

ALLEN & OVERY



Our Global Environmental and Regulatory Law practice

2020

Introduction

Environmental and regulatory compliance issues are now part of everyday life for most businesses, be they engaged in evidently hazardous activities or not.

Likewise, developments in the climate change arena are raising new challenges for the business community. Regulatory demands, however, continue to widen in response to increasingly international environmental, human rights and trade concerns and present more and more compliance issues affecting both processes and products, as well as liability issues in business transactions. To steer successfully through this regulatory jungle requires specialist expertise on a global scale.

Allen & Overy's Global Environmental and Regulatory Law group includes more than 60 specialist, commercially focused environmental and regulatory law experts across the world advising on all aspects of environmental, product and trade law and liability. As one of the first law firms to develop a globally integrated environmental law practice, Allen & Overy is able to provide both transactional and stand alone advice in all the major areas of environmental and health and safety law at national, regional and international levels. We have long-standing expertise in a wide range of regulatory issues affecting our clients' supply chains and the movement of our clients' products around the world. We also regularly advise clients on the management of cross-border due diligence and on contractual negotiations in relation to major international acquisitions, disposals and infrastructure projects.



*Ranked Band 1:
Regulatory – Environment*

Chambers Europe-wide 2019



*Ranked Band 2:
Environment*

Chambers USA 2019



*Ranked Band 1:
Environment*

Legal 500 UK 2019

What Allen & Overy can offer

- **A highly experienced team.** We are the leading Environmental and Regulatory Law practice in many of the jurisdictions in which we operate, with a depth of experience both in the context of regulatory matters and transactions.
- **A long-term relationship.** We invest time to fully understand our clients' business lines and what you need from your advisers. We are committed to developing deep and long-term relationships.
- **An extensive geographical spread.** The global coverage of our group means that we can provide comprehensive advice in any jurisdiction.

We work where you work

The global group's dedicated teams are based in Americas, Europe and Asia Pacific.

Our geographic reach, including the transfer of knowledge between different offices and jurisdictions, means that we are able to keep abreast of the latest environmental initiatives and legislative developments occurring around the globe. In addition to expertise in Allen & Overy's own offices, by virtue of our network of specialist local firms in other jurisdictions we can also ensure that you get high quality environmental advice wherever in the world you need it.

Recognised as market leaders

Lawyers across the Global Environmental and Regulatory Law group have been recognised by leading independent directories as leaders in their field.

In 2018 our practice was recognised for its breadth by PLC's International Who's Who of environmental lawyers, a survey covering 43 jurisdictions that picked out our partners **Ken Rivlin** (U.S), **Matt Townsend** (UK), **Gauthier van Thuyne** (Belgium), **Kamil Jankielewicz** (Poland), and **Jochem Spaans** (Netherlands) as high regarded individuals in the sector.

Global environmental and regulatory law expertise

Allen & Overy can offer you a truly global environmental and regulatory law service with resources to advise on the largest and most complex issues. Our global team provides expert advice in a wide range of environmental regulatory areas including REACH, climate change, producer responsibility for recycling and take back, product regulation, renewables, waste and contaminated land liabilities. The group's expertise focuses on a number of core areas including:

Chemicals regulation and REACH

We advise on the environmental and health and safety impacts of bulk and speciality chemicals in various uses and applications and the potential regulatory and liability issues associated with them. Our group has a strong record of advising a number of leading multinational chemicals companies, as well as downstream users of chemicals across different sectors on sensitive issues surrounding the regulatory/liability risks arising from their products and services. We have worked extensively on Europe's REACH regime. This has included advice on: registration obligations in complex supply chains; disclosure of information to regulators and third parties; analysis of trading operations to determine REACH obligations; the authorisation powers (and the inclusion of substances on the candidate list) including related legal challenges; safety data sheets; REACH audits by regulators; and, supply chain terms.

We also provide advice on developments under the CLP Regulation and track and advise on the development of equivalent global requirements.

Product regulatory

The international trade in, and marketing of, products is subject to growing regulatory burdens. Legislators have taken a product-centred approach to environmental and consumer protection for over a decade. This is accelerating as governments across the world look to introduce restrictions to markets based on environmental protection. Obligations and liabilities are being imposed on manufacturers, importers, retailers, distributors, users and disposers to reduce the environmental impacts of products,

from the sourcing of raw materials to the management at their end-of-life stage.

We advise on regulatory requirements across the life-cycle of products and are at the forefront of regulatory initiatives concerning a vast array of products, from traded commodities to electronic equipment and medical devices. We also have a strong track record in product recall, product liability and the management of risks from defective products.

