

25 FRENCH MULTINATIONAL CORPORATIONS CHALLENGED BY THE NGO *NOTRE AFFAIRE A TOUS* ON CLIMATE SHORTCOMINGS

This Monday, March 2nd 2020, the climate justice NGO Notre Affaire à Tous issues an unprecedented comparative legal study of the climate Vigilance Plans of 25 French multinational corporations. Their cumulative carbon footprint is eight times higher than that of the French territory. This peer-reviewed study found that no company fully complies with the obligations under the Duty of Vigilance Act and the French Environmental Charter¹. The NGO, which has already taken the oil company Total to court, sent a notice of non-compliance to these 25 companies in order to request adequate climate protection measures.

Given the inaction of the French State to regulate the impact of multinational corporations on the climate, *Notre Affaire à Tous* relies on the Duty of Vigilance Act to urge major French polluters, including Total, to take action against global warming. This pioneering piece of legislation requires multinational corporations to publish and implement a “Vigilance Plan” to prevent serious human rights violations and environmental harm.

The academic legal study elaborated for the NGO² *Notre Affaire à Tous* finds that the companies perform very poorly and fail to fully comply with the Duty of Vigilance Act in climate matters. The study shows numerous shortcomings of more than 25 multinationals, stemming from various carbon-intensive sectors (energy, finance, industry, transport, construction, agro-food³). Not a single company scored 100%, even though this is the only rating to ensure compliance with the law. Moreover, the average scores are extremely weak: 20 out of 25 companies did not score higher than 50/100⁴.

Regarding the carbon footprint transparency, companies do not properly disclose their direct and indirect GHG emissions, despite the various explicit legal obligations in force. According to information published by the companies themselves, their cumulative carbon footprint is 1,517 million tonnes (Mt) of CO₂e. Taking into account certain counter-assessments, this total

¹ This study follows the climate legal action against Total on 28th January 2020 brought by Notre Affaire à Tous with 4 other associations and 15 communities, based on the same obligations.

² The study was funded by the academic research project En-Commons. The methodology and the section on the financial sector are being published by the “*Institut de recherche juridique de la Sorbonne*” (IRJS) in the following book: *Finance Durable Et Droit : Perspectives Comparées, Actes Du Colloque Du 22 Octobre*, sous la direction scientifique de Hugues BOUTHINON-DUMAS, Bénédicte FRANÇOIS et Anne-Catherine MULLER, 2019.

³ Air Liquide, Total, Natixis, EDF, Auchan, Bouygues, Vinci, Eiffage, Engie, Crédit Agricole, Aéroports de Paris, Société Générale, Véolia, Suez, Axa, Airbus, Carrefour, Renault, Air France, BNP, Arcelormittal, PSA, Michelin, Danone and Schneider Electric.

⁴ Air Liquide, Total, Natixis, EDF, Auchan, Bouygues, Vinci, Eiffage, Engie, Crédit Agricole, Aéroports de Paris, Société Générale, Véolia, Suez, Axa, Airbus, Carrefour, Renault, Air France, BNP. The only companies to have obtained a score above 50/100 are Arcelormittal, PSA, Michelin, Danone and Schneider Electric. A letter was also sent to FNAC-Darty following an assessment of the company.

carbon footprint would exceed 3,549 Mt CO₂e⁵. This represents eight times the French territorial emissions (445 Mt CO₂e).

In addition, the companies are yet to admit the extent of their responsibility for the consequences of their emissions. **The parent companies of large transnational groups do not take all measures to reduce the direct and indirect emissions of their subsidiaries and their subcontracting chains, despite the clear obligations of the Vigilance Act.**

The GHG emissions resulting from these 25 multinationals activities constitute a serious threat to the 1.5 ° C objective of the Paris Agreement. In 2018, the IPCC ascertained the risks of serious and irreversible damage to human rights and the environment that will occur beyond such warming. Despite this, no company has set such a temperature limitation target.

In short, all reviewed companies face risks of non-compliance. As a consequence, they are required to:

- **fully disclose the group's direct & indirect emissions**
- **recognize climate risks and their share of responsibility**
- **adopt a strategy compliant to the 1.5 ° C objective**
- **implement coherent and effective GHG reduction actions**
- **integrate relevant climate information into vigilance plans and finally,**
- **call on governments to change the rules of the economic game if companies fail to self-regulate.**

These compliance steps were set down in letters of inquiry and sent to each company.

Paul Mougeolle, lead author and coordinator of the study for Notre Affaire à Tous states: *“while the multinationals are preparing to publish their new vigilance plans, we have demonstrated their shortcomings of the past year. Companies must completely decarbonize their business model as quickly as possible and indicate precisely and sincerely the ways and challenges to achieve it. If they don't, they could be sued, just like Total.”*

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⁵ See the results of the recent study by Friends of the Earth and Oxfam, which assessed banks' carbon footprints thanks to research by Profundo:
<https://www.oxfamfrance.org/rapports/empreinte-carbone-des-banques-francaises/>

PRINCIPAL RESULTS OF THE BENCHMARK

1. Lack of integration of the climate into the vigilance plan

10 out of 25 companies still do not integrate the climate into their vigilance plans⁶.

