-financial reports. Therefore, if the content of this report is not accurate, there could be criminal liability.

In practice, in drafting these reports, some companies have followed corporate social responsibility initiatives and actions that they have already implemented in their organisation. Spanish law merely establishes general environmental performance indicators.

Therefore, the scope of the law is quite general and easily justifiable with few superficial measures. These non-financial reports have reflected that some companies treat climate change/environmental issues in a non-substantial, shallow manner.

Finally, Spanish companies are barely including the physical and transactional risks in their decision-making and financial operations.

What impact do you expect climate change to have on the business of your clients over the next five years?

Taking into account that currently new requirements adopted and legal initiatives proposed by the Spanish government (following international and EU regulations) regarding climate change greatly exceed any that were foreseen ten years ago, we can say the trend will remain or, perhaps, even grow stronger. Therefore, if these large companies want to survive the next five years, it is reasonable to expect that they will either adapt or even transform.

In this process, everybody is liable for participating, therefore, in my opinion, company boards must find adequate incentives to involve all employees. A client once proposed that a way to achieve this is through "variable remuneration". Traditionally, companies have rewarded overtime (extra hours worked) or optimal performance. Now, is it possible to measure the climate impact or the vulnerability of a department or employees? And, consequently, to provide extra remuneration based on these new criteria?

What can other countries learn about this topic from the jurisdiction in which you operate?

One of the financial products that is currently having a great impact on our sector is green bonds. They are attracting socially-responsible national and international investors as well as institutional investors (pension funds or insurance companies). Many companies (from sector and financial institutions) have issued "green bonds" during the last three years. These include Endesa, Iberdrola, Naturgy, BBVA and CaixaBank, to name but a few. The nature of these securities, in general terms, is emission reduction projects. Thus, green bonds have become an instrument to capture capital to fund a great variety of emission reduction projects easily, as well as an opportunity to make potential investors integrate climate change measures and risks into their agenda. The success of these green bonds is not only their monetary value, but also, especially, their reputational impact on the companies that buy them. As a special mention, the Spanish Central Bank is currently working on a draft to develop guidelines in order to assess risks related to climate change for financial institutions.

What is your best general advice to board members concerning the impact of climate change?

As a lawyer, I have the challenge not only to acquaint them with the law, but I must also take advantage of it, in order to provide tailored and accessible alternatives for my clients according to their activities and environmental/GHG impacts. Based on the current situation, I tell my clients that the integration of climate change policies in their companies should lead to new thought processes, namely, to thinking outside the box. They must approach climate change with a new business vision, albeit one that is executable; it cannot remain as a mere idea or vision.

Finally, I think financial Institutions and asset managers must also play an important role in this transformation process by facilitating new financial services to companies in the implementation of their climate change objectives, as well as triggering the evaluation of the physical and transactional risks inherent therein.

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