



# Climate Regulation

in 19 jurisdictions worldwide

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**Law**  
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<b>Introduction and Overview</b> Per Hemmer, Johan Weihe and Rania Kassis <i>Bech-Bruun</i>	<b>3</b>
<b>EU Legislation on Climate Change</b> Adrien Fourmon <i>Selarl Huglo Lepage &amp; Associés Conseil</i>	<b>11</b>
<b>Australia</b> Michael Voros, Simona Vieru and Panashi Devchand <i>Herbert Smith Freehills</i>	<b>18</b>
<b>Austria</b> Thomas Starlinger and Tamara Karlovsky <i>Fiebinger Polak Leon Rechtsanwälte GmbH</i>	<b>25</b>
<b>Brazil</b> Adriana Coli Pedreira, Simone Paschoal Nogueira and Patrícia Macedo Guimarães <i>Siqueira Castro – Advogados</i>	<b>31</b>
<b>Canada</b> Ben Bedard and Paul Conlin <i>Conlin Bedard LLP</i>	<b>35</b>
<b>Denmark</b> Per Hemmer, Johan Weihe and Rania Kassis <i>Bech-Bruun</i>	<b>42</b>
<b>France</b> Laurence Lanoy <i>Laurence Lanoy Avocats</i>	<b>51</b>
<b>Germany</b> Jochen Terpitz and Nuray Karaca <i>Simmons &amp; Simmons LLP</i>	<b>58</b>
<b>Iceland</b> Dýrleif Kristjánsdóttir <i>LEX Law Offices</i>	<b>64</b>
<b>India</b> Aparajit Bhattacharya and Sumedha Dutta <i>HSA Advocates</i>	<b>71</b>
<b>Netherlands</b> Viviana Luján Gallegos, Liesbeth Driest and Rutger de Witt Wijnen <i>Simmons &amp; Simmons LLP</i>	<b>86</b>
<b>Norway</b> Eivind Aarnes Nilsen, Per Kristian Bryng and Merete Kristensen <i>Arntzen de Besche Advokatfirma AS</i>	<b>94</b>
<b>Peru</b> Brendan Oviedo Doyle <i>Rubio Leguia Normand</i>	<b>102</b>
<b>South Africa</b> Claire Tucker <i>Bowman Gilfillan</i>	<b>107</b>
<b>Spain</b> Covadonga del Pozo and Eduardo de Nieves <i>Del Pozo &amp; De la Cuadra</i>	<b>114</b>
<b>Sweden</b> Maria Hagberg, Amanda Starfelt and Philippa Johanssen <i>Von Lode Advokat AB</i>	<b>122</b>
<b>Switzerland</b> Philippe Wenker, Christina Hofer, Patrick Götze and Stefan Wehrenberg <i>Blum &amp; Grob Attorneys at Law Ltd</i>	<b>129</b>
<b>United Kingdom</b> Stephen Shergold, Helen Bowdren and Ashley Belcher <i>SNR Denton</i>	<b>137</b>
<b>United States</b> Robert Wyman, Marc Campopiano, Joshua Bledsoe, Buck Endemann and Aron Potash <i>Latham &amp; Watkins LLP</i>	<b>145</b>

# Norway

**Eivind Aarnes Nilsen, Per Kristian Bryng and Merete Kristensen**

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## Main climate regulations, policies and authorities

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### 1 International agreements

Do any international agreements or regulations on climate matters apply in your country?

Norway has ratified the United Nations Framework Convention on Climate Change (UNFCCC) and was one of the first western industrial countries to ratify the Kyoto Protocol on greenhouse gases. The Norwegian Parliament gave its consent to ratification on 21 May 2002. Under the Kyoto Protocol, Norway has agreed not to increase emissions in 2008 to 2012 by more than 1 per cent compared to the 1990 level. According to a government climate report, the ambition level has been increased by 10 percentage points to 9 per cent below the 1990 level.

The commitments under the UNFCCC comprise all anthropogenic emissions by sources and removals by sinks of all greenhouse gases, except those covered by the Montreal Protocol (1987). It is a protocol under the Vienne Convention for the Protection of the Ozone Layer (1985).

Norway carries out a comprehensive environmental policy, and to some extent this has resulted in stricter standards for domestic polluters and industry than what is the case in the European Union. This is the case for fossil-based power production and the offshore petroleum industry. The most important partner to Norway in Europe is the European Union. Norway is not a member state of the EU, which makes it necessary to implement new EU legislation into the EEA Agreement before it has any relevance in Norway. Thus, European environmental cooperation takes place through the EEA Agreement. The European Economic Area (EEA) consists of the 27 member states of the European Union (EU) and three European Free Trade Association (EFTA) States: Iceland, Liechtenstein and Norway. It was established by the EEA Agreement, an international agreement which enables the three EFTA states to participate fully in the European internal (or single) market.

Norway is a part of the EU ETS. The European Emission Trading Directive (Directive 2003/87/EC) is incorporated into the European Economic Area (EEA) Agreement and is implemented in Norwegian legislation by the Norwegian Greenhouse Gas Emission Trading Act of 17 December 2004 No. 99. The Greenhouse Gas Emission Trading Act applies to companies operating in the petroleum sector, energy producers, producers of iron, steel and other ferrous metals and producers of cement, lime, glass, fiberglass and other fibrous material. As from 1 January 2012, the aviation industry was included in the EU ETS. From 1 January 2013, the third Phase of EU ETS is initiated. A precondition for Norway's participation was our acceptance of the Amending Directive (Directive 2009/29/EC) to the Emission Trading Directive. The amending Directive was implemented in Norwegian legislation, dated 25 May

2012. Environmental cooperation with the EU has developed substantially since the EEA Agreement came into force. There has been an increase of framework directives and sector-wide regulations (eg, the Water Framework Directive and the Marine Strategy Framework Directive). The sum of all EU policies, specific or sector-wide, which is incorporated into Norwegian legislation through the EEA Agreement, makes the EU an important contributor to the development of Norwegian environmental policy and regulations.