However, this should be done systematically, especially for companies that are contributing to global warming. Indeed, climate science is extremely clear: the IPCC recognizes that climate change involves serious risks of human rights violations and environmental damages, in particular above 1.5 °C⁷. Five UN human rights treaty bodies recognize this⁸, as well as the French legal doctrine and the majority of the companies in this study, including Total⁹. Although the other 15 companies integrate the climate into their vigilance plans, many of them do so only partially and above all, as developed below, **no company fully complies with the requirements.**

2. Incomplete communications of climate impact and carbon footprint

All the companies in this benchmark were selected for their **heavy climate impact**: according to the information disclosed by the companies themselves, the multinational corporations evaluated in this benchmark have a **cumulative carbon footprint of 1,517 Mt CO₂e. This amount is three and a half times greater than France's territorial GHG emissions.**

The climate impact has not yet been adequately accounted for. The evaluation and publication of so-called "scope 3" indirect emissions are often overlooked (the most significant emissions, linked to the consequences of business activities). The absence of communication of emissions associated with bank financing activities attests to this. These emissions are however considerable. Indeed, according to a recent second opinion, the carbon footprint of four French banks also evaluated in this study (BNP, Société Générale, Crédit Agricole, BPCE / Natixis) would amount to 2,032 Mt¹⁰. **The total carbon footprint of the companies in this study would therefore exceed 3,549 Mt CO₂e and represent almost eight times the French territorial emissions** (see below the graph regarding the carbon footprint of the 25 companies) !

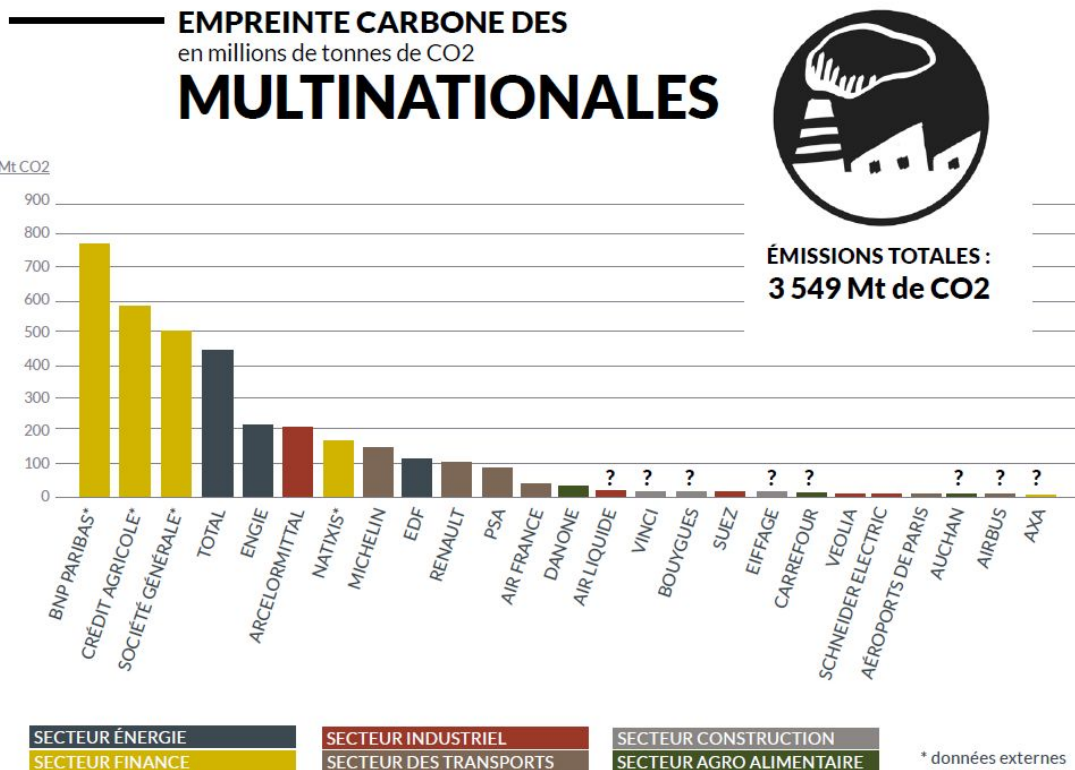
⁶ The companies which have not integrated the climate into their Vigilance Plan are (the mark obtained by the companies is indicated in brackets): Air Liquide (15%), Natixis (17,5%), Bouygues (30%), Véolia (30%), Suez (30%), Eiffage (30%), EDF (37,5%), Engie (45%), Danone (55%), Schneider Electric (77,5%).

⁷ IPCC, Special report 1,5°C, summary for policymakers, 2018.

