

COP26 AND THE CONSUMER SECTOR

10 December 2021 | Insight

Legal Briefings - By **Silke Goldberg, Timothy Stutt, Antony Crockett, Susan Black and Kristin Stammer**

While the COP26 climate summit did not deliver on the high expectations placed on it, the outcomes of the conference will still have a noticeable impact on businesses. We summarise in this briefing the key outcomes from COP26, and the way that consumer companies are responding to the increasing climate action expectations of consumers.

WHAT HAPPENED AT GLASGOW?

The recent UN Climate Change Conference (**COP26**) held in Glasgow resulted in increased attention on climate change and countries' (and companies') net zero targets. The Conference demonstrated a huge movement towards emissions reductions across broad sectors of the global economy, which will include material changes for the consumer sector. At a high-level, there were several important outcomes of COP26:

- the *Glasgow Climate Pact* was agreed;
- countries agreed to meet again next year and pledge further cuts to emissions and more aggressive targets;
- the US and China delivered a *Joint Declaration on Enhancing Climate Action*, which encompasses cooperation on a broad range of initiatives to address GHG emissions reduction, the clean energy transition, deforestation, and establishment of a Working Group on Enhancing Climate Action in the 2020s;¹
- the International Financial Reporting Standards Foundation (**IFRS**) announced the

establishment of the Sustainability Standards Board, which will [summarise what it will do]; and

- the *Breakthrough Agenda* was agreed, which will involve states' cooperating to improve clean technologies, including power and climate-resistant agriculture, and make those technologies more affordable.²

AGRICULTURE AND THE AGRI-FOOD TRANSITION SUMMIT

There were a number of developments in the agricultural and food-production space at COP26 and initiatives announced alongside the main COP26 proceedings. In parallel to the main conference of states in Glasgow were several summits, including the Agri-Food Transition Summit which had a focus on sustainable agriculture.³

The key developments for agriculture coming out of COP26 or announced at COP26 included:

- the launch of the *Global Action Agenda on Transforming Agricultural Innovation*, which promotes emissions reduction while providing food security;
- there was policy dialogue on accelerating transition to sustainable agriculture through redirecting public policies and support and scaling innovation;
- 45 countries including the US, Japan, Germany, and the UK pledged to reduce greenhouse gases from farming;⁴
- CEOs of major retailers including Marks & Spencer, Sainsbury's, Tesco, and Waitrose signed the *WWF Retailers Commitment for Nature*;
- the World Business Council for Sustainable Development launched *Regen 10*, which will work with farmers, businesses, investors, NGOs and policymakers to use regenerative food production methods and provide financing for farmers to adapt their practices;⁵
- the US and UAE announced a joint initiative called *AIM for Climate* which will provide US\$4 billion in funding and commitments from thirty countries with the aim of finding innovations in smart agriculture and sustainable food systems.⁶

SUSTAINABLE INNOVATION FORUM

As part of the 'Climate Action Innovation Zone', the Sustainable Innovation Forum was held with states, businesses, investors, and NGOs. The Forum discussed a range of issues, including innovation in supply chains and circular manufacturing, waste reduction, sustainable food production, and conscious consumerism.⁷

HOW DOES THIS IMPACT THE CONSUMER SECTOR?

CIRCULAR ECONOMY AND WASTE REDUCTION

Promotion of a circular economy model of production has been a key effort of the United Nations Environment Program and supported by the consumer sector as part of efforts to increase sustainability and reduce waste. Not surprisingly, it also featured at COP26 including as part of the US-China Declaration and in discussions at the Sustainable Innovation Forum. Renewable energy can only go so far in reducing emissions – and reducing the emissions from production and use of consumer goods through the circular economy has a significant role to play.

Read our article on integrating circular policies [here](#).

