

BRAND WATCH

Oliver Balch on how Europe is trying to get the chemistry right for net-zero

ESG WATCH

Mike Scott reports on why the UN's Global Stocktake is concentrating minds

POLICY WATCH

Angeli Mehta asks whether Europe's answer to Biden's climate package passes muster

SOCIETY WATCH

Mark Hillsdon looks at growing momentum behind making ecocide an international crime

THE SUSTAINABLE BUSINESS

Review



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February 2023

Holcim and Danone swept up in rising tide of climate litigation

JOHANNES P. CHRISTO/REUTERS



News last month that Danone is being taken to court by Client Earth and two other environmental groups over its global plastic pollution will have caused a collective shudder in board rooms far beyond the consumer goods giant's native France.

Danone, producer of Evian, Volvic and Activia, prides itself on being a sustainability leader in many spheres of its operations, and packaging is no exception: according to the [Ellen MacArthur Foundation](#), Danone has done more than Coca-Cola, PepsiCo and Mars to decrease virgin plastic use in the past two years (only Unilever has outperformed it).

But under France's 2017 duty of vigilance law, large companies are obliged to map out the environmental and social impact of their global activities and set out measures to mitigate and prevent damage on an annual basis, something a growing number of non-governmental organisations have seized on to take French companies to court. ➤

THE SUSTAINABLE BUSINESS Review

5 POLICY WATCH



Europe beefs up Green Deal in bid to parry Biden's climate subsidies

9 SOCIETY WATCH

Drive to make ecocide an international crime gains momentum

13 BRAND WATCH

Europe turns up heat under chemicals industry to clean up its climate act

18 ESG WATCH

How the 'global stocktake' will force investors to pull up their socks on climate

22 IINTERVIEW

Oliver Balch meets Rohit Shah, CEO of the International Council of Mining and Metals

27 COMMENT



While oil and gas majors rake in record profits, extreme poverty has risen for the first time in 25 years. It's a threat to democracy the world over, says Sandrine Dixon-Declève



REUTERS/GONZALO FUENTES

Client Earth and its partners Surfrider Foundation Europe and Zero Waste France are not opening criminal proceedings, but they say the company is failing to comply with the duty of vigilance law in its plan to reduce its plastics impact because its main strategy is to increase the recyclability of its products, though only 9% of plastics ever made have been recycled.

To be compliant, they argue, the company should provide a complete assessment of its plastic footprint, not just in packaging but plastics in the products it sells, as well as logistics and promotions, and map its social and environmental impacts from production to end of life.

Danone said it was "very surprised by this accusation, which we firmly refute". But it joins the growing list of companies that are finding themselves being taken to court as environmental NGOs widen their nets from the usual suspects of mining and oil and gas companies, and the banks that fund them.

Another sustainability leader facing legal action is Swiss cement giant Holcim, whose transparency in reporting on its Scope 3 emissions, those from the use of its products and in its value chain, is being used against it.

Early this month residents of an Indonesian island, Pulau Pari, filed a case in Zug, Holcim's headquarters, seeking proportionate compensation for damage to their livelihoods due to repeated flooding as global warming has driven up sea levels.

The complainants cited a study by

the [Climate Accountability Institute](#), which used Holcim's emissions reporting to CDP to calculate that it was responsible for 0.477% of global industrial emissions from 1950 to 2021.

Holcim had its net-zero emissions plans approved by the Science Based Targets initiative last year, but the NGOs backing the islanders' action say the company is not doing enough to cut its emissions.

A spokesman for Holcim said climate change was "top priority for Holcim" and added: "We do not believe that court cases focused on single companies are an effective mechanism to tackle the global complexity of climate action."

The risk of NGOs going after the tall poppies, like Holcim and Danone, is that companies trying to do the right thing and voluntarily being transparent about their emissions will be punished, while the vast majority of companies carry on business as usual, under the radar.

In Europe at least, the Sustainable Finance Disclosure Regulation, which comes into force later this year, and the Corporate Sustainability Reporting Directive, which comes into force in 2024, will level the playing field in forcing greater transparency and making Scope 3 reporting mandatory across the board.

As Mark Hillsdon reports in his Society Watch column this month, a new front in the legal battle against climate change could be closer. Ten countries, including France and Ecuador, have already

made ecocide, or severe harm to the environment, a crime, and another 27 countries are said to be actively considering following suit. Stop Ecocide International is spearheading a global campaign for ecocide to be recognised by the International Criminal Court, meaning that individuals could be prosecuted for the ecological damage caused by the organisations they head up.

One sector where such a development might give top executives sleepless nights is in the chemicals industry.

As Oliver Balch reports in his Brand Watch column, the chemicals industry is responsible for 5.8% of global CO₂ emissions. Regulators are cracking down, and no more so than in Europe, where the European Commission last month published a transition pathway for the industry to shift to lower-carbon chemicals.

More help to decarbonise could be on offer to Europe's chemicals industry after the European Commission president, Ursula von der Leyen, set out a "Green Deal industrial plan for the net-zero age" earlier this month.

As Angeli Mehta reports in her Policy Watch column, Europe is having to sharpen its net-zero strategy in response to the \$360 billion in subsidies in President Biden's Inflation Reduction Act.

Another event concentrating minds is the "global stocktake", the UNFCCC's review of progress since



the Paris Agreement, which will be published just before the COP28 climate conference in Dubai later this year. As Mike Scott points out in his ESG Watch column, next month's Synthesis Report from the U.N. will confirm that the world is lagging perilously behind in cutting CO₂ emissions.

With a new report from CDP finding that only 81 companies have credible climate transition plans, investors will be putting greater pressure on them to radically pick up the pace.

One industry that has long been in investors' sights is mining, but massive expansion of the sector will be critical to provide the materials to power the energy transition. January saw the launch of the Global Investor Commission on Mining 2030, an initiative exploring the systemic changes that will be needed to ensure mining companies can ramp up extraction without causing

harm to people, communities and the environment. This month Oliver Balch interviews Rohitesh "Ro" Dhawan, chief executive of the International Council of Mining and Metals, about how nature-positive mining could become more than a pipe dream.

Finally Sandrine Dixson-Declève, co-president of the Club of Rome, takes aim at fossil fuel companies, which have just announced record profits at a time when extreme poverty has increased for the first time in 25 years.

