



# KLA GreenLine

ESG Newsletter

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## Climate Financing

*(Contributed by Mr. Jitendra Agarwal, Senior Vice President & Head- Debt Syndication, Resolution & Advisory Group, IDBI Capital Markets and Securities Ltd.)*

The World Bank is leading its way in shaping the developing economies worldwide, particularly India towards the transformation into the green space by helping provide need-based development financing to achieve these objectives of the transition. The funding support which is part of its Low Carbon Energy Programmatic Development Policy Operation perfectly aligns with India's low-carbon long term development strategy. India though has already started its journey towards green energy push successfully in the last decade with its renewable energy capacity increasing significantly by 128% since 2014. As of May 2024, India's installed renewable energy capacity stood 191 GW (~43% of the energy basket). However, this is still work in progress.

The **National Green Hydrogen Mission** of the Indian Ministry of New and Renewable Energy is a giant step towards making our country **Aatmanirbhar** through continued promotion of clean energy, decarbonisation of the economy and making India the Global Hub for production, usage and export of Green Hydrogen and its derivatives. We are aware, probable issues regarding climate change is a global cause of concern going forward, particularly for the developing economies.

India, today the fifth largest economy in the world, is the fastest-growing large economy and expected to continue to expand at a rapid pace. India holds a significant position today in the world economy and its development and is leading the way for the developing economies to shape the transformation towards greener and low carbon space which will continue to significantly attract global investors. As we move forward, investment strategies globally are swiftly shifting towards greener avenues and thus maintaining strict discipline remains the key for major economies for sustaining continued growth.

According to some UN estimates, developing countries need ~\$2.4 trillion a year to transition. Happy to note that India in its green journey targets to increase installed capacity for non-fossil fuel-based power sources equivalent to 50% of the country's requirement and reduce the emissions intensity of its GDP by 45% from 2005 levels by the year 2030 and mobilize ~ \$100 billion worth of investments mainly towards creating 5 MMT of Green Hydrogen, 100 GW electrolyzers, 125 GW RE, 50 MMT of carbon abatement and 6 lakh new green jobs.

This recent financing support of \$1.5 billion after the similar amount of funding support provided last year in June 2023 will benefit substantially in shaping India's low carbon transition and Net-zero emission.

## Greenwashing: Comparative Analysis (India And The World)

In recent years, environmental sustainability has taken centre stage globally, with consumers becoming increasingly conscious of their environmental impact. This shift has pressured companies to market their products as environmentally friendly. However, not all environmental claims are genuine, leading to the rise of "greenwashing" – where companies make false or exaggerated environmental claims to mislead consumers.

The United Nations has highlighted the importance of truthful environmental marketing. The UN Environment Programme (**UNEP**) emphasizes that greenwashing undermines genuine efforts toward sustainability, erodes consumer trust and distorts market competition. The UNEP calls for stricter regulations and transparency to ensure that environmental claims are accurate and verifiable.

Globally, regulators are intensifying their efforts to combat greenwashing through stringent regulations and enforcement actions. Various regions have implemented measures to prevent deceptive environmental claims.

**European Union (EU):** The EU's Emissions Trading System (**ETS**) is one of the world's most significant initiatives to combat climate change. Under the Unfair Commercial Practices Directive, the EU targets misleading environmental claims,

ensuring that companies provide clear, truthful and substantiated information. The European Commission is also working on updating its guidelines to address greenwashing more effectively. Several companies have faced legal actions for making unfounded environmental claims. For instance, a major automotive company was fined for falsely advertising its vehicles as eco-friendly, despite failing to meet emission standards.

**United States (USA):** The Federal Trade Commission (**FTC**) enforces the Green Guides, which provide detailed guidelines on the use of environmental marketing claims. The FTC has actively pursued cases against companies making false green claims, ensuring that businesses adhere to truthful advertising practices. The FTC has brought numerous cases against companies for greenwashing. One notable case involved a large retailer that claimed its products were "biodegradable" without adequate substantiation, leading to significant penalties.

**Australia:** The Australian Competition and Consumer Commission (**ACCC**) has been vigilant in addressing greenwashing. The ACCC's actions under the Australian Consumer Law have resulted in several high-profile cases where companies were penalized for misleading environmental claims. The ACCC has successfully prosecuted several companies for greenwashing. For example, a prominent cosmetics brand was fined for advertising its products as "organic" without meeting the necessary standards.