Climate change and green technology

The management of carbon and wider climate change initiatives remains at the forefront of the political agenda and presents ever increasing challenges for businesses. Our worldwide climate change practice group has advised extensively on carbon related projects, initiatives to mitigate carbon impacts and the development of CSR policies and carbon management strategies for clients.

Allen & Overy is also at the forefront of the renewable energy market, advising both companies and financiers across the renewable energy spectrum, including hydro, energy from waste, solar, wind, biomass, biofuels and co-firing. We assist clients on the regulatory aspects of a wide range of renewables projects, as well as the environmental economic instruments which are so essential in making such projects viable, such as the UK's Renewables Obligation, green certificates and tariffs in Europe, and emissions credits under the Kyoto Protocol.

Contaminated land and environmental liability

We advise on the full range of contaminated land issues including the allocation of liabilities (under contract and statute), clean-up issues, negotiations with regulators and third parties and the ring-fencing of liabilities. We also work with clients on a variety of remediation projects, including advising on contractual arrangements with environmental consultants and remediation contractors.

Corporate governance, disclosure and access to information

With a mass of new and changing legislation in this area, environmental issues and transparency initiatives continue to be a headline issue for boardrooms. SEC reporting requirements on environmental issues, new EU transparency requirements and obligations to report on environmental impacts and standards in annual reports, are just a couple of examples.

Allen & Overy's environmental and regulatory law experts advise on all types of environmental disclosure requirements and associated problems, such as commercial confidentiality. Whether the issue of disclosure arises in respect of a statutory or permit based obligation, as a result of a request from a regulator or even under pressure from interested stakeholders, Allen & Overy's sector specific knowledge helps clients grappling with the legal and commercial implications, particularly in relation to business sensitive matters.

Export controls

The movement of products between jurisdictions is increasingly subject to financial and trade restrictions, imposed by the UN, at European or national level and product exporters have to work within an often complex framework of rules. The Global Environmental and Regulatory Law group has extensive experience in advising clients on the potential implications of these restrictions as well as on import and export requirements. We have particular experience in: advising on the impact of EU, UK and U.S. trade sanctions; developing trade compliance policies and procedures; advising on dual-use restrictions; analysing and mitigating trade related risks in M&A transactions; undertaking voluntary investigations in compliance with trade restrictions; advising on contractual arrangements in relation to sanctions and export controls; carrying out due diligence in the supply chain; and, supporting applications for licences/exemptions.

Strategic oil stock holding obligations

As the new EU regime for compulsory oil stocking comes into force, we are well placed to advise on compliance with the obligations that are imposed on operators. We have expertise in national oil stocks management, the creation of public entities designed to hold stock and the CSO including ticketing arrangements designed to provide obligated parties with stock availability. Our lawyers also have experience in advising governments on their stock holding compliance strategies.

EHS regulatory

We advise businesses across a variety of sectors on regulatory, permitting and compliance related issues. Particular areas of strength include air and water pollution, waste management and shipment, land contamination, noise abatement and hazardous substances. The global slowdown has led to significant corporate restructuring, plant closures and mothballing. Environmental issues are often a key consideration in these decisions given the need to minimise the environmental legacy and eliminate longer term risks.

We advise on health and safety issues in transactions and on a stand-alone basis. This ranges from strategic issues concerning board-level health and safety responsibilities to practical guidance over health and safety issues, relationships with contractors and health and safety-related proceedings. We also assist on measures to prevent bribery and corruption issues connected to environmental and wider compliance matters.

“The key differentiator is their flexibility and adaptability to support our complex and ever-changing needs and issues. The team react and meet any challenge we throw at them, which is no mean feat.”

Chambers UK 2019, Environment

“They have a big global footprint and do well in all areas of what is a broad-ranging practice.”

Chambers USA 2019, Environment

“Like working with them. I find them to be very professional and high-quality.”

Chambers USA 2019, Environment

“Their service is exemplary. It’s a very good, high-quality law firm and their entire team is very good to work with.”

Chambers UK 2019, Environment

Emissions and carbon trading

Since the earliest days of the carbon market, Allen & Overy's multi-jurisdictional emissions trading practice in Asia, Europe and North America has expanded to meet client demand. We are exceptionally well placed to advise on aspects of the challenges facing the EU ETS in the current economic climate as well as on developing international emissions trading schemes. We are at the forefront of advising on, and drafting documentation for, the trading of emissions credits and the development of climate change projects.