"This growing inequality is a threat to democracy the world over," she says. "Either we tax the very rich properly or sit back and watch society fall apart at the seams."

That's it for now. Next month, in The Ethical Corporation Magazine, we'll be taking an in-depth look at the just transition agenda, but the Sustainable Business Review will be back in April. ●



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POLICY WATCH



YVES HERMAN/REUTERS

European Commission President Ursula von der Leyen detailing the EU's Green Deal Industrial Plan.

Europe beefs up Green Deal in bid to parry Biden's climate subsidies

Europe treads a thin line as it tries to increase incentives for low-carbon technologies without distorting its internal market

Inflation Reduction Act. The phrase barely trips off the tongue, but the U.S. climate bill was on everyone's lips at the World Economic Forum last month.

Whilst there was praise for the U.S. effort to close the yawning gap on the Paris Agreement there's no doubt the bill has thrown down a gauntlet to Europe. EU leaders have shuttled back and forth for



Angeli Mehta
Policy correspondent

discussions with President Biden, and a joint taskforce is surveying the opportunities to finesse a bill that incentivises U.S.-based clean tech. But it's clear that Europe has to find an answer to the challenge,

which is already drawing investment decisions away from the continent.

Speaking in Davos, Andrew Forrest, whose Australian mining group Fortescue is diversifying into green energy, said that before the passage of the Inflation Reduction Act (IRA) his company had no projects in the United States – now it has four. But the elephant in the room, he said, is climate change. ➤

POLICY WATCH



REGIS DUVIGNAU/REUTERS

A wind turbine in a field in France. The IRA could be the trigger for new growth in the EU's renewable sector.

"We need not to bicker about what America has done. But to have Europe get up and do the same thing, to have the large Asian economies do the same thing. If we don't have these great macro shifts of policy, your world has cooked."

Ilham Kadri, chief executive of one of Europe's oldest chemical groups, Solvay, told another panel in Davos that the IRA was "the best thing to happen to Europe". Bemoaning bureaucracy and delays in permitting for renewables, she said the question now was "what does it take for Europe to have a competitive industrial infrastructure and policies?"

Earlier this month, the European Commission president, Ursula von



Andrew Forrest of Fortescue Metals Group says the EU should take the lead from the U.S.'s IRA.

DAVID DEE DELGADO/REUTERS

der Leyen, set out more [details of a Green Deal](#) industrial plan to sharpen Europe's competitiveness. The proposals aim to create a simpler regulatory framework, speed up access to finance, develop the skills needed for a green transition and promote global cooperation. They were being discussed by heads of government this month.

While the U.S. bill offers generous subsidies for consumers to buy electric vehicles and for manufacturers to make green hydrogen, for example, Europe has been struggling to work out how to provide incentives without distorting its internal market and entering a subsidy race it cannot win.

Disparities already exist in the ➤

POLICY WATCH

BENJAMIN WESTHOFF/REUTERS



A worker assembles a heat pump at the Stiebel Eltron plant in Holzminden, Germany.

EU: Germany devotes a greater share of GDP to renewable energy subsidies than any other member state. Nonetheless, the commission is proposing to further flex state aid rules. A so-called Temporary Crisis and Transition Framework would grant aid for less mature technologies (such as green hydrogen) without a competitive bidding process.

It also wants to allow member states to support the production of key technologies such as batteries, solar panels and heat pumps, as well as the critical raw materials that underpin their manufacture. In more disadvantaged regions of the EU, countries would be allowed to offer more support to match what's on offer in the United States, for example.

A Critical Raw Materials Act will aim to support extraction, processing and recycling of key raw materials, while proposals for a rethink of the design of the electricity market will be published in March.

EU states have been split on whether more money should be raised for the green transition – with more than a third of the bloc (including Germany and the Netherlands) rejecting any increased borrowing while money already available for post-pandemic recovery is unspent. As a bridging option, Von der Leyen is proposing that 250 billion euros funding from REPowerEU, targeted at ridding the continent of its dependency on fossil fuels from Russia, could now be redirected at net zero industries in the form of tax breaks. And there's

another 5.4 billion euros from a Brexit Adjustment Reserve that can now be repurposed to greening industry and providing support to energy intensive industry struggling with high energy bills.

Experts at climate change think-tank E3G say the plans don't amount to a "clean economy" strategy, with not enough focus on energy efficiency, insulation or the decarbonisation of energy-intensive industries. Nor does it set out how private finance can be mobilised.

With energy costs still high, Andreas Goldthau, a public policy expert at the University of Erfurt in Germany, wants to see investment focused on making housing and heating systems low carbon. Some of this is happening, especially in Germany, but "this is precisely >

POLICY WATCH

CHRISTOPHER FURLONG/REUTERS



where government subsidies should go right now, because it's all about structurally reducing demand rather than supporting consumption".

How to respond to the IRA is also a pressing question for the UK, which now finds itself between two massive trading blocs and no free trade deal with either.

And where once the UK was ahead of the curve on climate action, it's found itself falling behind. The Confederation of British Industry [estimates](#) businesses within the net-zero economy contribute 71 billion pounds to the UK, but that the country will lose out on 4.3 billion pounds by 2030 if it doesn't remedy a drop in its market share of key technologies such as hydrogen electrolyzers. A review of

how the UK could better meet its [net-zero commitments](#), by former Conservative energy minister Chris Skidmore, pulled no punches.

Net zero is "the economic opportunity of the century", Skidmore said, but the UK will have to act decisively and quickly to prevent industry and high-skilled jobs from moving elsewhere. There's an urgent need for policy continuity and long-term funding certainty – going beyond the five-year cycle of government – in areas such as hydrogen and carbon capture and storage. Its absence, says Skidmore "appears to be creating unnecessary uncertainty and risk".

A quick win could come on smart regulation and creating the infrastructure controls for a

smart net-zero grid, alongside energy-efficient housing. It could also examine the potential of the net-zero agenda to deliver so-called "levelling up", suggests Ronan Palmer, head of E3G's clean economy programme.

And whilst the UK doesn't have the financial clout of the U.S., "it can concentrate its resources. It doesn't have the huge subsidies, but it probably has a greater coherence, and ability to drive investment towards net zero than the U.S."

