

Melling Voitishkin & Partners

Carbon markets: regulatory development and business opportunities

Association of European Businesses | Green Initiative | 20 October 2023

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High-level developments

Pinpoint remarks

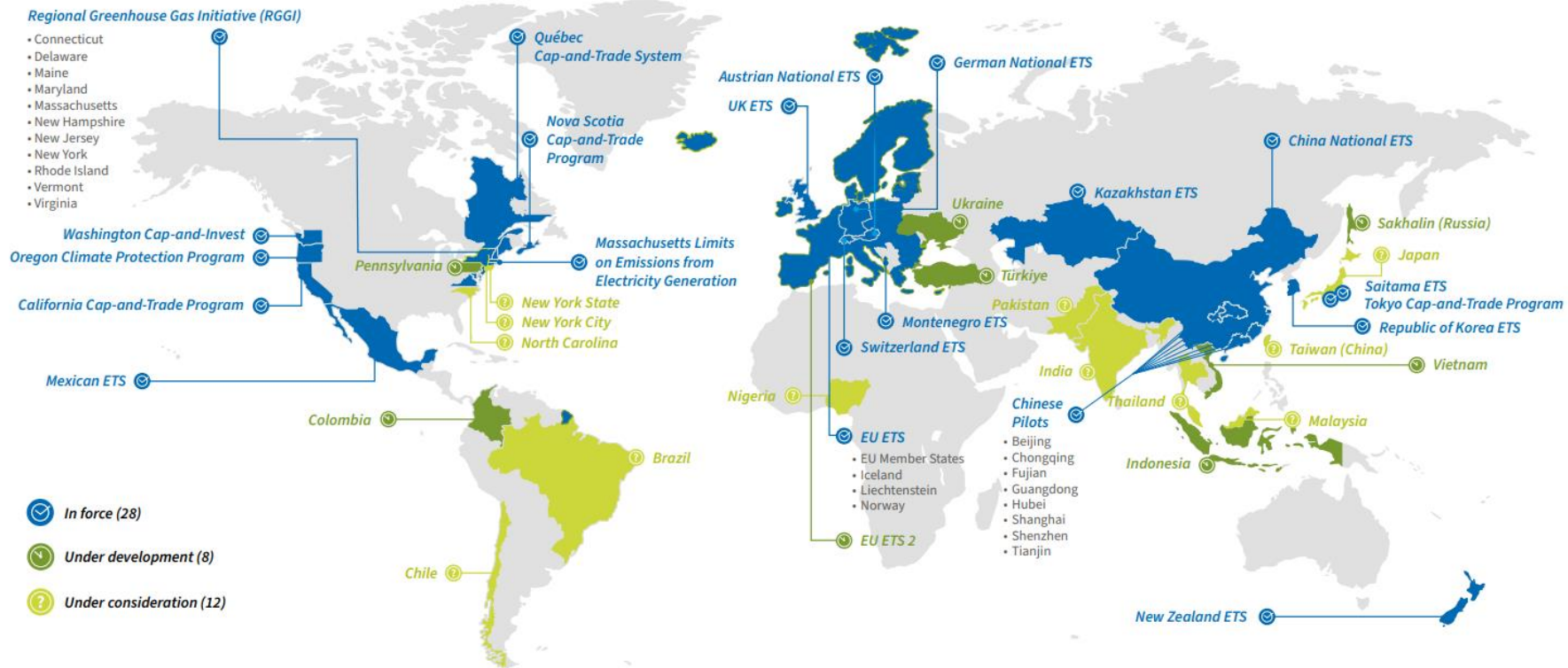
- **3 new ETS** kicked-off in 2022 (Austria, Montenegro, Washington), 20 pending development or consideration (incl. Brazil, India, Nigeria)*
- **Article 6 bilateral agreement on the rise** – originated by Switzerland, Singapore, Sweden, Australia and South Korea
- **COP 28** – hydrogen is amongst focus points. 1-10-20-30 rule**
- **Increasing demand for energy transition commodities:** lithium, nickel, cobalt, copper, graphite and neodymium
- **US** – renewables euphoria continues, investments in storage grow, low-profile rise of small nuclear – including via PPAs
- **Russia** – continues carbon neutrality path, but gradually