The Norwegian implementation of climate commitments is indeed stricter than the minimum requirements of the Emissions Trading Directive. The long-term goal, as outlined in the climate policy, is 100 per cent reduction (carbon neutral) by 2030.

Norway is a driving force behind the REDD (Reducing Emissions from Deforestation and Degradation) initiative. In 2007, during the international climate negotiations in Bali, Norway pledged substantial funding towards efforts to reduce emissions from deforestation and forest degradation in developing countries. The government of Norway's International Climate and Forest Initiative was established in 2008, to implement the pledge from Bali. Most activities are being coordinated through multilateral channels. In addition, Norway supports a few countries bilaterally in their efforts to reduce forest loss, and provides funding for civil society actors in relevant areas. Through its support, Norway is assisting developing countries to reduce greenhouse gas emissions from the forest sector. Norway is also working towards a new international climate regime that rewards developing countries for reducing emissions from deforestation and forest degradation.

Norway entered into cooperation with Sweden to establish a joint market for electricity certificates, as from 1 January 2012. A precondition was the implementation of the Renewable Directive (Directive 2009/28/EC) in Norwegian legislation. The Renewable Directive was implemented into the EEA agreement, dated 19 December 2011.

In addition, Norway has implemented other EU (climate) legislation, such as:

- Monitoring Mechanism Decision No. 280/2004/EC establishes a mechanism for monitoring GHG emissions;
- Aviation Directive (Directive 2008/101/EC) amends the EU ETS Directive by establishing a particular emissions trading scheme for emissions from aviation activities;
- Renewable Energy Directive (2009/28/EC) establishes a common framework for the promotion and regulation of production and use of energy from renewable sources; and
- the Energy Performance of Buildings Directive (Directive 2002/91/EC) establishes minimum requirements as regards the energy performance of new and existing buildings, to ensure the certification of energy performance and to require the regular inspection of boilers and air conditioning systems in buildings.

## 2 International regulations and national regulatory policies

How are the regulatory policies of your country affected by international regulations on climate matters?

Norway will comply with the climate commitments imposed by the EU and the abovementioned obligations imposed by international law. By 2020, Norway aims to reduce its emissions of greenhouse gases by 30 per cent, compared to Norway's emissions in 1990. About two-thirds of the cuts will be made nationally. Norway will intensify its climate targets to match cuts in emissions of 40 per cent by 2020, compared to 1990 levels, if it can help to agree on an ambitious climate agreement in which the major emitting countries undertake specific commitments. For further guidance on the effect of international regulations on national environmental policy, reference is also made to this in question 3 below.

## 3 Main national regulatory policies

Outline recent government policy on climate matters.

On 11 June 2012, the Norwegian Parliament (the Storting) agreed on a new climate policy for the coming years. The agreement is referred to as the Climate Settlement and concerns certain additions to the White Paper on Climate Efforts. The paper offers a detailed plan for how GHG emissions should be reduced. However, the reduction goals set out in the paper are non-binding; they are mere political goals that can be subject to change. The paper retains the targets set out in the 2008 agreement on climate policy, addressing the following sectors and activities:

- mainland industry and petroleum activities;
- transport;
- construction; and
- agriculture and carbon uptake by forests.

The paper also presents an overview of the environmental principles on which Norwegian climate politics are built - such as the principles of fair distribution, international solidarity and sustainable development, as well as the precautionary principle and the 'polluter pays' principle. Some environmental principles are constitutionally enshrined, while others are enshrined in statutory legislation, including the Nature Diversity Act and the Pollution Control Act (Act of 17 December 2004 No. 99 Relating to Greenhouse Gas Emission Allowance Trading and the Duty to Surrender Emission Allowances; and Act of 13 March 1981 No. 6 Concerning Protection Against Pollution and Concerning Waste).

The paper establishes several main goals for Norwegian climate politics. First, in relation to the first commitment period of the Kyoto Agreement, Norway plans to exceed its commitment by 10 per cent. This implies that Norway will reduce its emissions on a national level from 50 million carbon equivalents in 1990 to between 42 million and 44 million equivalents in 2020. Secondly, Norway plans to become carbon neutral by 2050. However, if an ambitious global climate agreement is entered into through which other industrialised countries commit to undertake large reductions in GHG emissions, Norway will bring forward its target for carbon neutrality to 2030. Thirdly, by 2020 Norway plans to commit to reducing its GHG emissions to an equivalent of 30 per cent of the 1990 emissions level.

These emission reductions can be carried out either in Norway or abroad, by purchasing emission allowances (quotas) from other countries so that other countries make the reductions on Norway's behalf. The use of this latter measure has been widely debated in Norway, specifically in relation to whether Norway should reduce more or less than two-thirds of its emissions at home. The paper states that Norway will have a domestic reduction goal of two-thirds of GHG emissions.

