

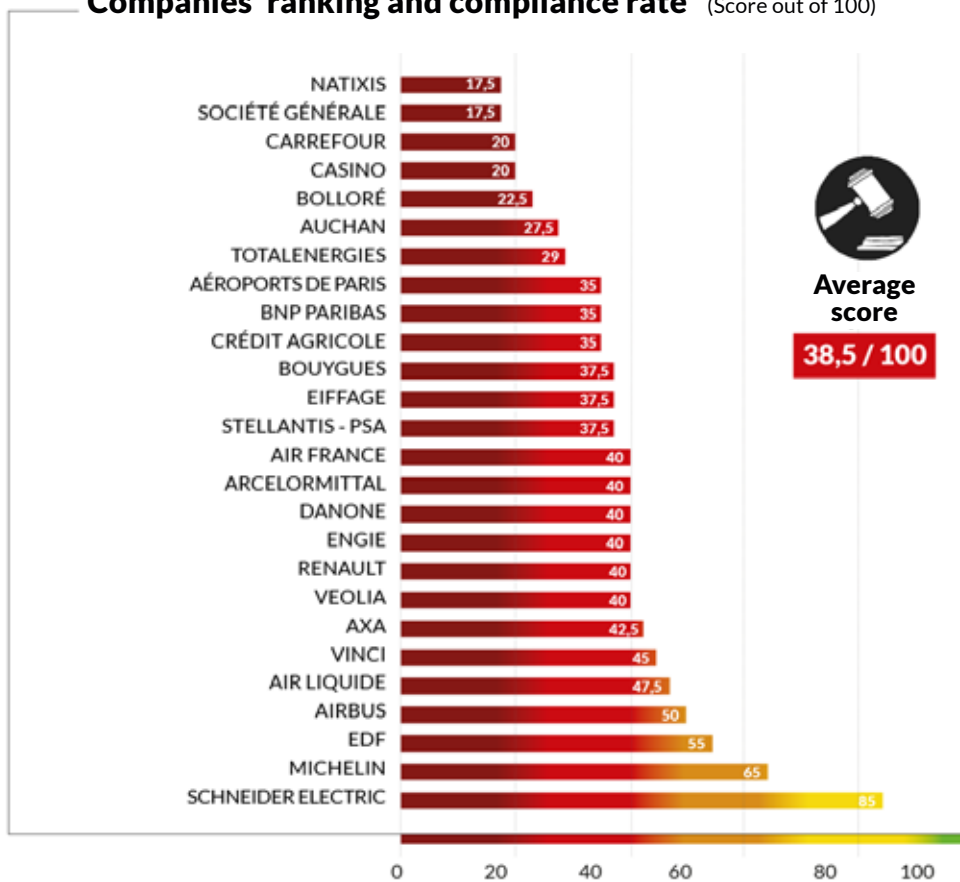
CLIMATE VIGILANCE BENCHMARK

SUMMARY

The Notre Affaire À Tous (NAAT) "Climate Vigilance Benchmark" is a comparative legal study – based on official company documents – measuring the climate performance of 26 French multinationals that are among the biggest greenhouse gas (GHG) emitters.

While most benchmarks seek to encourage the development of private initiatives or voluntary commitments on the part of companies, the Climate Vigilance Benchmark proceeds with a reversal of perspective. It is based on a legalist approach (made possible in particular by Law 2017-399 of 27 March 2017 on the duty of vigilance of parent companies and subcontracting companies) and aims to identify legal breaches of the climate component of the vigilance plans of French multinationals. To that effect, this study proposes rating criteria to assess whether companies are legally complying with the legal requirements of the due diligence obligation. The message conveyed by the Climate Vigilance Benchmark is clear: **pursuing economic models that are incompatible with the 1.5°C target set by the Paris Agreement exposes people and the environment to serious harm, and companies to the risk of litigation.**

Companies' ranking and compliance rate (Score out of 100)



The French multinationals with the highest emissions can influence at least 10% of global emissions.

NAAT's 2023 Benchmark shows that significant improvements have been made since 2020, the year of the first Benchmark, but that action to reduce GHG emissions is still largely insufficient. The companies analysed:

- have all, except Veolia, integrated climate into their vigilance plans and on the whole improved their emissions reporting;
- but refuse to adequately mitigate their climate impact, even though the due diligence obligation requires them to identify serious infringements of rights (i.e. those occurring beyond 1.5°C according to our widely shared interpretation of the law) and adequately prevent them, by aligning themselves with a corresponding 1.5°C trajectory.

The economic players with the highest GHG emissions must do more than simply count their emissions and fill in the items provided for by the law in the manner of an administrative form. Above all, they must implement concrete measures to reduce their climate impact and bring their activities into line with the 1.5°C objective of the Paris Agreement.

Companies' lack of transparency has not enabled us to fully understand their impact on global greenhouse gas emissions.