Palmer stressed that the strategy would need a political push. "The prime minister and the chancellor would really have to believe it. If they go for an austerity package (in next month's budget), then the UK will have more problems." ●

SOCIETY WATCH

Drive to make ecocide an international crime gains momentum

Another 27 countries are now said to be actively considering laws to put environmental destruction on par with war crimes



PIROSHKA VAN DE WOUW/REUTERS

People take part in a protest against ecocide outside the European Union leaders' summit in Brussels in October.

Ecocide is an emotive word. First used to describe the human and environmental devastation caused by the use of the defoliant Agent Orange during the Vietnam War, it became the subject of regular discussions at the United Nations throughout the 1970s.



Mark Hillsdon
Civil society
correspondent

In 1998, the destruction of the environment was proposed as an international crime against peace, but ultimately wasn't adopted as

part of the International Criminal Court's (ICC) Rome Statute, which includes genocide, crimes against humanity, war crimes and the crime of aggression.

Amending this statute remains the ultimate goal of organisations such as Stop Ecocide International, which wants to expand international

SOCIETY WATCH



RICARDO MORAES/REUTERS

An agent of Brazil's environment police IBAMA walks on piles of logs that were illegally extracted from the Amazon.

accountability for environmental harms, ensuring that individuals – those at the top of corporations, rather than the corporations themselves – can be prosecuted for the ecological damage caused by the organisations they head up.

It is a huge undertaking, a long game that involves cajoling, coaxing and wading through the complexities of international law. Yet Jojo Mehta, the passionate executive director of Stop Ecocide International, said in an interview that she is confident they are making headway.

At the end of last year, the organisation found itself centre-stage at both COP27 in Egypt and Montreal's Biodiversity COP15, and earlier this year it was invited to stage an event at Davos, spreading the word to a new audience of businesses and investors.

Ten countries, including France and Ecuador, have made ecocide a



Jojo Mehta, executive director of Stop Ecocide International.

crime, and another 27 are actively considering following suit, according to Mehta.

So what is ecocide, exactly?

In 2021, independent lawyers came together to frame a definition of ecocide as "unlawful or wanton acts committed with knowledge that there is substantial likelihood or severe and either widespread or long-term damage to the environment being caused by those acts".

"This definition does not list specific acts," says Mehta. Rather than alienating certain industries, it is a call to innovate and change the way in which things are done.

"The definition raises the bar for things that are already protected," she says. "It doesn't invent new crimes ... If you do something in the knowledge that it is substantially likely to create severe harm, that is the crime.

"What we are seeing globally is this huge frustration at the lack of action (to curb the destruction of the environment)." Tighter regulations may only hurt companies in their pocketbooks, she says, "(but) once >

SOCIETY WATCH



Municipal workers clean dead fish from a beach on Mar Menor in Spain. Last year, the saltwater lagoon was recognised in law as having rights.

you introduce a criminal element, you start seeing changes in behaviour”.

Companies will need to start operating within new parameters, she says. Investors want stability, not the uncertainty of a chief executive being charged with criminal behaviour, high-profile court cases and the threat of compensation claims. “This is what criminal law can do that regulation won’t ever do,” Mehta adds.

Kevin Heller is an associate professor of public international law at the University of Amsterdam, who has also worked closely with the ICC. While he shares the desire to criminalise the destruction of the environment, he doesn’t think it is something the ICC will ever adopt.

International law is complicated, he says, and there is a huge

difference between the ICC’s Assembly of State Parties adopting an amendment, and ratifying it so it becomes law. “The likelihood of anyone ever ending up in the dock at the ICC facing ecocide charges is so remote,” he says.

However, the act of putting forward an amendment to add ecocide to the Rome Statute could have a catalysing impact at a national level, he says, and “make states more likely to criminalise ecocide themselves”.

Heller can see this thinking in the “pragmatic concessions” within the language of the 2021 definition, which he says was all about getting states on board. He believes a stronger definition is needed.

“Basically the (current) definition says that if you’re benefiting humans enough, you can destroy the

environment, and to me, that’s not ecocide,” he says, dubbing it instead an “anthropocentric cost-benefit analysis”.

He adds: “This is the biggest criticism: it is not a truly eco-centric crime if any amount of environmental harm is acceptable.”

Instead, he says, a definition should enshrine the need for organisations to show they have done everything possible to limit the harm they cause.

Given the issues around amending the statute, it is tempting to look elsewhere for a legal solution, such as the EU’s Environmental Crime Directive, which is currently being overhauled. This month campaigners celebrated after a fourth of the five EU parliamentary committees revising the directive voted in support of, including the crime of ➤

SOCIETY WATCH

ecocide, but such a change would also need to be approved by the entire EU Parliament, the European Commission and the Council of Ministers.

"Of course, we want other mechanisms for prosecuting environmental harm," says Heller. "The problem is that they're so under-developed and so uneven... it's such a patchwork. This is the problem with international law, particularly international environmental law. It's a lot of standards, a lot of guidelines, a lot of goals. It's not a lot of concrete prohibitions that are backed up."

So does civil law hold the solution instead? Last year, the Spanish parliament approved a law that recognised Mar Menor, the biggest saltwater lagoon in Europe, as having rights, including the right to exist and the right to recover its natural balance. Other countries have also moved to grant personhood to non-human entities, including Canada, which has given legal status to the Magpie River, and Colombia, where the Atrato River now has extra protection.

"You're not going to radically transform capitalism by giving legal personhood to animals and forests," says Heller, "but you certainly can help in some areas; you can increase the amount of litigation, and that makes it more difficult for corporations to destroy the environment."

Dr Wendy Schultz is the co-author of [Law in the Emerging Bio Age](#), a wide-ranging report for the Law Society in the UK, in which she argues that legal frameworks have a key part to play in governing human interactions with the environment.

"Part of the issue is embedding some sort of framework for accountability and responsibility for the consequences of these things we do, and that's where law



AMANDA PEROBELLI/REUTERS

A fisherman on a river in indigenous land in Brazil. Granting legal rights to living systems could be used to disenfranchise indigenous people.

comes in," she says. However, she warns, "granting legal rights to living systems can affect the way in which indigenous people use their traditional, cultural lands" since it could give corporations and governments the power to disenfranchise them.

Perhaps the answer, she says, is a court dedicated to international environmental law. "The difficulty that we are so often stuck with is that laws are national, and nations have clear boundaries, and the living environment doesn't."