As outlined below, Norway's priorities in the international climate negotiations are:

- limiting the global temperature increase to 2°C above pre-industrial levels. Early intervention is critical to achieve this;
- the negotiations should lead to a global, binding, long-term agreement to secure large reductions in global greenhouse gas emissions in the most cost-effective manner;
- increase funding for climate measures in developing countries. Norway has proposed a new funding mechanism;
- promote measures related to the capture and storage of carbon;
- include emissions from international shipping and aviation in a new climate regime. Norway has put forward a proposal on how emissions from international shipping can be incorporated into a new climate agreement;
- as a polar nation, Norway wants to play a leading role in monitoring and documenting climate change in the Arctic; and
- include emissions from deforestation and forest degradation in tropical forests in a new climate agreement. Norway has provided more input on this in the negotiations. The Norwegian Climate and Forest Initiative is designed to provide knowledge on how these emissions can be regulated.

Parliament has made it clear - through both the white paper and the ensuing Climate Settlement - that its overall ambition is to engage proactively in driving international climate measures forward. The government will continue to scale up climate research. Furthermore, based on the experience of the current legislation and policy instruments, the government will consider whether it is appropriate to draw up a separate act on climate issues.

As mentioned under question 1, Norway is a driving force behind the REDD initiative. Reducing emissions from deforestation and forest degradation in developing countries will promote sustainable development and help reduce poverty. The REDD-project has recently been evaluated.

## 4 Main national legislation

Identify the main national laws and regulations on climate matters.

The fundamental principles underlying the approach to liability and regulation of environmental issues in Norway are as follows:

- the Constitution of 17 May 1814 (the Norwegian Constitution section 110b establishes a right to a certain quality of environment and the public's right to environmental information);
- the polluter pays principle;
- environmentally sound techniques and methods of operation;
- the general duty of care;
- the precautionary principle;
- the principle of knowledge-based management;
- the ecosystem approach and cumulative environment effects and;
- the principle of species management.

### The Norwegian Pollution Control Act

The Norwegian Pollution Control Act of 1981 (Act of 13 March 1981 No.6 concerning Protection Against Pollution and Concerning Waste, the 'Act') is the first unified law in Norway concerning pollution and waste issues. The political goal was to create one basic legal framework for all types of pollution and waste. The Act was established for the purpose of preventing and reducing harm and nuisance from pollution. This objective is reflected in section 7, which establishes that pollution as defined in section 6 of the Act is forbidden, unless it is specifically permitted by law, regulations or individual permits. The Act is a framework act setting out main rules and principles, and granting power to establish detailed rules in discharge permits and regulations issued by the pollution control authorities. The Act is based on the polluter pays principle, which

is reflected in the provisions regarding compensation and liability for environmental damage. Violation of environmental permits is, in certain circumstances, subject to administrative and criminal sanctions. For example, the relevant pollution control authorities (see below) have the power to:

- impose a pollution fine;
- arrange for measures to be implemented and claim the costs, damages or losses incurred by the public authorities from the person responsible;
- decide that the use of or damage to another person's property is permissible in return for remuneration; and
- revoke the permit.

In addition, in certain cases of non-compliance with certain provisions of the Act and/or regulations issued thereunder, the responsible authority (the Climate and Pollution Agency, County Governor or municipality) can issue coercive fines. Wilful or negligent non-compliance can be penalised with fines or imprisonment for a term of up to three months. Other penal provisions may apply under sector legislation. This includes the Act relating to the Right to Environmental Information and Public Participation in Decision-making Processes Relating to the Environment (the Environment Information Act). The objective of the Environment Information Act (Act of 9 May 2003 No. 31) is to ensure public access to environmental information and thus make it easier for individuals to contribute to the protection of the environment, to protect themselves against injury to health and environmental damage, and to influence public and private decision-makers in environmental matters. The Act is also intended to promote public participation in decision-making processes of significance relating to the environment. The Environment Information Act provides any member of the public with the right to request and receive environmental-related information from any public authority. A request can be rejected if it is too generally formulated or it is not possible to identify the information that is requested. It can also be rejected if the information in question can be kept confidential according to the Freedom of Information Act. The right to request and receive environmental-related information is not only relevant for public authorities; any member of the public can also address such a request to any company about the environmental impact of the company's activities.

#### **The Norwegian Greenhouse Gas Emissions Trading Act**

Directive 2003/87/EC is implemented in Norwegian legislation by the Act of 17 December 2004 No. 99 Relating to Greenhouse Gas Emission Allowance Trading and the Duty to Surrender Emission Allowances. The purpose of this Act is to limit emissions of greenhouse gases in a cost-effective manner by means of a system involving the duty to surrender greenhouse gas emission allowances and freely transferable emission allowances. The amending directive (Directive 2009/29/EC) was implemented in Norwegian legislation dated 25 May 2012 and thus made changes to the Greenhouse Gas Emissions Trading Act.

#### **The Norwegian Planning and Building Act**

A new Norwegian Planning and Building Act (the 'Planning Act') came into force on 17 July 2009 (Act of 27 June 2008 No. 71 relating to the Planning and the Processing of Building Applications). Important amendments introduced by this new act include strengthening controls of construction work, making environmental considerations more predictable. An objective of the act is to provide a more effective tool for helping municipal and regional authorities incorporate climate considerations into their planning efforts. The act now stipulates that municipalities and counties shall take climate considerations into account in their planning activities. They are also charged with drawing up plans that reduce energy consumption and transport needs. The competent authority may impose penal provisions on any person who wilfully or negligently acts in contravention of

the provisions made in or pursuant to the act or carries out a project without obtaining the required permission pursuant to the act.