Our study highlights the fact that incomplete or inaccurate reporting of emissions is almost always combined with problems in defining the company's overall strategy. Carbon accounting is precisely supposed to enable companies to visualize the perimeter on which they need to act: measuring incorrectly makes it impossible to take action on the right scale. For instance, companies in the agro-industrial sector (in particular Carrefour, Casino and Auchan) still do not report the emissions associated with their sold products, nor those resulting from deforestation, making it impossible to define objectives that take into account all of their impacts. It is also problematic to see the significant discrepancy that exists - particularly in the financial sector - between the declared carbon footprint of certain companies and their actual climate impact. Equally problematic is the fact that none of the companies in the aviation sector (Air France-KLM, Airbus, ADP, Vinci) report non-CO₂ emissions linked to condensation trails (which could almost double the emissions reported).

The lack of transparency on the part of companies means that it is not yet possible to grasp their impact on global GHG emissions in their entirety. When we aggregate the direct and indirect emissions (scopes 1, 2 and 3) reported by companies, we calculate that they have the power to act on 4.4% of global emissions (i.e. four times the emissions of the French territory). If the estimates of other NGOs concerning the emissions of financial actors are also taken into account, the result is that the 26 companies in the sector determine and influence 9.5% of global emissions. Finally, if all the other companies were sufficiently transparent, particularly those in the agro-industrial and aeronautical sectors, it would become clear that **the French multinationals with the highest emissions can influence at least 10% of global emissions.** These figures demonstrate the relevance of regulating multinationals on climate issues so that they contribute as quickly as possible to the decarbonisation of the real world. More generally, **there is still a real problem with the accessibility of information on vigilance plans.**

Most companies insist on collective responsibility in order to limit their individual liability.

Furthermore, some companies continue to limit their individual responsibility. Veolia, for example, is the only company to consider that the climate "does not fall within the scope of the law on the duty of vigilance, the primary objective of which is to ensure the protection of workers and populations in the context of globalised supply chains" (Veolia, Vigilance Plan 2022, p. 11). This singular position is not representative of the companies analysed, which all include the climate in their vigilance plans, at least formally. However, this does not prevent **9 out of 26 companies from seeking to limit their responsibility with regard to their Scope 3 emissions** (Renault, Carrefour, Eiffage, ArcelorMittal, Bolloré, Veolia, TotalEnergies, Engie, Auchan, Casino) by refusing to fully integrate these emissions

into their vigilance plans, **or by omitting to mention Scope 3 and related actions in their vigilance plans**, while others prefer to insist on their collective responsibility in this respect. On this point, it is important to remember that while climate change is indeed a global phenomenon and we all share responsibility for it, we do not all contribute to the same extent, and that **the biggest emitters do have individual responsibility**, which include the companies analysed in this Benchmark. In fact, several legal sources, including the duty of vigilance, force companies to actively combat global warming. Companies are therefore expected to recognise explicitly and unambiguously their responsibility for the worsening climate crisis and to commit proactively to the transition.

Identifying the climate risks associated with companies' economic activities also requires the best available science. Although the IPCC has published a special report on the subject, no company has identified the risks associated with exceeding the 1.5°C temperature limit in sufficient detail. In fact, not a single company mentions the significant increase in the risks of climate change (*tipping points*) if the global temperature were to rise above 1.5°C. At best, companies are satisfied with making vague and/or occasional references to IPCC reports. Although this criterion may appear rather trivial and formal, it is essential to understand the need to limit global warming and grasp the imperative of the effort required of companies.

In any case, companies still need to make considerable additional efforts to reduce emissions by 50% by 2030.

Almost all companies mention the Paris Agreement, but not constantly in their vigilance plans. When the Paris Agreement is mentioned, it is generally in the context of vague and ill-defined announcements. This is the case in TotalEnergies' vigilance plan, where the company considers the 2°C target to be the ultimate objective, whereas the Paris Agreement itself and the IPCC stress the importance of not exceeding 1.5°C. This message is beginning to be taken on board, as the majority of companies (15 out of 26) have now announced that they are aiming for a 1.5°C trajectory. This is a significant step forward, although it should be qualified by the fact that these companies' ambitions are not yet backed up by sufficiently credible concrete measures. In fact, the climate objectives publicly stated by the companies analysed would enable them to reduce their emissions by 20% by 2030 compared with 2019 (a year excluding the COVID effect). However, these figures should be used with caution, as the concrete measures proposed by the companies often lack credibility, so the impact of the companies' mitigation measures could be much less ambitious. In any case, considerable additional efforts still need to be made by businesses to reduce emissions by 50% by 2030, which is the minimum value to be reached to be in line with 1.5°C according to the UN "HLEG" expert group on corporate climate commitments. **These findings demonstrate the urgent need to force multinationals to comply with the 1.5°C target of the Paris Agreement.**

Almost all companies are limiting their commitments to Europe and/or the developed countries, and this despite the fact that a significant part of their economic activity is focused on other geographical areas. This is the case, for example, with Stellantis-PSA, Renault, ArcelorMittal and TotalEnergies, which continue to limit their 1.5°C targets to Europe, even though a significant proportion of their business is in the rest of the world. The same applies to ADP and Vinci's airport concessions, which must redefine their emissions reduction strategy based on their entire scope 3 and, above all, all their airports.