For instance, she says, a company in a jurisdiction with tough ecocide laws could relocate its polluting

factory over the border into a country where environmental laws are more relaxed, and poison two countries further downstream. Where do those countries turn? Where do they get justice? "We need an overarching and connected system of governance," she says.

In December the ICC's Assembly of State Parties convenes in New York, and Mehta hopes that the current momentum behind ecocide could finally see an amendment tabled, even if it isn't ultimately ratified. "I think we are at a point where no government is going to want to be seen directly opposing this," she says. ●

BRAND WATCH

Europe turns up heat under chemicals industry to clean up its climate act

NACHO DOCE/REUTERS



VIEW ONLINE

A chemical plant near Barcelona, Spain.

Brussels has published a transition pathway for the \$4.7 trillion-a-year sector, which accounts for 5.8% of global emissions



Oliver Balch
Sustainable business
correspondent

Certain images tend to dominate when thinking about the worst sectors of the modern economy for climate change: flaring oil wells, gas-guzzling SUVs, smoke-belching factories, and, as the science

now shows, methane-expelling ruminants.

Rarely, however, does the chemical industry spring to mind. It should. Of all leading industrial sectors, only steel and cement production have a larger carbon footprint. Including petrochemicals, estimates put its total emissions at **5.8%** of the global total.

As a business-to-business industry, the average consumer can

be forgiven for not having chemical brands in the forefront of their minds. Yet, the products of this \$4.7-trillion-a-year industry find their way into **almost every segment** of the consumer goods market, from the sulphates in your shampoo to the microfibers in your polyester T-shirt.

Regulators have been more vigilant. Last September, for example, the U.S. Senate endorsed ➤

BRAND WATCH



PIROSHKA VAN DE WOUW/REUTERS

Chemical firms are turning to renewable energy to reduce their overall emissions.

a global climate treaty geared towards a dramatic “[phasedown](#)” of hydrofluorocarbons (or HFCs), a major source of greenhouse gases. Regulators in Australia, meanwhile, recently introduced a [new environmental management standard](#) for its domestic chemical industry.

But nowhere is the pressure higher than in Europe. In October 2020, the European Commission laid down a marker for the global chemicals industry, arguing that only with the “[right chemistry](#)” could the trading bloc’s ambition for a climate-neutral economy be met.

The details of the EU’s chemical strategy for sustainability are still being worked out, but the industry has, at least in its public statements, welcomed the move towards a greener, less carbon-intensive future.

In an interview, Marco Mensink, director general of Cefic, the European chemical sector’s main trade body, is at pains to express the

industry’s commitment to climate neutrality by 2050. The issue for chemical manufacturers is less the end goal than the practical steps required to arrive there.

“Let’s not debate the ‘what?’ Let’s discuss the ‘how?’ ” he says. “How do we get there? Which measures can we take, and how do we sequence those measures?”

Never slow to spot a business opportunity, the world’s largest management consultancies are queuing up to help point the way forward. [Deloitte](#), [McKinsey](#), [Accenture](#) and [BCG](#) are just some of the advisory firms weighing in with advice on transition strategies for the chemicals sector.

In late January, the European Commission published its own “[transition pathway](#)” for the industry. The 75-page report seeks to set out the economic advantages of a shift to lower-carbon chemicals (chiefly in terms of future competitiveness), as well

as describing its contribution to such a transformation (e.g. strategic funding, regulation, infrastructure, skills, and so forth).

The take-away messages are broadly similar: start by setting clear, science-based reduction goals; adopt eco-efficient processes; design for reuse and circularity; and, above all, invest heavily in the research and development of new, low-carbon solutions.

At a strategic level, it makes for sound (albeit generic) advice. Moreover, proof that it works is slowly emerging. According to Cefic, emissions from the production processes of European chemical brands has reduced by [65% over the last three decades](#), largely thanks to significant reductions of nitrous oxide emissions (down 92.5%) and fluorinated gas emissions (down 89%).

Individual case studies of good practice can also be found. Many focus on energy reduction. This ➤

BRAND WATCH

makes sense. Not only is the chemical sector the world's largest industrial energy consumer but lowering energy-related emissions is also a relatively easy win compared with other carbon-cutting measures, such as inventing new green chemistries, say, or reformulating carbon-intensive staple products.

BASF is one of those making much of its sustainable energy efforts. Like many of its competitors, the German chemical giant has invested heavily in renewables, including a long-term power purchase agreement with Danish energy firm Orsted to take the output of its 186 megawatt wind farm in the North Sea (due for completion in 2025).

It also counts a new subsidiary, [BASF Renewable Energy](#), which it launched last year to oversee electricity trading in Europe, as well as to increase the supply of clean energy for its parent company.

Shifting the chemical industry's energy mix takes some doing, mind. The reactions required to make the basic "building block" chemicals on which the sector depends (sulphuric acid, ethylene, sodium hydroxide, propylene and nitrogen) require far higher temperatures than is customary for electricity-run facilities.

To address this challenge, BASF is currently experimenting with a large-scale, [electrically heated steam cracker](#) furnace at its Ludwigshafen site. Located in the German state of Rhineland-Palatinate, the demonstration plant will seek to reach the 850 degrees Celsius needed to break down hydrocarbons into usable organic compounds.

"The idea is to get to the root of the problem and focus on tackling the areas in chemical production where the most carbon is produced, rather than reformulating this product or that product – although



BASF SE

BASF's steam cracker furnace at its Ludwigshafen site will seek to reach the 850C needed to turn hydrocarbons into usable organic compounds.

we're also doing that," says Thomas Nonnast, a spokesperson for BASF.

Energy reduction is not the only decarbonisation measure with a potential system-wide impact. Examples include greater plastic recycling and reuse, a more targeted use of chemical fertilisers, and the adoption of lower-carbon raw materials (such as renewable biomass in plastic production).

Many of the most exciting ideas, however, remain unproven at scale – either because the technology or infrastructure have yet to develop or because the economics do not add up. Green hydrogen is one such widely tipped development. Others include ammonia-based shipping fuel, [methanol from carbon capture](#) and bio-based jet fuels.

New ideas are being added to this list all the time. In a [new study](#), the London-based consultancy firm

Systemiq suggests that emerging depolymerisation technologies could open the door to the increased reuse of hard-to-recycle PET packaging and polyester textiles (75% of which currently ends up in landfill or incinerators in Europe).