#### **The Norwegian Product Control Act**

The purpose of the Product Control Act (Act of 11 June 1976 No. 79, relating to the Control of Products and Consumer Services) is to prevent products from causing damage to health or disturbances of the environment in the form of disturbances of ecosystems, pollution, waste, noise or the like. A further purpose of the act is to prevent consumer services from causing damage to health. This act applies to production, including the testing, import, marketing, use and other handling of products. The act also applies to consumer services. Any person that wilfully or negligently contravenes provisions set out in or issued under this act or conditions laid down under section 7 shall be liable to fines and/or a term of imprisonment of up to three months, unless more severe penal provisions apply.

#### **The Norwegian Svalbard Environment Act**

The purpose of this Act (Act of 15 June 2001 No. 79 relating to the Protection of the Environment in Svalbard) is to preserve a virtually untouched environment in Svalbard with respect to continuous areas of wilderness, landscape elements, flora, fauna and cultural heritage. The act allows for environmentally sound settlement, research and commercial activities. Special enforcement and sanctions apply.

#### **The Norwegian Petroleum Act**

The Norwegian Petroleum Act (Act of 29 November 1996 No. 72 relating to petroleum activities, section 7-3) establishes strict liability for pollution damage, as a consequence of effluence or discharge of petroleum from a facility, including a well, and costs of reasonable measures to avert or limit such damage or such loss, as well as damage or loss as a consequence of such measures. Special enforcement measures apply.

#### **The Norwegian Nature Diversity Act**

The Nature Diversity Act (Act of 19 June 2009 No. 100 relating to the Management of Biological, Geological and Landscape Diversity) signals a new era in Norwegian nature management. When the environment is threatened, the authorities will have a duty to respond with appropriate measures. The Act provides rules for the sustainable use and protection of the natural environment, including new tools for safeguarding nature. The Nature Diversity Act applies both on land and at sea. The Nature Diversity Act establishes key principles including general duty of care, knowledge-based management, the precautionary principle, the polluter pays principle and environmentally sound techniques and methods of operation that are to be used as a basis for the exercise of authority under the Nature Diversity Act and other statutes and decisions on the allocation of public grants. Chapters VIII–IX of the Nature Diversity Act contain provisions on supervision, enforcement and sanctions, including the imposition of fines or imprisonment. There are also important new provisions on environmental compensation. The duty to pay such compensation will take effect when an order has been made by the competent authority.

## **5 National regulatory authorities**

Identify the national regulatory authorities responsible for climate regulation and its implementation and administration. Outline their areas of competence.

#### **Ministry of the Environment**

The Ministry of the Environment has a particular responsibility for carrying out the environmental policies of the government. This includes environmental policy cuts across ministerial boundaries and involves issues that are the responsibility of several different ministries.

**Ministry of Petroleum and Energy**

The principal responsibility of the Ministry of Petroleum and Energy is to achieve a coordinated and integrated energy policy. Norway is one of the pioneer countries in promoting carbon capture and storage as a mitigation measure internationally. The Ministry of Petroleum and Energy coordinates and follows up the government's commitment to carbon capture and storage.

**Ministry of Finance**

The Ministry of Finance has the responsibility for financial mechanisms under the Emission Trading Scheme. The Ministry of Finance is responsible for environmental taxes, such as the CO<sub>2</sub> tax and the SO<sub>x</sub> tax. The Norwegian Directorate of Customs and Excise maintains the enforcement of environmental taxes such as the CO<sub>2</sub> and SO<sub>x</sub> taxation. It is the responsibility of the Ministry of Finance to purchase allowances on behalf of the Norwegian government.

**Climate and Pollution Agency**

The Climate and Pollution Agency manages and enforces the Pollution Control Act, the Product Control Act and the Greenhouse Gas Emission Trading Act. It grants permits, establishes requirements and sets emission limits, and carries out inspections to ensure compliance. The Climate and Pollution Agency is the designated administrator of the Norwegian Emission Trading Registry.

**General national climate matters****6 National emissions and limits**

What are the main sources of emissions of greenhouse gases (or other regulated emissions) in your country and the quantities of emissions from those sources? Describe any limitation or reduction obligations. Do they apply to private parties in your country?

The most recent report on climate policy in Norway is the White Paper on Climate Efforts. The paper was presented by the government to Parliament on 25 April 2012. It was originally expected in 2010, but was delayed several times. The total emission of greenhouse gases in 2011 was 52.7MtCO<sub>2</sub>e. This represents a reduction of 1 MtCO<sub>2</sub>e compared to 2010. Apart from 2009, due to a reduction in the economy, our emissions have not been this low since 1995. Despite this, the emissions were still 5.8 per cent higher than in 1990.

Below are the preliminary emission figures as set out by Statistics Norway, in cooperation with the Norwegian Climate and Pollution Agency:

- oil and gas extraction – 13.4MtCO<sub>2</sub>e;
- manufacturing and mining industries – 11.9MtCO<sub>2</sub>e;
- energy supply – 2.1MtCO<sub>2</sub>e;
- road traffic – 10.1MtCO<sub>2</sub>e;
- other transport and motor equipment – 7.2MtCO<sub>2</sub>e;
- agriculture – 4.2MtCO<sub>2</sub>e; and
- other emissions – 2.4MtCO<sub>2</sub>e.

**7 National emission projects**

Describe any major emission reduction projects implemented or to be implemented in your country. Describe any similar projects in other countries involving the participation of government authorities or private parties from your country.

Norway is actively participating in projects to reduce greenhouse gas emissions through activities domestic and abroad. For instance, reducing emissions from deforestation and degradation.