Companies frame the vigilance plan as a "box to tick" exercise.

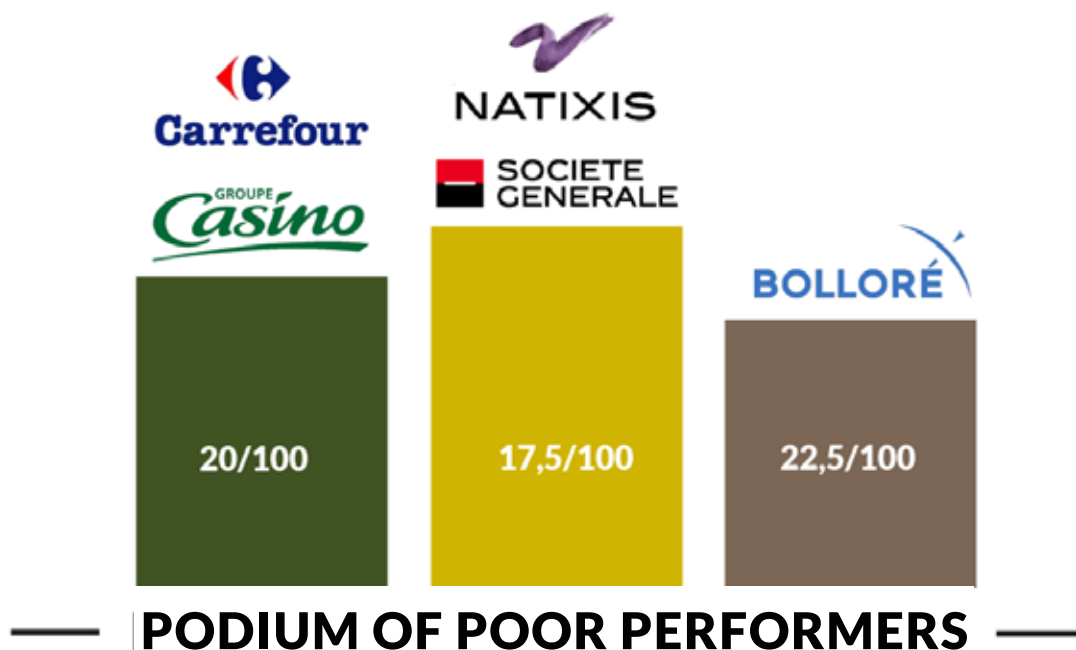
This fourth edition of the Benchmark shows that the French law on duty of vigilance is not enough at this stage to compel companies to limit global warming to 1.5°C. The absence of case law establishing a 1.5°C climate due diligence obligation (scope 1, 2 and 3), on the model of the Shell decision in the Netherlands, is certainly one factor in understanding the failings of companies, despite the litigation efforts led in particular by NAAT in this area.

While the vigilance plan is a strategic document that obliges companies to monitor their emissions

and manage their transition, too many companies use it for communication purposes and do not seem to take their vigilance commitments seriously. In fact, no company in the agro-industrial and financial sector has succeeded in halting deforestation in its own operations and those of its suppliers by the end of 2020, even though some agro-industrial and financial actors had committed to doing so (Danone, Carrefour, BNP, Société Générale). These results reinforce the widely shared observation that the fight against greenwashing is one of the main challenges of the next few years, and that it is imperative that companies' commitments and ambitions are accompanied by a certain amount of concrete evidence in line with the best available science.

More generally, it is undeniable that some companies are taking advantage of legal uncertainties to delay certain necessary changes. The project for a European directive on corporate sustainability due diligence (Corporate sustainability due diligence directive -CSDDD), whose version in the European Parliament aims to integrate climate requirements into the duty of vigilance of companies, therefore seems necessary to definitively settle certain questions of principle, first and foremost the obligation to align with a 1.5°C trajectory by taking into account direct and indirect emissions (scope 3). NAAT's experience with the French law on the duty of vigilance also shows that the development of specific sectoral standards could be welcome to clarify expected behaviour and ensure that the law does not remain an obligation in principle that is highly questionable in practice.

In any case, as long as companies fail to correctly track their emissions, recognise their individual obligations and put in place measures to limit warming to 1.5°C, they will continue to expose themselves to litigation risks.



Notre Affaire à Tous is an association that uses the law as a means of fighting for and mobilising citizens to protect the climate and all living things. It grew out of the movement for recognition of the crime of ecocide in international law and is part of the global climate justice network.