The study builds on a major report released by Systemiq published last September entitled "Planet positive chemicals". The report maintains that a ratcheting up of proven technologies can put the chemicals industry on a net-zero footing by 2040. The snag is the cost: around \$100 billion a year.

"At the moment, a lot of these technologies cost more, which creates a slight premium, says Peter Goult, programme director at Systemiq. "As a result, there is a reticence amongst the financial community to take that leap of faith and invest in these technologies >

BRAND WATCH

ARND WIEGMANN/REUTERS



Flakes of bottles made from PET (polyethylene terephthalate) plastic.

as they still don't know who is going to buy these chemicals."

Despite such market jitters, the European Commission is sticking to its conviction that the future of chemicals is determinedly green. To that end, it is hosting an inaugural workshop to highlight leading applications of its so-called [safe and sustainable by design](#) (SSbD) strategy.

[Officially adopted in December](#), the SSbD framework sets out criteria to guide the sustainable design, development, production and use of chemicals. To illustrate the framework's value, the commission's Joint Research Centre is planning to unveil case studies relating to plasticisers, surfactants and flame retardants.

The choice of topics is already raising eyebrows among environmental groups, who worry

that the initial focus on plasticisers (which are added to the common polymer PVC to make it more flexible) suggests a less-than-radical trajectory.

"As PVC in itself is not very sustainable, it makes little sense to see if the plasticisers that are added to it would pass the (SSbD) assessment," reasons Henrik Edin, policy adviser at the International Chemical Secretariat, a governmental funded group focused on improving regulation.

More broadly, Jean-Luc Wietor, deputy policy manager for chemicals and sustainable production at the European Environmental Bureau, a Brussels-based network of 170 environmental organisations, echoes concerns about vagueness and a lack of an "overall concept" among European policymakers.

That said, he shares the wider view

that the transition pathway, which was developed in close consultation with the industry's biggest players, offers a welcome impetus to industry efforts to decarbonise.

What counts now, he argues, is how chemical companies respond: "If the chemical industry and the EU match words with actions, this will be a useful document."

How this scenario plays out will depend in no small part on the pressure placed on chemical companies by the consumer brands that buy their products and keep them solvent.

In as much as demand-side pressure does exist, its focus has been on persuading chemical producers to remove toxic substances. Why? Because they threaten consumer health. The same could easily be said for the industry's carbon footprint. ●



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ESG WATCH

How the 'global stocktake' will force investors to pull up their socks on climate

With few companies having credible plans for the low-carbon transition, the UNFCCC's review of progress since Paris will be a wake-up call



RULA ROUHANA/REUTERS

Sultan Al Jaber, UAE climate envoy, speaks during the opening ceremony of Abu Dhabi Sustainability Week.

The drivers for companies to decarbonise are intensifying all the time and 2023 will see the emergence of yet another one.

Just before the COP28 climate conference starts in Dubai, the United Nations will publish its first "global stocktake", the result of a two-year assessment of how nations are doing in their efforts to tackle



Mike Scott
ESG correspondent

climate change, which began at COP26 in Glasgow.

The United Arab Emirates, which is hosting COP28, has indicated that the stocktake, which was set up as a five-yearly review of progress under

the Paris Agreement, will be a key priority of its presidency. According to the World Resources Institute, the review aims to answer three vital questions: where are we, where do we want to go and, most critically important, how do we get there?

We already know broadly where we are. In March the Intergovernmental Panel on Climate Change is due to publish its latest >

ESG WATCH



THOMAS PETER/REUTERS

A dried-up river bed in Nanchang, Jiangxi province, China. UNEP's Emissions Gap report warns current policies put the planet on track for 2.8C of warming.

Synthesis Report, which summarises all the scientific reports it has published over the last six years. This will highlight just how far off-track we are, reinforcing last year's U.N. Environment Programme's [Emissions Gap report](#), which stated that to keep global warming at 1.5C emissions must fall by 45% by 2030, but the policies that are currently in place put us on track for 2.8C of warming.

As COP28 president, Sultan Ahmed Al Jaber told last month's Abu Dhabi Sustainability Week conference: "We don't need to wait for the stocktake to know what it will say. We are way off track."

U.S. climate envoy John Kerry was similarly downbeat. "We need to be blunt. Nothing indicates that countries are prepared to do what we need to do to meet the 1.5C target."

It may seem like an arcane piece of the climate policy machinery, but experts say the global stocktake could be the catalyst for a significant acceleration in the race to decarbonise the global economy.

"It serves as an opportunity to provide guidance as well as to demand greater action, accountability and collaboration to address the challenge," says Adam Savitz, sustainability director at Johnson Controls.

The exercise will highlight what measures are working and what are not, says Kyrissa Kasprzyk, senior manager for climate policy at Conservation International, "and there will be specific, actionable recommendations for no-regrets options" such as a greater focus on nature-based solutions. The voice of the business community for stronger

action will be important because it will help build support for greater ambition from governments.

Just as the stocktake increases the pressure on governments to raise their ambitions, it will add to investors' calls for companies to act, says Steven Clarke, senior director for climate and energy at sustainable investment advocacy group Ceres.

"It will reinforce the fact that while more companies than ever have net-zero commitments, we need to pivot very quickly to implementation. It will expedite a growth in investors demanding not just commitments but concrete plans."

One of the contentious issues is around the use of carbon credits to help meet net-zero commitments. A [recent report](#) from Conservation International and We Mean Business >

ESG WATCH

shows that the vast majority of business leaders say the responsible use of carbon credits is important to reducing emissions (89%).

Yet, the \$11 trillion investor group the Net Zero Asset Owner Alliance recently banned its members from counting carbon removal schemes towards their emissions reduction targets before 2030. The alliance wants asset owners to encourage the companies they invest in to cut their own emissions rather than rely on offset schemes.

This stance by investors was supported by an investigation published in the UK's Guardian newspaper which concluded that "the forest carbon offsets approved by the world's leading certifier, Verra, and used by Disney, Shell, Gucci and other big corporations are largely worthless and could make global heating worse", a claim that Verra has [vigorously denied](#).

The use of offsets may not be so problematic for investors were it not for the fact that few companies have produced climate transition action plans (CTAPs), setting out in detail what they will do to decarbonise and meet their net-zero targets. Clarke, from Ceres, says "fewer than a dozen companies in the U.S. have CTAPs, and none of them are major emitters".