**Carbon capture and storage (CCS)**

CCS is a central part of the Norwegian government's policy on energy and climate change. A cornerstone of this target area is the

construction of a full-scale CO<sub>2</sub> capture plant at the Mongstad refinery on the western coast of Norway. In the process of completing Carbon Capture Mongstad, a Test Center Mongstad (TCM) is testing different types of technology that can be used within the full-scale carbon capture facility at Mongstad. The official opening of TCM was May 7 2012.

The Snøhvit field in the Barents Sea supplies gas to the world's first LNG plant with carbon capture and storage. Statoil is operator for the development and operation of Snøhvit. Gas production started in October 2007 and the first CO<sub>2</sub> was injected into the reservoir in April 2008. More than 700,000 tonnes of CO<sub>2</sub> will be stored annually in this manner.

On Sleipner, CO<sub>2</sub> is captured using a conventional amine process and stored in geological layers. Every year since 1996, Statoil have captured one million tonnes of CO<sub>2</sub> from natural gas production at Sleipner West and stored it in an aquifer more than 800 metres below the seabed. On Sleipner, CO<sub>2</sub> is captured using a conventional amine process and stored in geological layers.

**Clean Development Mechanism (CDM) and Joint Implementation (JI)**

Since 2000, Norway has participated in one of the World Bank's carbon funds (the Prototype Carbon Fund), which includes pilot projects for JI in eastern Europe and the CDM in developing countries. In addition, Norway has entered into bilateral agreements with countries in Eastern Europe. Through these efforts, Norway has been involved in projects in Mexico, Poland, Costa Rica, Burkina Faso, Romania, Slovakia, China and India. Norway has also participated in capacity building in several developing countries, mainly through multilateral organisations.

**Reducing emissions from deforestation and degradation (REDD)**

Norway commits large amounts of funding to forest projects around the world. These measures are supplementary to emission commitments under the EU ETS.

**Domestic climate sector****8 Domestic climate sector**

Describe the main commercial aspects of the climate sector in your country, including any related government policies.

Norwegian authorities encourage energy efficiency and similar arrangements for private households. The authorities also encourage the development of renewable energy sources. The regime with electricity certificates provides incentives for developing renewable energy. Norway is a part of EU ETS. This market-based regime is fully implemented in the Norwegian policy to reduce greenhouse gas emissions.

**General emissions regulation****9 Regulation of emissions**

Do any obligations for emission limitation, reduction or removal apply to your country and private parties in your country? If so, describe the main obligations.

Under the Kyoto Protocol, Norway is committed to reduce its average annual emissions in the period from 2008 to 2012 to 1 per cent compared to 1990 levels. According to a government climate report, the ambition level has been increased by 10 percentage points to 9 per cent below the 1990 levels.

Emissions of GHG gases are subject to approval by the Norwegian Climate and Pollution Agency. According to section 11 of the Pollution Control Act, a discharge permit is an absolute condition to emit GHG gases and to be regarded as compliant to the emissions trading scheme.

The Emission Trading Directive (Directive 2003/87/EC), together with the linking directive (Directive 2004/101/EC) and the amending directive (Directive 2009/29/EC) to the emission trading directive, is a part of the EEA Agreement and thus implemented in Norwegian legislation. According to the Greenhouse Emission Trading Act, companies that do not fulfil their obligations may be subject to penalties and imprisonment.

#### 10 Emission permits or approvals

Are there any requirements for obtaining emission permits or approvals? If so, describe the main requirements.

According to section 11 of the Pollution and Control Act, certain conditions need to be fulfilled to obtain an emission permit. GHG emissions from all sectors are covered by the emissions regime, unless otherwise specified. The Norwegian Climate and Pollution Agency is responsible for issuing emission permits pursuant to the Norwegian Pollution Control Act, and for issuing allowances under the emissions trading scheme.

#### 11 Oversight of emissions

How are emissions monitored, reported and verified?

Under Norwegian law, companies with commitments to reduce their emissions are obliged to monitor, register, and report their emissions to the Norwegian Climate and Pollution Agency. The monitoring of these measures is also supervised by the Climate and Pollution Agency.

An obliged party to the emission regime must no later than 31 March submit a report to the Climate and Pollution Agency so that it can be audited. By 30 April, the company must transfer a sufficient amount of emission rights pursuant to their actual emissions the foregoing year to the Norwegian register for emission rights. The register is supervised by the Climate and Pollution Agency. The Commission Regulation (EU) No. 601/2012 of June 2012, on the monitoring of greenhouse gas emissions pursuant to Directive 2003/87/EC, is currently being implemented into Norwegian legislation. The Commission Regulation provides detailed requirements including a monitoring programme, a method for measuring and calculating emissions from stationary industrial enterprises and aviation and data handling, analysis and reporting.

#### Emission allowances (or similar emission instruments)

##### 12 Regime

Is there an emission allowance regime (or similar regime) in your country? How does it operate?

Norway is a part of the EU Emission Trading Scheme, and has implemented its regulations through the Norwegian Greenhouse Gas Emission Trading Act.

The current scheme for allocating allowances is by grandfathering. As from 2013, the main scheme for allocating allowances will be by auction. The Auctioning Regulation has not yet been implemented in the EEA Agreement. Therefore the Regulation is not a part of Norwegian legislation. However, an auction process, especially for Norway will not provide large amounts of allowances to be auctioned. The Norwegian businesses that are in compliance with the EU ETS possess no more than 0.08 per cent of the total European volume of emission rights. The Nordic countries receive collectively a quantity of 5 per cent. This makes it hard to establish a separate Norwegian auction. Countries like Germany, Great Britain and Poland have signalled that they will establish their own national auctioning platform. These three countries also represent the three

biggest emitters in Europe, and will by themselves on a singular basis represent a considerable distributor of emission rights/ allowances.

