

Climate Change Update Summer 2010

OLSWANG



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Editorial

Welcome to the Summer 2010 edition of our Climate Change Newsletter.

The first half of this year has given much food for thought to those of us with an interest in developments in this area. From the disappointment of Copenhagen, we moved quickly into an election campaign in the UK where the major political parties all seemingly recognised the need to have something to say in relation to Climate Change. The global economic crisis continues to loom menacingly over us all, influencing policy and investment decisions. We also read that the proportion of adults who believe climate change is "definitely" a reality has dropped by 30% over the last year. Does this, allied with the negative publicity associated with the leaked email scandal, dubbed "Climategate", and more news of possible fraud and investigations into the carbon trading market, mean that public concern over the impact of Climate Change is diminishing?

In our view, all is not lost. Sustainability, Climate Change and Renewables are all now firmly established in our collective consciousness. Is public opinion seeming to change because these matters and thoughts are now so familiar, they lack the impact that they had a year ago when they were all relatively new? In this edition of our Climate Change Newsletter while our articles relate to a number of varied topics, the common theme is that they each illustrate how firmly embedded issues relating to Climate Change are now in our consciousness. We take a look at the fashion industry and how it recognises the need to have regard to issues of sustainability, but is as yet unsure as to how best to address and characterise these. In the political arena, we review post-Copenhagen progress and conclude that while progress is slow, we do seem to be moving forward. Domestically, how will the new coalition government deal with the issues that the parties made promises about prior to the election? We take a look at what we can expect and also at how UK taxation policy might be influenced moving forward.

We hope you find this Newsletter of interest. Please do contact us if it prompts thoughts that you would like to discuss further. Our contributors were Kathrin Vowinckel (Fashion), Michaela Stirling (Copenhagen), Graham Chase and Matthew Wentworth (Policy and Taxes). Many thanks to them all.

Richard Bamforth and Stephen Rosen

'Sustainable' Fashion - what does it mean?

'Sustainable' Fashion is currently en vogue. Just recently, eco fashion brand ISSI launched in Selfridges, Supermodel Kate Moss has worn a body-cleaving strapless dress partly woven from **recycled mosquito nets** to support the battle against malaria, and in January 2010, at the initiative of UNCTAD, more than 500 prominent figures from government, international organizations and the fashion and cosmetics industries met in Geneva to call for action against the rapid loss of the world's biodiversity. The event concluded with an "EcoChic" fashion show and exhibition launch celebrating sustainable fashion and accessories.

But what does 'sustainable' actually mean? According to Wikipedia, the word 'sustainable' originates from the Latin "sustinere" (tenere, to hold; sus, up) – to hold up. According to the definition of the **Brundtland Commission** of the **United Nations**: "sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs." Since the **2005 World Summit**, sustainability is understood to involve the reconciliation of **environmental**, **social** and **economic** demands - the so-called "three pillars" of sustainability, all of which overlap, i.e. they are not mutually exclusive and can be mutually reinforcing.

In the fashion world, the definition of 'sustainable' is equally vague. DEFRA in its Sustainable Clothing Action Plan (update Feb 2010) defines it as follows: "Ideally this is clothing that maximises positive and minimises negative environmental, social and economic impacts along its supply and value chain. Clothing that is sustainable does not adversely impact people or the planet in its production, manufacture, transport, retail or end of life management. [...]"

The Nordic Fashion Associations, in looking to create a more sustainable fashion industry, note in their NICE 10-year plan of action that "we have the luxury of learning from past experiences and in some cases, mistakes. Where past discussions on sustainability were siloed and focused on labour and human rights, we now realize that social and environmental issues are interconnected and cannot be treated as separate. The chemicals released in wastewater in garment factories affect water access for local communities and thus impact human health. Carbon emissions from electricity use are contributing to climate change, which is disrupting natural weather patterns and causing severe droughts that impact the global food supply. We can no longer afford to ignore this fragile balance in our ecosystem."

However, none of these definitions give clear and concise guidance according to which it would be possible to create a 'sustainable' product such as a garment. There is no such thing as a 'sustainable' garment. But when considering the '**sustainability**' of a garment many factors may play a role. Just for the production of the material the garment is made of, the renewability and source of the **fibre**, the process of how a raw fibre is turned into a **textile**, the **working conditions** of the people producing the materials, and the material's total **carbon footprint** may be important. The carbon footprint will also be influenced by how the fibre, parts of the garment, and the finished garment are transported to the distributor and on to the consumer. And the garment may further impact on the environment during its use (washing/machine drying) and its disposal.

Certain elements of 'sustainability' are now regulated by either compulsory or voluntary standards. For example, a T-Shirt may be termed 'organic' or 'Fair Trade'. But even these terms are far from concise. In

Europe alone a number of different certification schemes are available, many of which certify different things. For example the Global Organic Textile Standard (GOTS) defines requirements to ensure the organic status of "fibre products, yarns, fabrics and clothes and covers the production, processing, manufacturing, packaging, labelling, exportation, importation and distribution of all natural fibre products". Bluesign also looks at consumer safety, water and air emissions and occupational health and safety, while the Global Recycling Standard looks at the content of pre- and/or post consumer recycled material in a product.