Thomas Hale, professor of public policy at Oxford University, says: "People want to see actual results. We have seen initiatives, pledges and missions. That's great, but the stocktake is about implementation."

He says he expects to see more "companies being called out for not doing what they said they would" as they come under greater scrutiny by investors.

The stocktake will also shine a light on which companies are leading within different industries, Hale adds. "If you are the most forward-leaning oil and gas, or



ALEXANDRE MENEGHINI/REUTERS

A reforestation project in Brazil. A recent newspaper report concluded forest carbon offsets were 'largely worthless'.

automotive, company, you are in a much better position to meet the coming requirements than your competitors."

Knut Haanaes, professor of strategy and Lundin chair professor of sustainability at business school IMD, believes the publication of the

stocktake will herald a paradigm shift, though the situation will not change overnight. "We will have facts that we did not have before. There will be a pre-stocktake world and the post-stocktake one. It will become the benchmark and the baseline for future action." ●



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INTERVIEW

Nature-positive mining? It must not be a pipe dream, says mining council chief

Oliver Balch speaks to Rohitesh Dhawan, CEO of the International Council of Mining and Metals

The field of sustainable business is littered with apparent oxymorons: “clean coal”, “ethical tobacco”, “responsible gambling, and now, the latest in this illustrious list: “nature-positive mining”.

That’s right. An industry whose core existence literally revolves around “breaking ground” to profit from natural resources is anxious to position itself as a defender of the natural environment. It sounds like poppycock, but could it just be possible?

With the mining sector expected to grow meteorically to meet the demand for minerals to power electric vehicles and wind turbines, many would like it to be – and not just within the industry. January saw the launch of the [Global Investor Commission on Mining 2030](#), an initiative by the sector’s financial backers exploring the systemic changes that will be needed to ensure mining companies can ramp up extraction without causing harm to people, communities and the environment.

Focus areas include artisanal mining, child labour, the impact of automation, indigenous peoples’ rights, impacts on biodiversity, climate change, tailings dams, conflict reconciliation and corruption.



IVAN ALVARADO/REUTERS

Workers at BHP Billiton’s Escondida, the world’s biggest copper mine, in Antofagasta, northern Chile.

“The low-carbon transition is intrinsically linked to the capacity of mining to address a series of systemic social and environmental risks that threaten the sector’s social licence and its ability to meet the 500% projected growth in demand for critical minerals,” said the commission’s chair, Adam Matthews, director of ethics and engagement at the Church of England Pensions Board.

It’s not that any of this is new to the mining industry. [The International Council of Mining and Metals](#) (ICMM), was formed

more than 20 years ago, and its mining principles have evolved over the years into a mandatory set of environmental, social and governance requirements of its 26 members, which represent a third of the global metals and mining industry.

The chief executive of the ICMM is Rohitesh “Ro” Dhawan. He seems a smart choice for the job, given that he holds a master’s degree in environmental management and has advised the UK government in the past on climate transition strategy. ➤

INTERVIEW



IVAN ALVARADO/REUTERS

Environmental activists in Santiago react last month after Chile's government denied permits for Andes Iron's Dominga copper and iron mining project.

In an interview with Ethical Corporation, Dhawan insisted that mining, done well, could be neutral or even positive for nature, but he was candid about the challenges. "It's very hard to make a hole in the ground nature-positive," Dhawan says. "When you're making a call on the ground, you're going to disturb nature."

He is keen to point out that extracting mineral and metals occupies "less than 0.1%" of the world's total landmass. Compare that to agriculture, at "somewhere close to 50%", and, relatively speaking, the industry's planetary footprint is a "small portion" of the whole.

"For all the metals and minerals we produce, it's remarkable how little of the world's land we disturb,"



Rohitesh Dhawan, CEO of the International Council of Mining and Metals.

ICMM

Dhawan says. "But – and it's a big 'but' – often where we mine happens in areas where nature is very sensitive to change."

According to figures from the ESG research provider RepRisk, 17% of mining operations linked to the critical battery metals of cobalt, lithium and nickel are located within one kilometre of a key biodiversity area or a habitat that is otherwise protected. Put out, and around half such projects fall within a 10km radius.

From damage to the fragile Dana Biosphere Reserve in Jordan and cloud forests in Ecuador, to the degradation of rainforests in the Democratic Republic of Congo and deserts in Chile, the sector's impacts have led to a slew of campaigns by conservationists ➤

INTERVIEW

LUNAE PARRACHO/REUTERS



Ferro Carajas mine, operated by Brazil's Companhia Vale do Rio Doce, in the Carajas National Forest in Parauapebas, Para State.

over recent decades. And these potential impacts will only increase as the sector looks to expand.

Mining companies have witnessed a gradual toughening up on the part of environmental regulators, with very real commercial costs. Stricter licensing requirements can – and regularly do – delay viable mining projects, or even result in their cancellation, notes Daniel Litvin, founder of the consultancy firm Critical Resource.

In a recent opinion piece, he said “countless” number of proposed new mines have fallen foul of “not-in-my-backyard activism” or environmental opposition. In January, the Chilean miner Andes Iron saw a [proposed \\$2.5-billion project in the north of Chile scrapped](#) because of the threat it posed to a colony of endangered Humboldt penguins.

Such instances explain Dhawan’s broad support for the new investor-led commission. Any help to “accelerate action and address any gaps” is welcome, he says. His only

hesitation is the possibility of adding further complexity to what is already a crowded landscape; the sector already counts [ICMM's principles](#), plus a pending [sector standard](#) from the United Nations Global Reporting Initiative, as well sub-sector standards for [gold](#), [aluminium](#) and [copper](#), to name but a few.

He says responsible mining companies (by which he chiefly means ICMM’s members) already minimise their impact wherever they can; and where damage occurs (as inevitably it must), they rehabilitate to the best of their ability.

One example is a [vast, \\$14.3-billion S11D iron ore mine complex](#) in the Amazon rainforest, the most biodiverse biome in the world. Owned by Brazilian miner Vale, the concession area covers around 411,000 hectares of the Carajás National Forest, an environmental treasure trove that is also home to the Xikrin people.

