Governments risk 'trillions' in fossil fuel climate litigation

Treaties allow foreign firms to sue governments over climate actions

GLASGOW: Governments which enact climate legislation risk being sued for trillions of dollars by fossil fuel companies seeking compensation for lost revenue and stranded assets, according to data that campaigners warn threaten pledges made at COP26. Energy experts predict that more ambitious climate action from world leaders will significantly increase companies' use of a tribunal mechanism that has already awarded billions to heavy industry.

Trade agreements such as the Energy Charter Treaty and NAFTA contain investor arbitration clauses, known as investor-state dispute settlement (ISDS), that allow foreign companies to sue governments over actions they say hit profits or investments. Campaigners say that energy companies are increasingly turning to this type of arbitration to recoup investments as governments accelerate the shift away from fossil fuels.

Jean Blaylock, trade campaigner at Global Justice Now, tells AFP these corporate courts-"the global trade system's dirty little secret"-could "make a mockery" of commitments generated at the COP26 summit. "We're seeing the fossil fuel sector use investor-state dispute settlement to hold climate action to ransom," she says.

"These companies have made unfathomable profits from fuelling the climate crisis, we cannot let them demand even bigger pay-outs." AFP has obtained excerpts from a presentation given at a September trade event by consultancy firm Berkeley Research Group (BRG), which predicted that climate legislation would lead to a rise in private lawsuits.

"Increased climate policy ambition (e.g. CAT Ratings) will drive the policies behind climate-related disputes," said an excerpt. CAT refers to Climate Action Tracker, which ranks national emissions plans on their compatibility with the Paris climate deal.

The presentation suggested that the "scale of energy transition policy" could "unleash a wave of international investment and/or commercial arbitration to adjudicate claims". Responding to a request to comment, Christopher Goncalves, chair of BRG's Energy and Climate practice, told AFP that dispute resolution was "likely to remain a critical component of the energy transition process". "It is not possible to make any generic conclusion as to whether such legal disputes accelerate or impede the energy transition," he added.

History of awards

The BRG presentation said if governments legislate to limit heating to 2C by 2050, \$3.3-6.5 trillion in upstream fossil fuel assets would be at risk, as well as \$650-700 billion in coal power assets and \$900 billion in oil reserve write-offs in a 1.5C scenario. Blaylock said \$9 trillion in upstream fossil fuel and oil reserve write-offs are at risk of litigation-a little over a tenth of the global economy. Energy and mining firms have a long history in winning large settlements. In 2006, Occidental Energy sued the government of Ecuador for terminating an oil contract. It was awarded \$1.77 billion, which was later reduced to \$1bn. In 2012 Tethyan Copper sued the government of Pakistan over a gold mine, and in 2019 was awarded \$5.9 billion-roughly two percent of the country's GDP.

ISDS decisions are internationally binding and courts have in the past ordered the seizure of state assets when countries have refused to pay. Five current cases, brought by energy firms identified by Global Justice Now, are seeking \$18 billion from governments.

These include a dispute involving the cancellation of the Keystone Pipeline in North America, where the complainant, TC Energy, is seeking a reported \$15 billion in lost revenue. A TC Energy spokeswoman told AFP that it would "not comment on speculative claims".

German energy firm Uniper is one of two companies reportedly seeking more than \$1 billion from the Netherlands after it decided to phase out coal. A Uniper spokesperson did not comment on the amount in question but said government policy had cut 15 years off the lifespan of its MPP3 power plant near Rotterdam, "however understandable that change in itself may be".

'Ordinary people will pay'

British company Rockhopper is suing Italy for a reported \$324 million over a ban on offshore oil drilling close to the country's coast. Italy signed the Energy Charter Treaty (ECT) but then withdrew in 2016.

Companies can resort to ISDS for 20 years after a country leaves the ECT. A spokeswoman for Rockhopper rejected the idea that the suit was linked to climate change. "The Italian government issued licenses and encouraged significant investment in oil and gas exploration, based on this platform. Clearly it is not equitable to change the rules halfway through," she said.

Most of the governments wrapping up COP26 plan to slash their emissions to net-zero by 2050. That will cost the global economy as much as \$100 trillion, according to International Energy Agency estimates. Nations are also pledging billions to help countries adapt to climate-driven extreme weather and crop failures. Campaigners say that litigation represents a looming, hidden cost of climate action.