**India:** The Central Consumer Protection Authority (CCPA) has issued the "Guidelines for the Prevention and Regulation of Greenwashing, 2024," derived from the Consumer Protection Act, 2019. These guidelines aim to protect consumers from misleading environmental claims and promote transparency among businesses. The CCPA guidelines empower regulatory authorities to take stringent action against greenwashing. Companies found in violation of these guidelines can face penalties under the Consumer Protection Act, 2019. Recent cases include an FMCG company penalized for falsely claiming that its packaging was made from 100% recycled materials without verifiable evidence.

As the global crackdown on greenwashing intensifies, businesses must adapt to stringent regulations and ensure their environmental claims are truthful and substantiated. The CCPA guidelines in India are a significant step towards curbing deceptive practices, promoting transparency, help businesses build consumer trust and contribute to genuine environmental sustainability.

## Judicial Activism

**Judicial activism** refers to the proactive role that courts play in shaping public policy and interpreting laws. Unlike judicial restraint, which emphasizes yielding to legislative decisions, judicial activism involves judges actively interpreting the Constitution and statutes to address social issues. For instance the Supreme Court of India and other

subordinate state high courts have stepped in to protect the environment, even in the absence of specific constitutional provisions. Amongst others, they address climate change, sustainability, and waste management issues. Critics argue that judicial activism can overstep boundaries, encroaching on the legislature's role, but proponents believe it ensures justice and protects citizen's rights. Overall, judicial activism empowers courts to actively shape policy, often leading to significant societal impact. In the case of *State of Himachal Pradesh v. Ganesh Wood Products* 1995, the Supreme Court held, "After all, the present generation has no right to deplete all the existing forests and leave nothing for the next and future generations." Recognizing the principle of intergenerational equity, while not allowing new wood factories to open without proper scrutiny.

Following are some recent examples which depict the relevant real time scenario of Judicial Activism in India with respect to Climate Change and other green considerations:

### **(a) Supreme Court Verdict on "the right to be free from adverse effects of climate change":**

The Supreme Court of India in the case of *M.K. Ranjitsinh and Others v. Union of India* 2024, held that the right to a healthy environment, free from the adverse effects of climate change, is a fundamental right under Article 21 of the Indian Constitution. This landmark judgment expands the scope of Article 14 (the right to equality) and Article 21 (the right to life) to include environmental well-being.

It recognizes the intrinsic link between human rights and the state of the environment, by drawing international law principles, emphasizing the global consensus between human rights linked directly with a healthy environment as recognized by treaties and declarations.

**(b) Kerala High Court's Suggestion on Waste Management:** The Kerala High Court recommended a pilot project where people who collect and hand over plastic waste are remunerated. The court observed that plastic waste is commonly littered across the state and during recent floods in Kochi, plastic was seen floating in water bodies. By incentivizing waste collection, this initiative aims to reduce plastic pollution and promote better waste management practices.

**(c) The Supreme Court of India's Approach to Himalayan Development:** In the case of State of Telangana and Others vs. Mohd. Abdul Qasim, the Court emphasized adopting an eco-centric view of the environment, where nature's rights are at the core. The Court stated that humanity must live sustainably and respect the rights of rivers, lakes, beaches, trees, mountains and air, recognizing that man is bound by nature's law. The Supreme Court has proposed constituting an expert committee to conduct a comprehensive study on the carrying capacity of the Himalayan region.

**(d) Kerala High Court Acts Against Industrial Pollution in Periyar River:** The Kerala High Court has formed an expert committee to assess industrial pollution along the Periyar River.

The committee's task is to recommend measures to mitigate pollution and protect the river's ecosystem. This initiative demonstrates the court's commitment to environmental conservation and sustainable water resource management in the region.

### DID YOU KNOW ?

- The World Wildlife Fund (**WWF**) states that it takes 2,700 litres of water to produce a single cotton t-shirt, enough for one person to drink for 900 days.
- According to a research conducted by the UN Intergovernmental Panel on Climate Change (**IPCC**), climate change could be irreversible by 2030.
- Farmers in Uttar Pradesh, India, will get paid for carbon credits they earn for the state, based on each tonne of carbon dioxide emissions they prevent, providing them a financial incentive.
- The Green Impact Exchange has filed to launch the first-ever sustainability-focused stock exchange in the U.S., which intends to launch within 4 months after receiving the Securities and Exchange Commission's (**SEC**) approval.

# THANK YOU

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