* See ICAP report, March 2023: <<https://icapcarbonaction.com/en/publications/emissions-trading-worldwide-2023-icap-status-report>>

** Production of 1 mln tons of green hydrogen requires 10 GW of electrolyzers, 20 GW of renewable power and \$ 30 bn investments

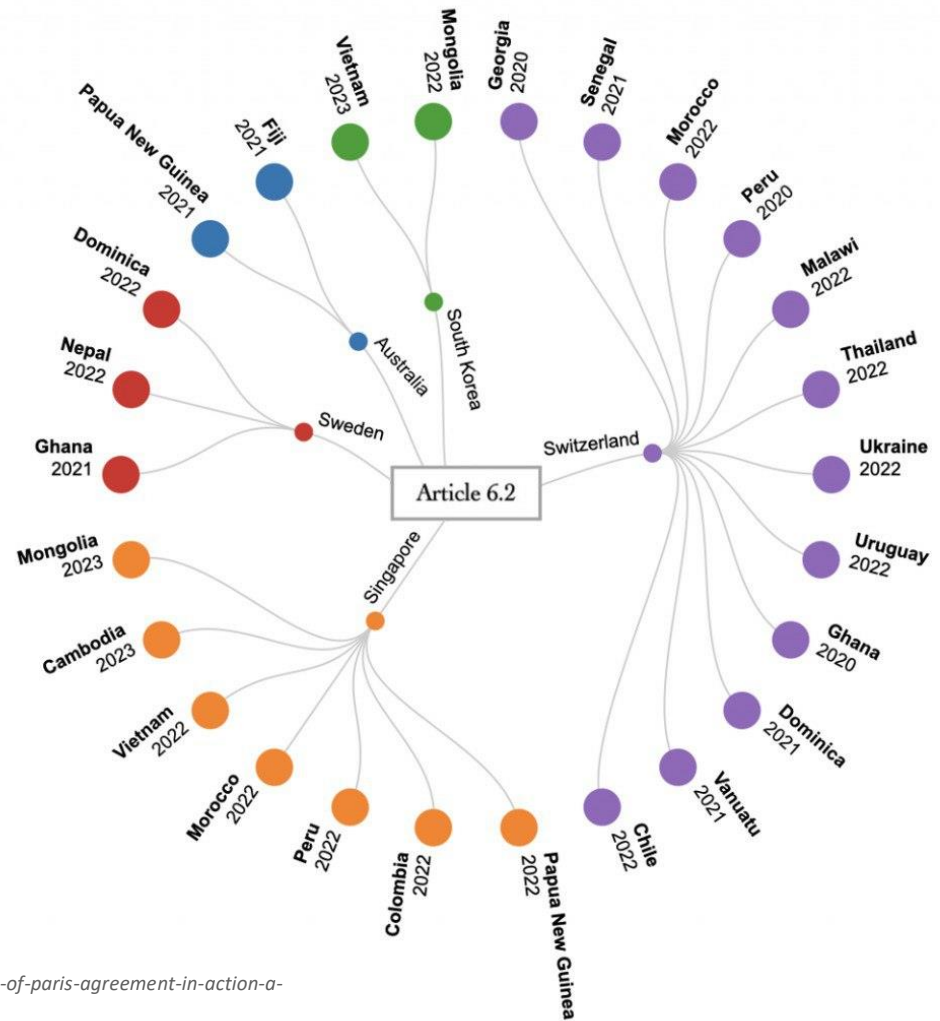
Compliance carbon markets rise

International Carbon Action Partnership's report*



* Emissions Trading Worldwide: 2023 ICAP Status Report: <<https://icapcarbonaction.com/en/publications/emissions-trading-worldwide-2023-icap-status-report>>