##### 13 Registration

Are there any emission allowance registries in your country? How are they administered?

Administration of emission allowances (AAU and EUA) and credits (CER and ERU) is handled by the Norwegian Emission Trading Registry. The Climate and Pollution Agency is the designated administrator of the Norwegian Emission Trading Registry. The Norwegian registry for emission rights was transferred to a newly established joint registry (Union Registry) with every of the national emission registries within the EU emissions market. This implies that every national registry uses identical software but still is operated on a national/ individual level. The transfer to the Union Registry requires more strict regulation to applicant, account holder and account representative under the Norwegian registry. The requirements are settled into the user agreement. The European Union Transaction Log (EUTL) is the successor of CITL (Community Independent Transaction Log). The new registry is operated by the EU Commission. A centralised union registry transpires from the revised Emission Trading Directive, Directive 2009/29/EC.

The Norwegian registry holds data on the account holder's applications for emission permits and the allocation of emission allowances. It monitors the quantity of allowances that is transferred between buyers and sellers but not terms of agreements between the contracting parties.

##### 14 Obtaining, possessing and using emission allowances

What are the requirements for obtaining emission allowances? How are allowances held, cancelled, surrendered and transferred?

The main criterion for obtaining emission allowances is to possess an account in an Emission Trading Registry. Whether the account is registered within the Danish or Norwegian Emission Trading Registry is without significance. By this, every party, whether it is in compliance or not, has the ability to possess emission allowances.

Each member state of the EU had to prepare and publish a National Allocation Plan (NAP), a plan setting out the total quantity of greenhouse gas emission allowances that it granted to its companies, for the second trading period (2008–2012), by 30 June 2006. For the third trading period, which begins in 2013, there will no longer be any national allocation plans. Instead, the allocation will be determined directly at EU level. Every allowance issued by the EU may be traded in the secondary market. Such trade requires an account in a corresponding Emission Trading Registry. When surrendering allowances, this is done by transferring the certain amount of allowances equivalent to the emissions reduction goal, to an account in the Norwegian Emission Trading Registry for termination. This must be done annually no later than 30 April.

#### Trading of emission allowances (or similar emission instruments)

##### 15 Emission allowances trading

What emission trading systems or schemes are applied in your country?

In Norway the EU Trading Scheme applies. Directive 2003/87/EC is implemented into Norwegian law.

Trading with emission rights in the secondary market takes place on several carbon exchanges in Europe. The procedure for trading is appointed by the specific exchange. Some of the exchanges

are associated to a clearing house, but it is also common that participants arrange clearing by themselves. Trading in the secondary market via a carbon exchange is permitted for both compliant and non-compliant participants to the Emission Trading Regime.

In Norway there are 124 installations in compliance with the Emission Trading Scheme for phase III.

#### 16 Trading agreements

Are any standard agreements on emissions trading used in your country? If so, describe their main features and provisions.

For emissions trading in Norway various standard agreements are used. For instance, standard agreements made by the International Emission Trading Association (IETA), the European Federation of Energy Traders (EFET) and the International Swaps and Derivatives Association (ISDA) are commonly used by traders. A common agreement within bilateral trading is the Emission Reduction Purchase Agreement (the ERPA). This is a standard developed by IETA and ensures stability and predictability in bilateral trading.

#### Sectoral regulation

#### 17 Energy production, use and efficiency

Give details of (non-renewable) energy production and consumption in your country. Describe any regulations on emissions. Describe any obligations on the state and private persons for minimising energy use and improving efficiency. Describe the main features of any scheme for registration of energy savings and for trade of related accounting units or credits.

In Norway renewable energy sources are by far the largest proportion of total amount energy production. According to Statistics Norway, the total domestic energy consumption reached 244TWh in 2012.

Approximately 96 per cent of all power production in Norway is renewable and originates from hydropower. Prior to 2007 there was little electricity production based on fossil fuels in Norway, and this was usually in small plants. In 2007 the Norwegian government commissioned Kårstø, a gas-fired power plant, and Snøhvit, an energy plant. Currently the operation of the plant at Kårstø is reduced due to an increase in gas prices and a decrease in electricity prices, making the profitability of the plant low (also known as 'spark spread'). The power efficiency in a conventional gas-fired power plant is 55 to 58 per cent. The co-generation plant on Mongstad was commissioned in November 2010. On Mongstad a full-scale carbon capture and storage programme is being developed.

Through the Planning and Building Act and the regulations issued thereunder, new or renovated buildings are subject to technical requirements in order to secure better the energy efficiency in new buildings and as a member to the EEA Agreement, Norway has implemented the Directive 2002/91/EC of the European Parliament and of the Council of 16 December 2002 on the energy performance of buildings.

As mentioned above most of the energy production in Norway is from renewable sources; there are some sectors which do use fossil fuels. In 2010 the emissions due to the use of fossil fuels to heat buildings amounted to 1.9 million tonnes of CO<sub>2</sub>-equivalent GHG. This amounts to 3 to 4 per cent of the total emissions per year (this percentage is subject to variations depending on how cold the winters are and thus the need for heating).

As from 2012, Norway and its energy producers were included in a joint electricity certificate regime with Sweden. Electricity certificate trading intends to stimulate increased production of electricity from renewable energy sources such as wind, water and bio. Producers of non-renewable energy do not receive electricity certificates and thus the regime creates incentives to produce renewable energy.

#### 18 Other sectors

Describe, in general terms, any regulation on emissions in connection with other sectors.