EMISSIONS REDUCTION GOALS

Notable at COP26 was the net zero climate commitments made by a number of countries, including India by 2070, Indonesia by 2060, and the US, Australia, the UK, and the EU all by 2050. This is going to continue to drive emphasis on similar net zero commitments in the corporate sector, which will be reinforced by consumer expectations.

Increasingly, companies are reporting against the Task Force on Climate-Related Disclosures (TCFD)'s recommendations on climate-related financial disclosures.⁸ IFRS' Sustainability Standards Board will also be developing harmonised sustainability standards to improve the quality of sustainability reporting.⁹ Companies will be expected by investors and consumers to disclose scope 1, 2 and 3 emissions in the supply chain.

RENEWABLE ENERGY USAGE

It is clear from the climate commitments at COP26 and the *Breakthrough Agenda* that there is going to be a big focus on renewable energy at all levels, from government to the private sector. Companies are increasingly making their own renewable energy commitments, such as Coles' and Woolworths' commitment to 100% renewable energy by 2025,¹⁰ and Unilever has already achieved 100% renewable energy across 5 continents.¹¹ We expect to see greater use of power purchase agreements (PPAs) between the consumer sector and energy retailers to facilitate the transition to renewable energy.

BIODIVERSITY AND REGENERATIVE SUPPLY CHAINS

The private sector is not just considering supply chain environmental impact in terms of the circular economy, but increasingly coming up with creative mechanisms to address climate change in the supply chain. Burberry announced during COP26 that it will be encompassing biodiversity as part of its nature-based strategy. This includes employing regenerative and holistic land management practices in its value chain.¹²

DEFORESTATION

One of the commitments agreed at COP26 by 141 world leaders was to 'halt and reverse forest loss and land degradation' by 2030, which includes transformation of agricultural policies to develop and promote sustainable agriculture.¹³ Countries such as Indonesia however, which along with Brazil and the Democratic Republic of the Congo account for 85% of the world's forests, have suggested that the aim will be to minimise deforestation rather than eliminate it altogether by 2030.¹⁴ Brazil has set itself a target to end illegal deforestation by 2028.¹⁵

WHY DOES IT MATTER?

PRODUCT SUPPLY CHAIN EXPECTATIONS

Consumers are increasingly demanding that not only their products are environmentally responsible, but that the entire supply chain is sustainable. A number of consumer companies are putting circular economy business models into practice, including major food and beverage, furniture and clothing companies incorporating recycled or renewable materials in manufacturing processes.

Major consumer companies are signing up to the Water Resilience Coalition, an industry-driven, CEO-led coalition of the UN Global Compact CEO Water mandate. Many FMCG companies are launching multi-billion dollar sustainability plans to eliminate unsustainable water use across the entire value chain and mitigating impact of their operations on water supplies for communities.

INVESTOR EXPECTATIONS

Investors, whether institutional or retail, as well as financiers, are paying greater attention to companies' climate action (or inaction). Climate Action 100+, an international investor-led initiative to monitor progress of companies against the Net Zero Company Benchmark's 10 disclosure indicators, currently has 12 companies in the consumer sector as 'focus companies', including Coca-Cola, Nestle, PepsiCo, and Unilever.¹⁶ More shareholders are expecting companies to report their climate risks and actions they are taking to minimise their contributions to climate change.

GREENWASHING LITIGATION

We have seen an increase in claims commenced by consumers on grounds of 'greenwashing' in the US, UK, and Australia. Disclosures in relation to sustainability and a product's green credentials may give rise to claims for misleading and deceptive conduct if the disclosures are not based on reasonable grounds. For example, proceedings in the US and Australia have been commenced in the FMCG and retailer sectors, for companies allegedly falsely marketing products and packaging as sustainable and environmentally friendly. To mitigate greenwashing litigation risk companies should:

- ensure that clear policies / guidelines regarding climate disclosures are implemented;
- maintain and record all evidence of how claims can be substantiated; and
- keep on top of the type of claims being brought in this space.

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If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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