⁸ F.-G. TREBULLE, Responsabilité et changement climatique : quelle responsabilité pour le secteur privé ?, *Lexis Nexis*, 2018, page 26.

⁹ see the press release of Total recognising the necessity to integrate the climate into their Vigilance Plan following our inquiry: <https://www.fr.total.com/news/interpellation-de-13-collectivites-et-4-associations-sur-le-climat-total-repond>

¹⁰ See the results of the recent study of Friends of the Earth and Oxfam, which evaluates the carbon footprint of banks with the help of research by Profundo : <https://www.oxfamfrance.org/rapports/empreinte-carbone-des-banques-francaises/>



While some companies like Total disclose the group's direct and indirect emissions, they do not mention their energy mix. In other words, they do not provide enough information to properly assess their climate impact as a third party.

3. General lack of recognition of their share of responsibility for global warming

Not only do many companies fail to do a proper risk analysis, but they also do not recognize that their group's activities are contributing to global warming. Real awareness is still necessary in order to grasp the extent of their responsibility: multinationals have to use all the means at their disposal to avoid a dangerous anthropogenic climate change.

4. Level of commitment too low with regard to the risks involved

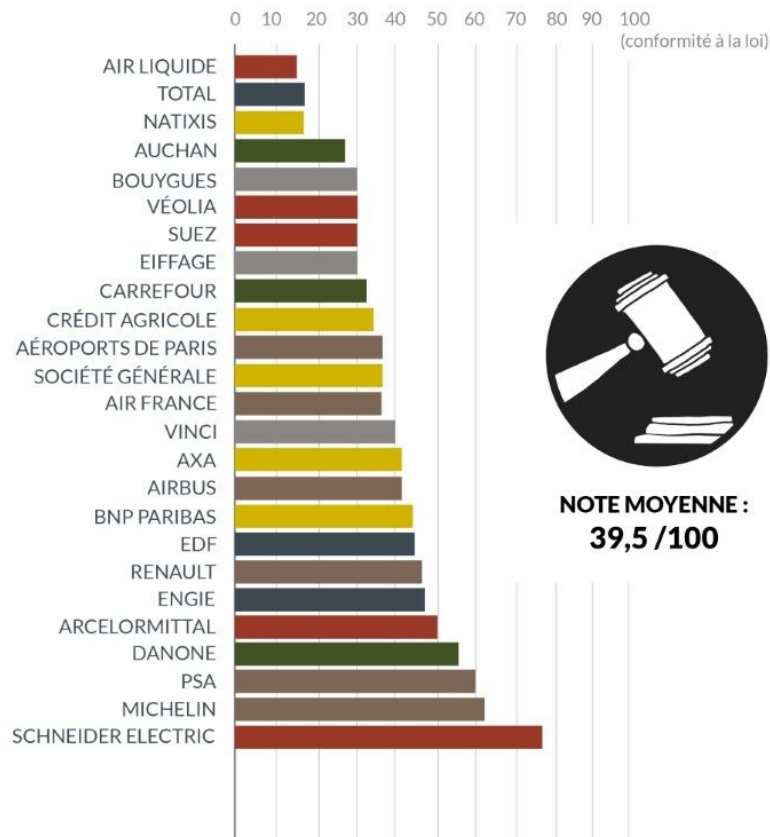
The parent companies are not yet implementing all the measures to reduce the direct and indirect emissions of subsidiaries and subcontractors. However, this is the core of the Duty of Vigilance Act of Parent and Procuring Companies. In fact, no company has implemented a strategy to reduce climate impact in line with a 1.5 °C scenario (net-zero in 2050), even though it is the only pathway enabling the objectives of the Paris Agreement to be achieved with reasonable chance. Such a trajectory gives us only a 50% chance of success of staying below 1.5 °C and 85% to limit warming to + 2 °C¹¹. Therefore, such a trajectory should be the only one considered as consistent with the requirements of the Act, given the serious risks involved.

In sum, **20 of the 25 companies analyzed obtained a score below 50/100 (see graph below); no company receives 100% of the points, which is the only rating to ensure compliance with the Vigilance Act.** It should be noted that FNAC-Darty, which was not included in the study,

¹¹ see, IPCC, special report 1,5°C, summary, p.26 ; Climate Analytics 2015, Timetables for zero emissions and 2050 emissions reductions: State of the Science for the ADP Agreement.

would have obtained the lowest score in the entire report due to almost non-existent climate information.

NOTES DES MULTINATIONALES



In sum, all reviewed companies face risks of non-compliance. As a consequence, they are required to:

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- recognize climate risks and their share of responsibility
- adopt a strategy compliant to the 1.5 ° C objective
- implement coherent and effective GHG reduction actions
- integrate relevant climate information into vigilance plans and finally,
- call on governments to change the rules of the economic game if companies fail to self-regulate.

If they do not comply with these demands, the multinational companies may be sued, just like Total.