Vale was fined \$17 million by Brazil’s comptroller general last year for failing to present reliable

information on its Brumadinho tailings dam prior to the 2019 disaster, when the dam collapsed, killing 270 people and ravaging nearby forests, rivers and communities. Earlier this month Vale said it planned to spend \$1.53 billion this year on repairs related to Brazil’s worst mining disaster.

Could this be another disaster in the making? Not according to Dhawan, who insists that the rainforest is better protected with Vale there than if it were not; an argument he recently made to Brazil’s new environment minister Marina Silva when the pair met at the recent World Economic Forum summit in Davos.

The company only exploits 1.4% of its concession in the park; in the remainder, it invests “significant resources” to ensure the forest is conserved. Among these measures is the creation of a [30-hectare “biopark”](#), which plays home to more than 270 animals, including rare birds, agoutis and monkeys. The facility has received more than one million visitors over the last 11 years.

“I had the chance to visit this and fly over the area,” Dhawan says. “Everything around it is entirely deforested. The only portion that is standing is the portion that is under Vale’s management and control.”

True, but hundreds of hectares of virgin rainforest have still been lost forever, have they not? There is no neat resolution. Vale’s response, which Dhawan holds as best practice, is to offset damage in one area with compensatory investments in another.

“For every hectare of land that they (Vale) disturb as a result of mining, they protect or conserve 12 hectares of land elsewhere. So that’s the ratio of their positive impact relative to the amount that they disturbed through mining ... which I think is a really critical ➤

INTERVIEW

element of how mining, when done well, can really contribute to nature-positive future."

Another element in the nature-positive formula is rehabilitation. Here, he cites Alcoa's policy of restoring all its mining operations within 15 months of ceasing production. As far back as 2001, the U.S. mining giant clocked a first in **"re-establishing" native jarrah trees** in Western Australia, where it operates a bauxite mine.

"One of the reasons people struggle to think that mining can be nature-positive is because you think, 'Well, you disturb this land, then it must be ruined forever,'" says Dhawan. "But actually, through good techniques, there's a way to bring it back to at least the same, if not better health."

Scientists may argue with that logic. Some ecosystems are so fragile that they can never be returned to their former state – extinct species being the ultimate example of such irreversibility.

In this respect, nature-positive differs from carbon-neutral. The atmosphere doesn't mind where carbon is sequestered, as long as it is sequestered in greater volumes than it is emitted. With nature, who is to say that 10 acres of restored wetland is empirically "better" than one acre of lost mangrove swamp?

Another challenge is that ICMM's members only account for a third of global mining. Many of the worst environmental abuses are carried out by small-scale or **illegal miners**, who operate beyond the reach of law enforcers or, in some cases, with their active collusion.

Over the last decade or so, illegal mining incursions in Brazil's parks and other protected areas has increased threefold, according to **satellite data published in the journal Nature**. For the country's



PHILIMON BULAWAYO/REUTERS

Illegal artisanal gold miners work at an open mine in Mazowe, Zimbabwe.

indigenous areas, the rate of increase is five times higher.

ICMM's reach extends beyond its immediate members, Dhawan argues. The council also includes 38 affiliated industry associations, which represent a further 2,000 or so companies. That said, these affiliates fall outside ICMM's mandatory membership requirements, **such as not operating on World Heritage Sites**.

To resolve this lack of direct influence, ICMM pushes governments and other public agencies to strengthen pro-nature rules and regulations, says Dhawan. For instance, the council recently worked closely with the United Nations to introduce a **new industry-wide standard** on tailings waste.

With durable materials endlessly recyclable, could the day come when we won't need to extract further metals and minerals?

Not according to Litvin, who points out that it will be many years before big quantities of many of the required metals become available for recycling, with most electric vehicle batteries still far from

reaching the end of their first life.

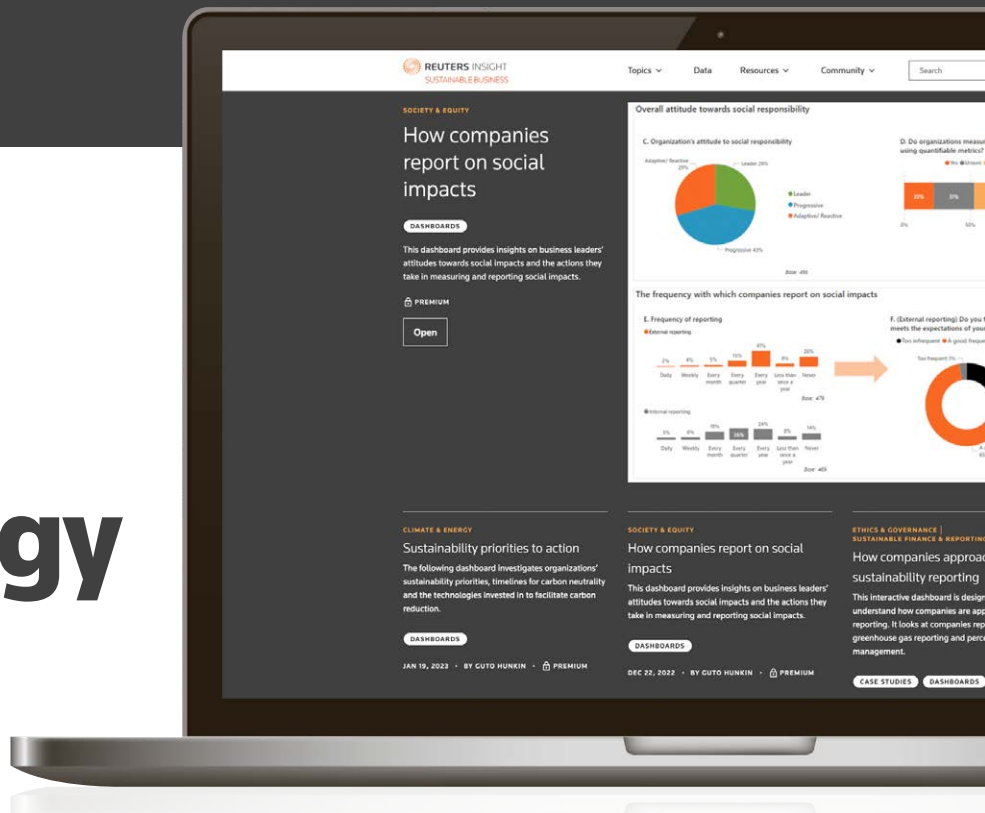
The International Energy Agency (IEA) estimates that, by 2040, recycled copper, lithium, nickel and cobalt from spent batteries could reduce demand for fresh extraction of these minerals by only 10%.