"The science is clear. The vast majority of fossil fuels must stay in the ground to avoid catastrophic global heating," Leah Sullivan, trade campaigner at the War on Want pressure group, told AFP. Since ISDS awards are taken from public money, "It's ordinary people who will have to pay for this," she said. —AFP

GLASGOW: Performers of the Blue Rebels prepare to conduct a funeral ceremony to symbolize the failure of the COP26 process, at Glasgow Cathedral in Glasgow yesterday during the COP26 UN Climate Change Conference. — AFP

US consumer confidence hits 10-year low amid rising inflation

WASHINGTON: Rising prices taking a bite out of American wallets caused consumer sentiment to drop to a 10-year low in November, a sign inflation is increasingly a political liability for President Joe Biden.

While the world's largest economy has bounced back strongly from the Covid-19 pandemic impact, global shortages of key components and supply chain snarls have added to a US worker shortage, raising costs and pushing prices higher. Following a government data report Wednesday showing consumer price inflation jumped to a 30-year high of 6.2 percent in October, a survey released Friday with the sharp drop in sentiment came as another blow, although economists do not expect shoppers to pull back on spending. The University of Michigan said its preliminary sentiment index dropped to 66.8 this month, a 6.8 percent decline. Survey chief economist Richard Curtin said one in four families suffered eroding living standards but lower income families were feeling the most pain. Biden on Wednesday pledged to make putting a lid on inflation was a "top priority," but Curtin attributed the dismal sentiment reading to "the growing belief among consumers that no effective policies have yet been developed to reduce the damage from surging inflation."

The US central bank has stuck to its view that most of the inflation pressures will fade once the global supply issues-including ongoing manufacturing shutdowns, especially in Asia, due to coronavirus infections-are resolved. Federal Reserve officials have preached patience about deploying its main inflation-fighting tool-raising the benchmark interest rate-but announced it will start pulling back on pandemic stimulus, lowering its monthly bond purchases.

Low interest rates have fueled high demand for homebuying, sending prices higher, while vehicle and gasoline prices also have spiked worldwide. "The description that inflation would be 'transient' has the undertone that consumers could 'grin and bear it,'" Curtin said in a statement.—AFP

BUENOS AIRES: Daniel Corvalan (center) receives a free meal at a community kitchen of the MRP (Movimiento Resistencia Popular) in La Boca neighborhood, Buenos Aires. — AFP

COVID-related lack of work leaves Argentine stomachs empty

BUENOS AIRES: Fatima Gomez, Stefani Chinguely and Carlos Alberto Alvareza head every day to a soup kitchen in their working class Buenos Aires neighborhood. When the government shut down much of the economy to stop the spread of COVID-19, they had to give up work and now find themselves impotent in the face of rampant inflation that devours their meager savings. "I've been coming to the soup kitchen for around five months. I always had work and earned good money," said Chinguel, 23. "But not anymore. Every day I send out my CV but no-one calls me."

She leaves with two meals in a box: one for her and one for her partner who works in a shop but whose salary is not enough to support them.

"Sometimes they increase my boyfriend's salary, but 1,000 pesos (\$9) is not enough to match rising prices," said Chinguel. Inflation this year is 41.8 percent, one of the highest in the world-a key factor at play in Argentina's parliamentary elections today.

Since turning 18, Chinguel has worked as a carer for the elderly and as a car saleswoman, amongst other jobs. She heads to the soup kitchen in La Boca also in the hope of finding work.

Those working in the kitchen are given a state subsidy worth half the minimum monthly wage of 32,000 pesos (\$300). "Many people want to work here but there are no vacancies," said Edith Cusipaucar, 40, a mother of six. She also receives 15,400 pesos a month in family allowance for her three youngest children.

But she still has to head out every evening to sell food on the street. "Do you think you can feed a family with 15,400 pesos a month?" she said. Soup kitchens run by social action groups with state funds have sprung up on practically every street corner in poor neighborhoods like La Boca.

'I work to survive'

Gomez works for a cleaning company and while she never lost her job during the pandemic lockdown, her employers simply do not have any offices to clean. Her salary was practically reduced by half, and for the first time in her life she needed a soup kitchen to feed her three children and granddaughter.

"I work to survive. If I don't take away food, we can't manage at the end of the month. It's not enough. Maybe we eat lunch but not dinner," said Gomez, who has lived in a boarding house for 20 years.