Bilateral agreements - article 6.2*



* DownToEarth, 7 July 2023: <<https://www.downtoearth.org.in/blog/climate-change/article-6-2-of-paris-agreement-in-action-a-growing-number-of-countries-are-entering-carbon-market-partnerships-90455>>

**Russian climate
regulation - backbones**

**Federal laws, by-laws, soft laws and
governmental initiatives**

Russian climate laws - backbones

Non-binding documents: methodologies on climate projects, CB RF letters, GOSTs

By-laws to 296-FZ and 34-FZ

296-FZ on GHG limitation | 34-FZ on regional ETS

Strategic planning documents and governmental programs: Strategy for the RF socio-economic development with low GHG emissions 2050, Federal Program “Low-carbon development policy”, National Adaptation Plan, Carbon landfills and farms

Paris agreement and NDC

By-laws

Federal system [1]

List of regulated GHGs [2] and Methodology for quantifying GHG emissions [3]

Procedure for preparing anthropogenic emissions inventory [4]

Procedure for classifying entities as regulated organizations [5] and Procedure for submitting emissions reports [6]

Verification rules [7] and Criteria and procedure for classifying projects as climate [8]

Information processing in GHG register [9]

Carbon units register and establishing fees for register maintenance services, carbon units operator and standard form for the provision of register maintenance services [10]

Regional ETS [1]

Methodology for setting quotas [2]

Calculation rules and setting fees for quota exceeding [3]

Procedure for classifying entities as regulated organizations [4] and Procedure for submitting emissions reports [5]

List of regulated organizations and individual quotas [6]

Experiment progress monitoring:

- Determination of the GHG emissions inventory period to determine balance of emissions and absorption [7]
- Procedure for the authorized body to submit a report on the results of experiment monitoring [8]
- Determining an experiment coordinator [9]

[1] Federal Law dd 02.07.2021 N 296-FZ

[2] Decree of the RF Government dd 22.10.2021 N 2979-p

[3] Order of the RF Ministry of Natural Resources dd 27.05.2022 N 371

[4] Order of the RF Ministry of Natural Resources dd 25.04.2022 N 298

[5] Decree of the RF Government dd 14.03.2022 N 355

[6] Decree of the RF Government dd 20.04.2022 N 707

[7] Decree of the RF Government dd 24.03.2022 N 455

[8] Order of the RF Ministry of Economic Development dd 11.05.2022 N 248

[9] Order of the RF Ministry of Economic Development dd 21.11.2022 № 637

[10] Decree of the RF Government dd 30.04.2022 N 790; dd 30.03.2022 N 518; dd 20.05.2022 N 905; dd 01.03.2022 N 367-p

[1] Federal Law dd 06.03.2022 N 34-FZ

[2] Order of the RF Ministry of Economic Development dd 24.08.2022 N 452

[3] Decree of the RF Government dd 05.08.2022 N 1390 and dd 18.08.2022 N 1441

[4] Order of the RF Ministry of Economic Development dd 06.05.2022 N 247

[5] Decree of the RF Government dd 29.10.2022 N 1924

[6] Orders of the Sakhalin Oblast Government dd 27.11.2022 N 660-r and dd 27.09.2023 N 265-r

[7] Decree of the RF Government dd 16.04.2022 N 678

[8] Order of the RF Ministry of Economic Development dd 29.06.2022 N 340

[9] Decree of the RF Government dd 20.04.2022 N 708

National methodologies for climate projects

Energy efficiency and fuel switch for buildings

Leak detection and repair in gas production, processing, transmission, storage and distribution systems and in refinery facilities

Improved forest management, including reduced impact logging

Fuel switching from coal and/or petroleum fuels to natural gas in existing power plants

Recovery of gas from oil wells and its use in heat and/or power generation on site

Flare (or vent) reduction and utilization of associated petroleum gas from oil wells as a feedstock