The EU Emission Trading Scheme Directive (2003/87/EC), amended by the linking Directive (2004/101/EC), is implemented into the EEA Agreement, and includes emissions of CO<sub>2</sub> from the following sectors and activities in accordance with the Norwegian Greenhouse Gas Emission Trading Act, section 3:

- energy production;
- refining of mineral oil;
- production of coke;
- production and processing of ferrous metals; and
- production of cement, lime, glass and paper pulp from timber or other fibrous materials.

Petroleum activities on the Norwegian Continental Shelf (NCS) are subject to free allocation of 50 per cent of their total emissions. This was the result after the implementation of the Amending Directive (Directive 2009/29/EC). In addition, the government has decided to increase the carbon tax for this sector to Nkr200 per tonne of CO<sub>2</sub> emitted (approximately €28) – almost twice the present level. According to the authorities, the purpose of the tax is to maintain cost-efficient reductions of carbon emissions. However, in accordance with economic theory, a tax is not regarded as cost-efficient; it is merely an instrument for implementing fiscal policy and does not provide any economic incentives for those on which it is levied.

#### Renewable energy and carbon capture

#### 19 Renewable energy consumption, policy and general regulation

Give details of the production and consumption of renewable energy in your country. What is the policy on renewable energy? Describe any obligations on the state and private parties for renewable energy production or use. Describe the main provisions of any scheme for registration of renewable energy production and use and for trade of related accounting units or credits.

Norway is the sixth-largest hydropower producer in the world and together with Iceland possesses the highest portion of renewable electricity production of all countries in Europe. In the Energy Status 2010, Norwegian Water Resources and Energy Directorates (NVE) provides a comprehensive presentation of statistics and facts about the Norwegian energy system.

'Energy 2010' provides an overview of the production, transmission and consumption of electricity in Norway, and shows the use of energy for various purposes and the relationship between energy and the environment.

According to the NVE's report from 2011, on the Energy Status in Norway, hydropower production was 96 per cent of the total electricity production in Norway. Both in Iceland and Norway production of electricity is based mainly on renewable energy resources. By comparison, about 17 per cent of all electricity in the EU is based on renewable resources.

Wind energy is considered by some to have considerable potential as a contribution to the country's total production of electricity, although there are varying views on its potential. At the end of 2009, 18 wind farms and 200 turbines has produced a total of 431MW of wind power.

The Energy Act represents the basics of Norwegian electricity market regulation, comprising all parts of the resource chain from electricity production to consumption. The Norwegian electricity market regime generally complies with most of the provisions of the new Electricity Directive.

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**20 Wind energy**

Describe, in general terms, any regulation of wind energy.

Onshore wind power and wind power placed within the baseline are under development in Norway, and represent a relatively small proportion of the country's total production of electricity. Wind power and hydropower fit well together because energy from water can easily be adjusted and stored in reservoirs when there is sufficient wind to produce a large amount of wind energy. If production of wind energy is reduced, this can quickly be compensated by increased production of hydropower. The total production reached 1TWh in 2009. Investments in wind energy are supported by ENOVA and their investment aid scheme, the Energy Fund.

A construction licence under the Norwegian Energy Act is a prerequisite for the production of onshore wind energy.

With regard to offshore wind power, the legal framework is only partially in place. The Act on Offshore Renewable Energy Production entered into force in 2010, but currently there are no commercial offshore wind power facilities in operation on the Norwegian Continental Shelf. At present there is only one major project that has been awarded a licence. In addition, six licences for testing of offshore wind power technology have been awarded.

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**21 Solar energy**

Describe, in general terms, any regulation of solar energy.

The Norwegian Water Resources and Energy Directorate ordered a report in 2008 on the possibilities of exploiting solar energy in Norway. The annual radiation in Norway varies from about 700kWh/m<sup>2</sup> in northern regions to about 1,100kWh/m<sup>2</sup> in southern parts of the country, while there are large variations throughout the year. It is therefore not possible to base the energy supply on solar energy while there is no opportunity to store energy from summer to winter.

Solar energy for heating purposes is used only to a modest extent in Norway. Until it is possible to store solar energy from summer to winter, solar energy can never be anything other than a supplement to another heating source.

As for wind energy, a construction licence under the Norwegian Energy Act is a condition for establishing the production of solar energy.

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**22 Hydropower, geothermal, wave and tidal energy**

Describe, in general terms, any regulation of hydropower, geothermal, wave or tidal energy.

The requirements for a new entrant to be a market participant for large-scale hydropower production are restricted. Foreign and private market participants cannot be granted a hydropower licence and may only participate as minority shareholders (below one-third) in Norwegian public companies.

As described in question 19, production of hydropower is the greatest source to energy in Norway. As mentioned above (question 19), Norway is the sixth-largest producer of hydropower in the world and is, together with Iceland, the country with the highest share of renewable energy production. The total production of electricity reached 128,144GWh in 2011.

The exploitable potential within hydropower is approximately 205TWh in Norway, whereas 123.40TWh is exploited and 48.60TWh is preserved through the Norwegian Nature Conservation Act or protected through rejections of applications for concession of hydropower.

Since 2011, geothermal energy is used as a component in geothermal heat pumps used for heating buildings. Norway has the potential to utilise geothermal energy to a larger extent than the present level; approximately 26,000 facilities are installed producing

3.5TWh per year. A report issued by the Norwegian Water Resource and Energy Directorate identifying the potential of geothermal heating pumps in Norway concluded that increased use of geothermal heating pumps could replace a large part of the energy consumption from heating by fossil fuels. It is estimated that geothermal energy stands for a proportion of 2 per cent of the total energy consumption. If the geothermal heating pump is used as a part of the distant heating plant, the Norwegian Act on Energy Production applies.