Dhawan agrees, and points out that even a 100% recycling rate would not get "anywhere close" to meeting expected demand.

Ironically, much of this demand comes from "clean" technologies. Manufacturing the volume of electric cars, wind turbines and so forth needed to keep the global temperature to below 2 degrees Celsius by 2030, for example, will require **copper and aluminium production to increase by 60% and 50%**, respectively, according to Wood Mackenzie.

His conclusion? Oxymoron or not, "nature-positive mining" warrants talking about. Like "net-zero" for carbon, he hopes it will have a galvanising effect. "The sooner we can get that into the vernacular of how everybody talks about nature," he argues, "the better it will be to spur action." ●

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COMMENT

'Without tax reform to make the super-rich pay, we risk descent into dystopia'

While oil companies rake in record profits, extreme poverty is rising. It's a threat to democracy the world over, says Sandrine Dixson-Declève



Sandrine Dixson-Declève
Co-president of
Club of Rome

Last month, Chevron announced record profits of \$35.5 billion. The company said it made \$6.4 billion in the fourth quarter of 2022 alone. Overall, Chevron saw a 127 percentage point jump in profits last year compared with 2021. Exxon, Shell, BP and Total are all expected to publish huge profits in the next week or so on the back of the war in Ukraine and the energy crisis.

The rich – individuals and big corporations – have rarely had it so good, while extreme poverty has increased for the first time in 25 years. This growing inequality is a threat to democracy the world over. Either we tax the very rich properly or sit back and watch society fall apart at the seams. As some attendees at the World Economic Forum's annual meeting in Davos in January made clear, such flagrant inequality will make it nigh on impossible to manage the world's most pressing problems, not least climate change.

The oil and gas companies are perhaps the most flagrant example of our upside-down world. Despite



VIEW ONLINE

A climate activist displays a placard during a protest ahead of the World Economic Forum 2023 in Davos in January.

being responsible for the majority of the emissions that cause climate change, they continue to make higher and higher profits. At the same time, vulnerable people in the lowest income countries, who have done the least to cause climate change and are most impacted by the extreme weather events caused by a warming world, are getting poorer.

Just before Davos, 30 world-leading economists and economic thinkers from 16 countries signed an [open letter](#) calling on world leaders to take bold steps to tax wealth, income and companies to avoid a dangerous threat to democracy. The [Transformational Economics Commission](#) of the [Earth4All](#) initiative, which I co-chair, concludes that, left unchecked, wealth and >

ARND WIEGMANN/REUTERS

COMMENT



MAHAMAT RAMADAN/REUTERS

A farmer collects sorghum plants at his flooded field in Chad. People in low-income countries are at the forefront of climate change impacts.

income inequality will continue to grow, with devastating consequences. Rising social tensions and unrest are likely to become the norm as the chasm between the super-rich and the rest of society balloons.

The commission includes a host of leading thinkers from around the globe, including Janez Potocnik, former EU commissioner and now co-chair of the International Resource Panel; Kate Raworth, author of the groundbreaking doughnut economics theory; Sharan Burrow, former secretary general of the International Trade Union Confederation; and Jayati Ghosh, professor at the University of Massachusetts Amherst.

They want to see a new social contract that ends the unfettered, directionless growth that has

become the hallmark of modern society. Instead, this new contract would engender fairer wealth and income distribution to reduce social tensions, improve wellbeing for all and make democracies more stable and resilient against the many challenges they face.

This transformation would include a progressive tax on the income and wealth of the richest individuals and corporations so that by 2030 the wealthiest 10% in all countries receive less than 40% of national incomes. Governments everywhere should apply minimum global tax on companies close to the global average rate of 25%.

Likewise, multinational corporations should be subject to the same rates as domestic companies through the introduction

of unitary taxation of their global profits on the basis of individual country shares of sales, employment and assets held in each country. The revenue from these taxes should then be redirected by governments to help enable a just transition towards a well-being economy.

Given the results of companies like Chevron and other multinationals, there is absolutely no reason not to tax windfall profits in all sectors, in particular when they have been made during periods of scarcity and speculation when the rest of the world is worse off. Ending tax incentives and subsidies for fossil fuels is simply a no-brainer in a world where climate change is already costing untold financial and human losses every year. In the U.S. alone climate disasters [are](#)

COMMENT



LUCY NICHOLSON/REUTERS

Gas prices hit more than \$8 at a Chevron Station in California in May 2022. In January the company posted record profits of \$35.5 billion.

estimated to have cost the country at least \$165 billion in 2022.

Raising tax levels is unpopular and discussions around it are virtually taboo in many countries. Yet, without cash in the till, inequality will rise and plans to manage the biggest problems of our time, from climate change to poverty, will remain simply words.

Writers from Angela Carter to Margaret Atwood and Philip Pullman have described societies where people are divided into two distinct groups.

If we don't act now to end the growing inequality gap, the world faces the real risk of fictional dystopias becoming earthly realities – the rich in their protected bubble world and the rest of humanity becoming

poorer and more affected by the impacts of climate change and food and energy insecurity.

The main headline out of Davos was not a call for high taxes and a new economic model. Indeed, many business leaders doubtless feel that such a strategy would be against their short-term corporate and individual interests.

But the current system cannot hold, and there is a rising tide of business leaders and wealthy individuals who made it clear in Switzerland that they understand that economic stability and democracy are at stake and that they are ready to play their part.

The [Patriotic Millionaires](#), a group of 205 millionaires and billionaires, called at Davos for world leaders and business executives to urgently

introduce wealth taxes to help tackle "extreme inequality". In an open letter, they said the meeting of the "global elite" to discuss "cooperation in a fragmented world" was pointless unless the root cause of division was challenged.

"Defending democracy and building cooperation requires action to build fairer economies right now – it is not a problem that can be left for our children to fix," they wrote.

"Now is the time to tackle extreme wealth; now is the time to tax the ultra-rich."

Governments must be much bolder and more confident, take up this challenge, champion this agenda and make businesses a positive force for democracy, stability, and the long-term future of humanity. ●



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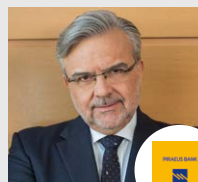
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