Reforestation

Energy efficiency technologies and fuel switching in new and existing buildings

Improved forest management, including forest fire protection

Guidelines for demonstration of the additionality of the project activity

Changes in soil organic carbon stocks from cropland

Fuel switch from coal or petroleum fuel to natural gas

Recovery and utilization of gas from oil fields that would otherwise be flared or vented

Implementation

Carbon reporting and markets

Climate regulation implementation

Mandatory reporting on GHG emissions

Effective 1 January 2023:

companies with GHG emissions > 150,000 tons per year

Effective 1 January 2025:

companies with GHG emissions > 50,000 tons per year

Art. 19.7.16 RF Code of Administrative Offences: fine for failure to provide reports - up to ₹ 500,000 for legal entities

1023

reports on GHG
emissions were
submitted*

> 1,000

companies
reported on
GHG emissions*

25%

of reports were
submitted
voluntarily*

2.5 mln

carbon units
planned for
issue in the near
future*

48

48 Sakhalin
companies
reported

* According to information presented by Deputy Ministry of Economic Development I. Torosov at East Economic Forum

Climate regulation implementation

Climate projects

- Should comply with Russian standards *
- Should lead to GHG reduction or removal increase
- Should be additional

VCL LLC Increase of GHG absorption – forest climate project Implementation term: 01.09.2023 - 01.09.2102 CU to issue: 1.5 mln	NAK AZOT JSC Plant construction - for the production of liquefied carbon dioxide Implementation term : 01.09.2022 - 31.08.2042 CU to issue : 0.5 mln	SIBUR-KHIMPROM JSC Re-engineering the dioctyl terephthalate production technology Implementation term : 04.05.2022 - 31.03.2026 CU to issue : 14,000	TATNEFT PJSC Construction of the factory-wide flare system Implementation term : 01.01.2021 - 31.12.2030 CU to issue : 15,000	TATNEFT PJSC Connecting the pipeline to the gas pipeline Implementation term : 01.01.2021 - 31.12.2030 CU to issue : 4,600	RUSHYDRO PJSC Modernization of thermal power plants with replacement of coal-fired boilers Implementation term : 01.01.2022 - 31.12.2027 CU to issue : 381,000	DAENERGOINVEST LLC Implementation of a solar power plant Implementation term : 01.01.2022 - 31.12.2031 CU to issue : 1,800
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* GOST R ISO 14080-2021 and GOST R ISO 14064-2-2007

Carbon transactions

Russian register: in and out

- **BerezkaGaz – Coffeemanía:** the purchase of carbon units (issued under Clean Development Mechanism) by Coffeemanía resulted in offsetting its carbon footprint for the period **from December 2021 to August 2022**
- **Sibur - Qiwi:** the purchase of emission reduction units on the GDP Digital blockchain platform by Qiwi resulted in full offsetting its carbon footprint (Scope 1 and 2) for 2022 – **3.121 thousand tons of CO₂**
- **RusHydro – Udokan Copper:** Udokan Copper purchased 1,000 carbon units issued under the Federal Law “On Limiting GHG Emissions”