Production of wave and tidal energy located within the baseline is covered by the Energy Act. Exploitation of wave and tidal energy located outside the baseline is regulated by the Act on Offshore Renewable Energy Production, thus making such production facilities subject to the licensing system under this act. At present there are some test projects along the Norwegian coast but none of these are located outside the baseline.

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**23 Waste-to-energy**

Describe, in general terms, any regulation of production of energy based on waste.

Waste-to-energy is a priority area in Norway and waste is used in energy production through district heating plants. Incineration of waste may lead to the emission of pollutants, dust and gases that contribute to acid rain and climate change. This can cause long-term and severe environmental damage and affect people's health. The emissions from district heating plants amounted to 0.9 million tonnes of CO<sub>2</sub> equivalents. Plants that burn waste must comply with strict emission regulations, based on the EU Directive on the incineration of waste.

In recent years, new plants with high environmental standards have been built. Older plants have either been upgraded or closed down, thus emissions have been reduced. There are five major municipal waste incinerators in Norway. These are located in Oslo, Bergen, Trondheim and Fredrikstad. Energy utilisation in these plants increased steadily in the first half of the 1990s and has been stable since then. In 2008, the average energy utilisation for the Norwegian waste incinerators was 77 per cent. Several new waste incinerators are under construction due to increased capacity needs nationally. The need for increased capacity is due to, among other things, the ban on landfilling of biodegradable waste, which was introduced on 1 July 2009.

Construction of waste incineration plants are subject to the award of a licence, in accordance with chapter 5 of the Energy Act. The licensing requirements were significantly increased when the regulation was adopted. These regulations govern all combustion of waste and hazardous waste, regardless of the size of the facility or the amount of waste combusted. The regulations set strict standards for emissions and are based on EU Directive on the combustion of waste. For plants that were built before the regulations came into force, the requirements were made effective from 1 January 2006. The tax on incineration of waste was removed from 1 October 2010.

Biogas production in Norway is based on discharged water, food waste and manure. Biogas is may be used for heating of buildings, industry and biofuel, which in addition to being a climate initiative also contribute to reduce local pollution. Presently, there are 35 biogas production facilities which produce 200GWh.

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**24 Biofuels**

Describe, in general terms, any regulation of biofuels.

The production and use of biofuels in Norway is limited. According to the Norwegian Regulation No. 922/ 2004 on the limitation on use of chemicals and other products hazardous to health and the environment, the national annual sales order on biofuel is 3.5 per cent of the total fuel sold in Norway on an annual basis. As

**Update and trends**

On 11 June 2012 the Norwegian parliament agreed on a new climate policy for the coming years. The agreement is referred to as the Climate Settlement and concerns certain additions to the White Paper on Climate Efforts (21/2012):

- The parties to the agreement have undertaken to reduce greenhouse gas (GHG) emissions on a national level and step up technological development. On its publication in April 2012, the paper was described as 'offensive'.
- In a press release following agreement of the settlement, Bård Vegar Solhjell, the minister for the environment, stated that 'the Climate Settlement contributes to further concretisation of the instruments of the [paper] and ensures that climate politics are long term.'

mentioned above, biogas may be processed biofuel.

Biodiesel is the most common type of biofuel used in Norway. Due to the content of mineral oil, biodiesel is subject to the road uses tax levied on certain fuels in order to pay for the inconveniences driving causes such as pollution to air.

**25 Carbon capture and storage**

Describe, in general terms, any policy on and regulation of carbon capture and storage.

As from 2013, CCS will be a part of EU ETS. This is described in Directive 2003/87/EC, as amended by Directive 2009/29/EC annex I. As mentioned above, Directive 2009/29/EC is implemented in the EEA Agreement and also carried out in Norwegian legislation, as mentioned above under question 1. Therefore it is not applicable to businesses in Norway that are in compliance with the EU ETS. Directive 2009/31/EC on geological storage of CO<sub>2</sub> declares that the ultimate objective of the UNFCCC is to stabilise greenhouse gas concentration in the atmosphere. The motion is implemented in Norwegian legislation. Directive 2009/31/EC establishes a judicial framework for a secure environmental storage of CO<sub>2</sub>.

According to the Norwegian White Paper on Climate Change, the government pursues its policy that all new power plants shall be based on CCS technology. The 'Climate Cure 2020' estimates of costs of measures and the risk situation in respect of CCS indicates a very high price for CO<sub>2</sub> through ETS before full-scale systems will be triggered. Alternative ways to finance CCS projects might be subsidies or full state funding. Regarding the Norwegian CCS projects at Kårstø and Mongstad, it has been argued that strong state commitment is a result of contributions to technological development. In the long-term, strong state commitment can prove necessary to achieve the establishment of a full-scale carbon capture plant.

**Climate matters in transactions****26 Climate matters in M&A transactions**

What are the main climate matters and regulations to consider in M&A transactions and other transactions?

Regarding acquisitions it is decisive for several parties that a business candidate has a solid environmental and climate policy.

When performing a due diligence procedure, consideration should be taken to the current company's fulfilment of its environmental and climate obligations. If a target company is in compliance with the Emission Trading Scheme, several issues do not need to be assessed. For instance, whether the company receives freely allocated allowances and how much it receives compared to its emissions, and whether it has satisfactory routines for monitoring, measuring and reporting its emission data to the competent national authorities. The cost of purchasing allowances is variable, and the organisational challenges regarding monitoring, measuring and reporting represent transaction and administrative costs.



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