Alvarez, a 61-year-old peddler, says he cannot sell his wares any more. "In the street the police chase us. They don't let us work," he complained. "I come here out of necessity, out of hunger. There's no work, that's why we come looking for work." Unemployment in Argentina was 9.6 percent in the second quarter of 2021, with underemployment reaching 12.4 percent and poverty 40.6 percent.

Huge informal sector

"The pandemic accelerated processes that were already happening in the world where there is ever more informal or unrecognized work," said Ezequiel Barbenza, a professor at Salvador University. "When, from one day to the next, they slow down the circulation of people and, as a consequence the economy, a system that was prepared to include all people is left exposed." During the 2020 lockdown, the state offered assistance to informal workers. "It was designed for three million people, 12 million applied and nine million were accepted. It showed a huge universe," said Barbenza. The lack of work, alongside inflation and personal security, are the issues that most worry Argentines, according to political scientist Diego Reynoso. "It creates a lot of uncertainty for people and great discomfort. There is a society that is very worried, annoyed, unhappy, with fatal humor, which they aim at the government." —AFP

Middle East building digital trust through shared standards

As the importance of digital technology in Kuwait and across the Middle East continues to rise, so are the requirements of cyberspace. Cybersecurity Ventures expects global cybercrime costs to grow by 15% per year over the next five years, reaching USD10.5 trillion annually by 2025. In the Middle East specifically, a new report by Rackspace Technology further notes that only 48% of organizations feel confident in their understanding of the cybersecurity threat landscape for their business, and only three in five feel confident in their ability to respond to incidents today.

While these challenges are inherently a technical, standards-based issue, the protocol governing cybersecurity can sometimes be unnecessarily intertwined with political and trade matters. This politicization can unnecessarily lead to the diminishing of trust between nations.

The ongoing technological tussle between the U.S. and China is but one example of this. The resulting U.S. blacklisting of Huawei technologies alone has led to an upheaval of 5G investments worldwide, contributed to a still ongoing shortage of chipsets globally, and has even brought out Huawei's traditional competitors like Ericsson to lobby to reverse local bans.

Experts have said repeatedly that attempts at dominating technology across the board are simply not rational. Moreover, these issues can largely be avoided through open, shared security standards. Tech industry expert David Koh summed this up when noting that the developments of recent years have heightened the urgency for collaborative global responses to build a secure, trusted, and interoperable cyberspace. A rules-based order is key because it gives all states, big and small, the confidence, predictability, and stability essential for economic progress, Koh notes.

Meanwhile, experts at Strategy& have voiced a similar position, remarking that every national government in the Middle East is now striving to create a secure digital environment, but that too often these efforts are "fragmented, tactical, and reactive".

Starting at the network

While it is important that individuals and enterprises adopt practices to mitigate cybersecurity attacks, there is also the more fundamental issue of cybersecurity relating to countries' core ICT network infrastructure.

At the recently held GITEX Global summit, for example, technology stakeholders from across the Middle East discussed how to build a more resilient post-pandemic world through network standards and frameworks. Jawad Abbasi, Head of MENA at GSMA, was amongst the executives championing for open collaboration on security and standardization as part of the GSMA's participation at the Huawei Arab Innovation Day, co-located at GITEX Global.

This is a call that has been echoed in many other forums. At this year's GISEC security conference, the Organization of the Islamic Cooperation – Computer Emergency Response Team (OIC-CERT) launched its first 5G security working group to develop common, open standards that can be used in extending 5G infrastructure to more communities. Again, it has welcomed many partners in these efforts, including the expertise of companies like Huawei, who are now co-chairs of the working group.

During the 5th Arab Security Conference this fall, the Network Equipment Security Assurance Scheme (NESAS) co-developed by the GSMA and 3GPP was also spotlighted as a common global baseline for operators and national ICT security agencies in the region to work from, particularly in the security and reliability of 5G networks.

Security of 5G networks is particularly noteworthy considering the strong progress many nations in the Middle East have already made in adopting this highly advanced infrastructure. 5G networks are helping to usher in a new generation of smart education, healthcare, oil & gas, and much more. The digitization enabled by 5G is now part of nearly every countries' national development vision in the Middle East. Meanwhile, PwC estimates the total 5G economic impact in Europe, the Middle East and Africa to be USD361 billion by 2030.

While local requirements must always be considered, embracing cybersecurity standards that are broadly in line with internationally agreed frameworks will only benefit the Middle East in an increasingly connected world. Whether in 5G networks, cloud computing, or other emerging technologies, open collaboration will be key to strengthening trust for shared success.