What's important for business

1 - pick appropriate carbon
management tools

To use proper carbon tools

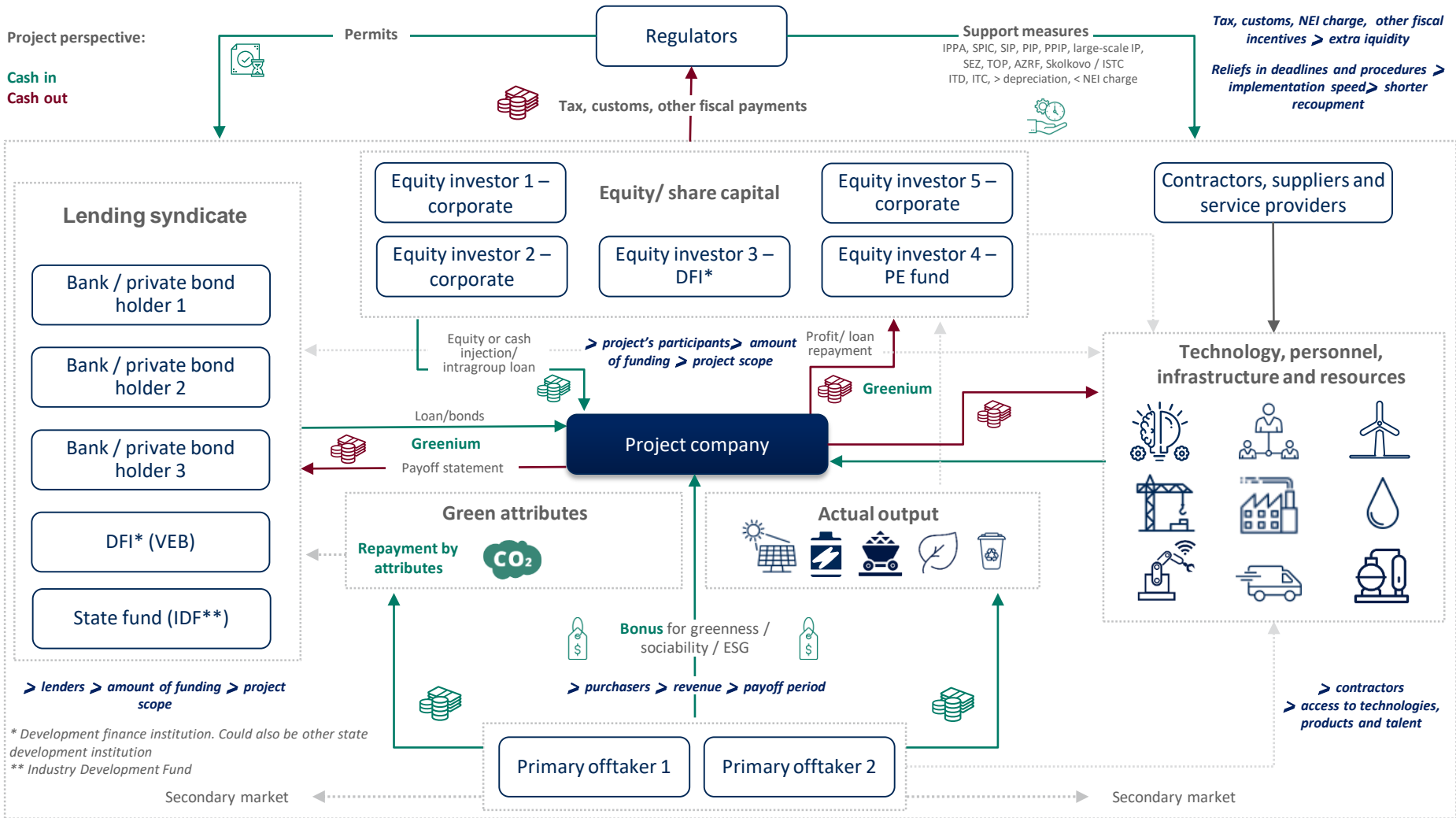
- **EACs, GOs, RECs** – certify 1 MW-h generated by renewable/ hydro power facility:
 - regulated guarantees (certificates) of origin
 - voluntary – Carbon Zero, I-REC and others
- **Carbon credits (offsets)** – certify GHG avoidance, reduction, or removal registered in:
 - Russian regulated carbon registry
 - Unregulated registries (e.g. GCC)
- **Regional (Sakhalin) ETS tools** – part of Sakhalin and further other regional cap and trade systems:
 - Emission caps – aggregate amount of individual emission allowances (per legal entity)
 - Emission performance credit – excess over cap, may be credited for following cap performance or traded
- **Paris agreement tools** – tools to cooperate in achieving NDCs:
 - ITMOs – interstate trade (business may participate in underlying activities)
 - A 6.4ERs – business trade
- **Green/ ESG finance** – tools to obtain financing for various green/ ESG-projects:
 - Loans and bonds
 - Green and sustainability linked