Would it not be great to have a lexicon with simple, short, clear and immediately understandable definitions of terms such as 'organic', 'ecological' or 'sustainable'? In a way, it would make 'sustainable' fashion just that – more defined and predictable. But while a common understanding is missing, on the plus side, the absence of definitions may be regarded as supporting the creativity of designers who are free to develop their own ideas about what 'sustainable' fashion means to them. The encouraging fact is that the fashion industry is aware of these important issues.

The Copenhagen accord – what progress?

Following the flurry of activity prior to the Copenhagen talks, and the disappointment at the outcome, everything went rather quiet. So what has been happening on the international stage to progress matters?

136 countries have now formally associated themselves with the Accord (several others have expressed 'support'), with 76 having submitted targets or national mitigation actions to the UNFCCC. This is a significant rise from the 49 countries which had done so by the UN's soft deadline of 31 January 2010. The countries associating with the Accord represent over 80% of the world's greenhouse gas emissions. According to some analysts, while the collective (voluntary) targets offered under the Accord will not yet achieve the Accord's goal of holding temperature rise to 2 degrees Celsius over pre-industrial levels, they might, however, hold temperature rise to a 3 degree increase (rather than the 4.8 degree increase which is predicted to be the result under a business-as-usual scenario.)

Talk has now been focussing on how to turn the Accord into a binding legal agreement. In January, UN Secretary-General Ban Ki-moon pledged to turn the Accord into a legally binding agreement by the next Conference of the Parties in Cancun, Mexico later this year (29 November – 10 December 2010). However, some UNFCCC parties have stated publicly that a binding global deal at Cancun may be too challenging a goal and that the Cancun talks should be focussed on agreeing a framework for a legally binding agreement, which could then be formalised at the 2011 climate summit in South Africa. Discussions are also continuing on the form of any new agreement. Opinions have been divided on whether talks should continue on progressing the Accord or whether the focus should instead be on progressing a revised version of the draft agreement being negotiated by all 194 signatories to the UNFCCC at Copenhagen. Further still, parties are divided on the future of the Kyoto Protocol.

Following Copenhagen, some states spoke out about the way in which negotiations on the Accord were conducted, calling for more open, transparent and inclusive negotiations. Bolivia, whose delegation at Copenhagen was strongly critical of the way in which the Accord was negotiated (and which has said it will not associate itself with the Accord), hosted alternative climate talks in Cochabamba in April. These talks closed with a "Peoples' Agreement", submitted to the ad-hoc working group under the UNFCCC, calling for the Accord to be abandoned and for developed countries, including the United States of America, to commit to a new commitment period under the Kyoto Protocol and to a 50% reduction in greenhouse gas emissions. The agreement also called for a world referendum on the effects of climate change and the formation of an international climate justice tribunal.

In the face of what has to this point looked like widespread disparity on how to move forward, the recent Bonn meeting of the ad-hoc working groups under the UNFCCC and Kyoto Protocol delivered signs of (some) promising results. The chair of the UNFCCC working group produced, at the end of the talks, a much briefer revised text which builds on the draft negotiating text which was considered at Copenhagen for development towards Cancun and the Kyoto Protocol working group began work on how to turn the pledges made by industrialised countries at Copenhagen into targets which can be compared as part of formal negotiations, again possibly at Cancun.

While these efforts to incorporate and build on the outcomes of Copenhagen show encouraging momentum, there are still significant points of contention between parties, in particular on how to find

frameworks for measurement, reporting and verification and for mitigation that are acceptable to both developing and developed countries. In this context a full legally binding global treaty on emission reductions looks unlikely by the end of this year, although there may be some agreements on smaller issues (such as REDD+ and finance). It remains to be seen whether the next sessions of the ad-hoc working groups in Bonn in early August can move things forward, and in which direction.

Government policy and Green taxes after the election

Low carbon and other green policies are set to have an increasing effect over the life of this Parliament. Prior to the election both the Conservative and Liberal Democrat parties set out proposed policies addressing climate change – in the case of aircraft runways, coalition announcements have had an immediate impact.

A quick review of the coalition document, with its commitment to establish a green investment bank, increased investment in carbon capture and storage, as well as a smart grid, do not suggest reliance on the taxation system as a method of delivering change. Nor did the emergency Budget of 22 June change the tax balance so far as concerns green goals.

Broadly speaking the UK tax system is not designed to favour environmental "goods" or to tax environmental "bads". Instead, numerous measures introduced at different times tilt the balance one way or another. No coherent or underlying policy can be identified in the system as a whole. It must be unlikely that this will change, at least over the short term.

The way in which tax law is made has, quite rightly, attracted increasing criticism from business and tax professionals. The Tax Policy discussion document issued on the day of the Budget sets out the Government's commitment to improve tax law by increases in predictability, stability and simplicity. All sensible objectives and very much welcomed – but is there a wider argument that tax policy should somehow be aligned with environmental goals? This is not to suggest radical or immediate changes to the tax system. Instead, a green taxes policy agenda might be set, the detail of which be established over time. An almost inevitable side effect is that unintended and unwelcome consequences will result, so quick decisions are best avoided.

The coalition programme for government includes a general statement that the UK tax system should be reformed so as to be "more competitive, simpler, greener and fairer". Also, the programme states that an increasing proportion of revenues are to be accounted for by environmental taxes, but no detail is given.

Here are two opening suggestions:

- for any proposed tax charge – an outline of its environmental impact; and
- a commitment for tax benefits to be increasingly focused on achieving environmental goals.

This is not to put environmental goals above all others, but to make sure that the system operates with them increasingly in mind.

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