We have extensive experience of working with clients in both the public and private sectors on climate change projects, including advising on the European Union Emissions Trading Scheme, the Kyoto Mechanisms (Clean Development Mechanisms, Joint Implementation and International Emissions Trading) and on both the buy and sell side of Emissions Reductions Purchase Agreements and Project Development Agreements.

Disputes and litigation

We combine environmental and litigation expertise to provide support in civil, criminal and administrative disputes and proceedings. We cover the full range of potential issues including contaminated land, noise, nuisance and waste. This includes indemnity and warranty claims, third party civil actions and managing relationships with regulators.

Transactional support

A major part of the Global Environmental and Regulatory Law group's work is concerned with providing advice to multinational corporations, global financial institutions, public sector institutions and other organisations on the management of environmental and regulatory risks and liabilities in mergers, acquisitions, disposals, financings, projects, joint ventures and similar transactions.

Crisis management

Preparing for major disruptions to business operations has never received such attention. Growing environmental, health and safety standards combined with intense media scrutiny and stakeholder concerns mean that you need to clearly identify major risks which may affect the business and plan for all eventualities. Our integrated practice of regulatory experts and litigators is ideally suited to advise on developing, planning and implementing a crisis strategy. We advise on integrity testing plans, provide practical guidance on managing relationships with regulators and resolve disputes with as little disruption to our clients' business as possible.

In particular, we can advise on: developing a management and organisational structure to respond to an incident or crisis; existing emergency response procedures; the preparation of key documents to manage the role of parties such as contractors or JV partners; selecting, appointing and managing other external advisors such as PR or media consultants; training staff on crisis procedures; managing the relationship with regulators in the event of a crisis; bringing the business back into compliance; and, civil and criminal proceedings which follow an incident.

Supply chain risks

We understand that businesses are increasingly under scrutiny from investors, the media and NGOs in respect of their approach to managing supply chain risks and liabilities. This can cover a wide variety of issues from more traditional compliance issues such as environment and health and safety to workforce conditions, grievance mechanisms, displacement and security. We work closely with clients to manage their risks in these areas. We have developed a range of human rights compliance policies for clients, undertaken supply chain diligence, advised on specific compliance issues and provided strategic support to clients in sensitive matters.

Nature protection and biodiversity

Stringent international, EU and national legislation for flora and fauna species protection and habitat conservation has a significant impact on many types of businesses. However, it also represents a potential opportunity, with growing policy and market moves towards methods of valuing the economic capital of biodiversity.

Projects in or near the EU-wide Natura 2000 network of protected areas may be subject to specific permitting regimes or restrictive conditions. Even existing businesses may be impacted by the presence of protected species. At the same time, forward looking companies may also be interested in taking advantage of market measures to monetise the natural capital of land and ecosystems within their control.

We are well-placed to assist with what is often considered one of the most complex and detailed areas of environmental law, advising on both the international framework and the national implementing legislation for nature protection. Recent experiences include advice to, and risk assessments for, power and infrastructure projects, both nationally and in cross- and near-border contexts

Waste management

We advise on all aspects of the regulation of waste and waste management activities, including the definition and classification of waste, permitting requirements, the trans-frontier shipment of waste, licensing and national and local regulatory issues. Our experience also includes advising on a number of waste projects utilising a variety of technologies including energy from waste and anaerobic digestion plants. We also have extensive experience of advising on the acquisition and disposal of businesses in the waste management industry and in waste-related litigation.

We would be delighted to provide you with credentials on these and any other areas of our practice

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“I can’t fault them in terms of the quality of the end product and the turnaround times; they can react very quickly.”

Chambers UK 2018, Environment

GLOBAL PRESENCE

Allen & Overy is an international legal practice with approximately 5,400 people, including some 550 partners, working in over 40 offices worldwide. Allen & Overy LLP or an affiliated undertaking has an office in each of:

Abu Dhabi	Bucharest (associated office)	Hong Kong	Munich	Singapore
Amsterdam	Budapest	Istanbul	New York	Sydney
Antwerp	Casablanca	Jakarta (associated office)	Paris	Tokyo
Bangkok	Dubai	Johannesburg	Perth	Warsaw
Barcelona	Düsseldorf	London	Prague	Washington, D.C.
Beijing	Frankfurt	Luxembourg	Rome	Yangon
Belfast	Hamburg	Madrid	São Paulo	
Bratislava	Hanoi	Milan	Seoul	
Brussels	Ho Chi Minh City	Moscow	Shanghai	

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