What's important for business

**2 – use some of those tools as leverage
for bankable project structures**

Project perspective:

Cash in
Cash out



Support measures

IPPA, SPIC, SIP, PIP, PPIP, large-scale IP, SEZ, TOP, AZRF, Skolkovo / ISTD, ITD, ITC, > depreciation, < NEI charge

Tax, customs, NEI charge, other fiscal incentives > extra liquidity

Reliefs in deadlines and procedures > implementation speed > shorter recoupment

Regulators

Permits

Tax, customs, other fiscal payments

Contractors, suppliers and service providers

Technology, personnel, infrastructure and resources

Equity/ share capital

Equity investor 1 – corporate

Equity investor 5 – corporate

Equity investor 2 – corporate

Equity investor 3 – DFI*

Equity investor 4 – PE fund

Lending syndicate

Bank / private bond holder 1

Bank / private bond holder 2

Bank / private bond holder 3

DFI* (VEB)

State fund (IDF**)

Project company

Green attributes

Repayment by attributes



Actual output



Primary offtaker 1

Primary offtaker 2

> contractors > access to technologies, products and talent

> lenders > amount of funding > project scope

> purchasers > revenue > payoff period

Bonus for greenness / sociability / ESG

* Development finance institution. Could also be other state development institution

** Industry Development Fund

Secondary market

Secondary market

Also to consider

1. View climate project as integrated investment project with financial leverage (green attributes) rather than purely offsetting
2. Establish protective clauses in ERPAs/ other agreements effecting transfer of certificates/carbon credits – no-double counting and other “quality”, penalties and termination rights in case of their breach, etc.
3. Propose to regulators, other businesses and carbon “infrastructure” actors:
 - climate projects methodologies – relevant to your business
 - regulatory & tax incentives finetuning and expansion
 - partnerships & alliances

Extras

Available online

1. [Major investments and innovations in Russia: regulatory frameworks](#) | The AEB Business Quarterly, winter 2022-2023 (page 14)
2. [Sakhalin - a Front-Runner of Russian Climate Policy](#) | The AEB Guide "How to Invest in Russia 2021" (page 24)
3. [Russia in Global Net Zero Race. From risks to opportunities](#) | [Ecodigest](#) | 02/2021 (page 24)
4. [Russia: Jump-start of a national electric vehicles industry](#) | Baker McKenzie [InsightPlus](#) | 9 September 2021
5. [Russia to kick-off second round of its renewables program in September 2021](#) | Baker McKenzie [InsightPlus](#) | 29 July 2021
6. [Russia: Government adopts its first ever greenhouse gas law - The core of its national climate package](#) | Baker McKenzie [InsightPlus](#) | 12 July 2021
7. [Russia Taking a Stand in Global Hydrogen Race](#) | Baker McKenzie [InsightPlus](#) | 3 February 2021
8. [Doing Business in Russia 2021: Climate Change, Clean Technology and Environmental Protection](#)
9. [Russian Green Transition: Projects Structuring Tools](#) | Sustainability Infrastructure and Finance | INFRAGREEN | December 2020

Can be provided upon request

1. Energy Transition and Green Transformation: Top Events Important for Russian Businesses and Lawyers, Legal Insight No. 10 (106) 2021
2. Circular Economy: How the Government is Reforming the Waste Market And Why Does It Create a Blue Ocean for Business | Legal Insight | No. 9 (105) 2021
3. EVs in Russia: Takeoff in a global race | Legal Insight | No. 8 (104) 2021
4. Best Available Technologies: Breaking Down the Mechanics | Legal Insight | No. 5 (101) 2021
5. Hydrogen Economy. Russian Strategy, Regional Clusters and Project Tools | Legal Insight | No. 4 (100) 2021
6. Renewables and Corporate Demand | Legal Insight | No. 3 (99) 2021
7. Climate Policy and Carbon Contracting | Legal Insight | No. 2 (98) 2021
8. Sustainability Globally and in Russia: Must-know for Lawyers | Legal Insight | No. 1 (97) 2021

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