



## HEADLINE – U.N. EMISSION GAP REPORT DATED OCTOBER 31

The 8th edition of U.N. Environment's Emissions Gap report released in Geneva on October 31 finds that national pledges only bring a third of the reduction in emissions required to meet climate targets by 2030. The report finds that current Paris pledges make 2030 emissions likely to reach 11 to 13.5 gigatonnes of carbon dioxide equivalent above the level needed to meet the +2°C target. Besides, the emissions gap in the case of the +1.5°C target mentioned in the Paris Agreement is 16 to 19 GtCO<sub>2</sub>e, with one gigatonne roughly equivalent to one year of transport emissions in the European Union including aviation.



## JURISPRUDENCE ENVIRONMENT

The National Standards Assessment Council (CNEN) highlighted the difficulties that the local authorities encountered with the public utility of drinkable water service. These difficulties would be owed to two obligations imposed to the regional governments which are the declaration to the water agency of the elements necessary for the licence fee calculation and the obligation for the mayor to present an annual report on the price and quality of the public utility of drinkable water. On August 1st 2017, Senators Bernard Delcros and René Vandierendonck submitted a bill to the Senate to simplify the obligations of local authorities in the public utility of drinkable water. The Senate passed the bill on October 26, 2017. The purpose of the law is to alleviate the administrative burden on local authorities in their declaration of water abstraction charge. This law allows local authorities to benefit from more time to declare the data necessary for the licence fee calculation, the declaration will be pre-filled by water agencies with the published performance indicators, and the application of the increase is suspended during the transition period. This package will come into force on January 1st, 2020.



## ENVIRONMENT – RECOGNITION OF BLUE-GREEN ALGAE'S TOXICITY

Last summer, the Loire Bay caused the death of 13 dogs. The French Regional Health Agency (ARS) then conducted analyzes to trace its causes. Cyanobacteria, also called « blue-green algae », are naturally present in freshwater. Made of chlorophyll, they have the ability to change the color of waters (blue green) where they proliferate. Blue-green algae multiply under conditions where the temperature is high. This proliferation causes water pollution. Cyanobacteria will suffocate the environment causing an imbalance in the way of life of other species or even their elimination. In addition, water being undrinkable, ingestion by humans and animals can cause digestive disorders or skin irritation and itching. An order is immediately taken and the places are closed if the environment belongs to the State. On the contrary, if the area belongs to residents, it is up to them to secure the premises by prohibiting access to the polluted environment.



## COSMETICS – THE DGCCRF ORDERED THE WITHDRAWAL OF MORE THAN 140 PRODUCTS FROM THE MARKET

The French Directorate General for Competition Policy, Consumer Affairs and Fraud Control (DGCCRF) ordered the immediate withdrawal of more than 140 cosmetic products from the market because of their composition. Following an alert from the association « UFC - Que Choisir » denouncing the presence of banned substances in cosmetics marketed, the DGCCRF conducted a control and listed 1026 cosmetics containing prohibited ingredients. In order to determine a responsible party, the DGCCRF will carry out a control within the product distribution chain (which goes from the distributor to the manufacturer). Following this case, the DGCCRF announces a « reinforced vigilance on these topics ».



## JURISPRUDENCE

### THE AZF CASE - DECISION OF THE PARIS COURT OF APPEAL DATED OCTOBER 31 2017

On September 21 2001, the chemical factory AZF Toulouse caused an explosion which resulted in 31 deaths, 8000 injured and significant material damage. In this case, the Société Grande Paroisse, a subsidiary of Total who managed the site AZF, and the former site director, Serge Biechlin, will be blamed.

On November 19 2009, the first court decision made in the AZF case is a discharge "in benefit of the doubt" (*in dubio pro reo*) because the judges considered that the causal link between the organizational fault and the damage was uncertain.

Then comes the decision of the Toulouse Court of Appeal dated September 24, 2012 which recognizes the Company and Mr. Biechlin guilty of involuntary manslaughter and unintentional injuries, as well as unintentional damage by explosion.

However, on January 13 2015, the French Supreme Court annulled the decision of the Toulouse Court of Appeal on two grounds. The first ground is the doubt about the impartiality of a judge who was vice-president of the National Institute for Victim Assistance and Mediation. The second is the insufficient characterization of the offense. The case is sent back to the Paris Court of Appeal.

On October 31 2017, the Paris Court of Appeal considered that the Company and Mr. Biechlin are guilty of "negligence" and "characterized faults", and condemned the Company to €225,000 fine and the former director a €10,000 fine and a 15-month suspended sentence.



## HEALTH – DRUG CYTOTEC OFF THE FRENCH MARKET

In 1987, the Pfizer laboratory manufactured a drug designed to treat gastric ulcers:



Cytotec. Very quickly, it has lost its original use to be applied in gynecology to trigger deliveries. However, the laboratory has not received authorization to divert the use of the drug. Moreover, hospitals show an interest to this pill for a financial matter since it costs only 30 cents, where other means (e.g. gel, pad) cost around 90 euros. On the market for 30 years now, Cytotec is the subject of a scandal for endangering many families. Being administered

vaginally and very often overdosed, the drug causes many harmful effects on health: strong contractions and poor oxygenation of the foetus. Warned repeatedly for its effects without banning the drug, the laboratory decides today to withdraw the Cytotec from the market (March 1, 2018). In 2016, the Administrative Court of Versailles allowed a family to win at first trial for the damage caused to a child with severe disability.



## CLIMATE – 12 CITIES PLEDGE FOR « EMISSION-FREE STREETS »

On October 23, as part of a meeting of the C40 network of cities in Paris, twelve mayors of metropolises have signed the Fossil-Fuel-Free Streets Declaration committing to tend towards a « zero emission » of greenhouse gases by 2030. Paris, London, Los Angeles, Barcelona, Quito, Vancouver, Mexico City, Copenhagen, Auckland, Seattle, Milan and Cape Town promised to implement various measures ranging from the purchase of zero-emission buses starting from 2025 to the development of bicycle paths, by way of measures encouraging « walking and cycling ». According to a statement from the signatories, the objective is to « gradually abandon the use of fossil fuel vehicles ».

The C40, chaired by Anne Hidalgo, brings together 91 cities committed to addressing climate change. The network was organizing Together4Climate, a two-day event with Sunday especially dedicated for business on mobility, energy and urban planning issues.



## FOCUS – CHANCIA PLAINE AT THE COLLOQUIUM ON CLIMATE JUSTICE

On Friday, November 3, 2017, an international colloquium on « The Law in the service of climate justice: case law and citizen mobilizations » was held in Paris. The day was organized around two axes: on the one hand doctrinal exchanges with three roundtables composed of lawyers and legal experts; on the other hand, a roundtable about citizen mobilizations for the climate and the environment. It was during this high-level conference that Chancia Plaine, a MESQ graduate, had the opportunity to express herself on behalf of Christian Huglo (Huglo Lepage and Associates), on the challenges of evidences and the causal link in climate litigation. She has thus demonstrated the gradual establishment of a climate causal link, despite a problem of evidence linked to the uncertainties of climate science, through the analysis of various jurisprudences especially *Massachusetts v. EPA* and *Urgenda Foundation v. Kingdom of the Netherlands*. She then underlined the need for a contradictory debate on the documents of evidence delivered by the parties, to finally call for the national judge to recognize the work of the IPCC in its consideration on climatic risks.