Introduction
In the important decision-making period surrounding the upcoming UN climate negotiations (Paris, December 2015), there is a need for greater scrutiny of the lobbying undertaken by trade associations whose membership includes many FTSE100 companies. Research conducted by the Policy Studies Institute (PSI) at the University of Westminster has recently highlighted how several major EU trade associations have sought to obstruct the passage of ambitious climate policy.¹

This briefing first offers a concise background on corporate lobbying and climate change, before analysing the role that trade associations have played in seeking to influence EU climate legislation. It then highlights key reasons why investors should be concerned by this activity, and offers recommendations to enable investors to more accurately assess the risks facing portfolio companies.

Background
Corporate lobbying is a form of political influence whereby individual companies and trade associations seek to have an impact on the outcome of policy and legislative processes. Trade associations are bodies formed by groups of companies within a particular industry to enable collaboration on areas of common interest.

In 2013, fossil fuel industries spent over US $200 million on lobbying US and EU decision makers.² This level of expenditure ensures their arguments are heard by important decision makers. When carried out in a constructive way, such involvement can be useful. However, publicly available consultation responses and correspondence obtained through Freedom of Information requests show that EU trade associations have lobbied against ambitious emissions targets and sought to undercut support for renewable energy.³ This comes despite member companies often taking much more progressive stances on climate action in the public domain.

Lobbying on climate legislation takes diverse forms across different geographies, and has evolved in nature over the last 20 years. Whilst more openly oppositional tactics are still seen in the US – with use of legal tools for blocking climate policy and financial contributions to politicians and civil servants common – a more ‘softly-spoken’ approach tends to be employed in the EU. In place of aggressive attempts to kill off legislation, it is more common to see corporate lobbying performed to shape policy details. This is because in contrast to the US where only 11% of proposals become law, around 80% of legislation proposed in the EU is enacted.⁴

Obstructive lobbying on climate change legislation can undermine attempts to create the clear policy landscape which is widely recognised as necessary to underpin the transition to a low-carbon economy.⁵ As the financial risks associated with climate change become increasingly acknowledged, there is a need for greater scrutiny of the lobbying activities undertaken by trade associations on this issue, whose membership includes many FTSE100 companies included in mainstream investment portfolios. Membership of these trade bodies is often not disclosed, and acts as a form of indirect lobbying. In many cases
there appears an inconsistency between companies’ stated public policy positions on climate change, and the lobbying undertaken on their behalf by these associations. Whilst this inconsistency may not be deliberate, it should nonetheless be queried to ensure that the climate initiatives undertaken by companies and their investors are not being undercut.

Some companies have taken action when they realise that they belong to trade associations that are lobbying against effective climate policy. In 2014, Unilever renounced its membership of BusinessEurope, hinting at tensions with the lobby group’s stance on environmental policies.6 In 2014, Google left the American Legislative Exchange Council (ALEC), citing ALEC’s opposition to action on climate change. ALEC is a US-based lobbying group which has been linked to climate denial.7 In 2015, BP confirmed that it would not be renewing its membership of ALEC. At the time of writing, Shell has just announced that it will not renew its membership with ALEC when it expires in early 2016, saying “ALEC advocates for specific economic growth initiatives, but its stance on climate change is clearly inconsistent with our own.”8

PSI has highlighted the leverage that these associations have historically wielded on environmental legislation, and their report forms the basis of this briefing: we support its position that trade associations that are supporting EU climate policy in a way that is clearly aligned with the long-term interests of those companies, the economy and the climate.9

The influence of corporate lobbying

Research conducted by PSI found that several trade associationslobbed to weaken two important pieces of legislation: the 2030 framework for climate and energy policies, and the consultation on structural options to strengthen the EU Emissions Trading System (ETS). These trade associations used a variety of tools to exert significant influence over EU climate policy, including pushing new policy initiatives, providing technical information and working with policymakers to swing votes and influence decisions. As shown in the table below, these associations are well funded and tend to enjoy significant access to EU policymakers.

<table>
<thead>
<tr>
<th>Trade association</th>
<th>Number of lobbyists</th>
<th>Lobbyists with EU parliament access</th>
<th>Total lobbying expenditure in year</th>
<th>Examples of member companies</th>
</tr>
</thead>
<tbody>
<tr>
<td>European Chemical Industry Council (CEFIC)</td>
<td>74</td>
<td>24</td>
<td>€10,100,000</td>
<td>BASF, Bayer, BP, Procter and Gamble, Rio Tinto, Shell Chemicals, Unilever</td>
</tr>
<tr>
<td>Business-Europe</td>
<td>29</td>
<td>23</td>
<td>€4,000,000 - €4,250,000</td>
<td>Bayer, BP, Daimler, EDF, ExxonMobil, Procter and Gamble, Shell, Statoil, Total, Volkswagen</td>
</tr>
<tr>
<td>International Association of Oil and Gas Producers (OGP)</td>
<td>10</td>
<td>8</td>
<td>€1,820,000</td>
<td>BP, BHV Billiton, Chevron Corporation, ExxonMobil, Shell International Exploration &amp; Production BV, Statoil, Total, Tullow Oil</td>
</tr>
<tr>
<td>European Association of Metals (Eurometaux)</td>
<td>14</td>
<td>7</td>
<td>€1,500,000 - €1,750,000</td>
<td>Anglo American, BHP Billiton, Rio Tinto Alcan</td>
</tr>
<tr>
<td>FuelsEurope (formerly EUROPIA)</td>
<td>15</td>
<td>7</td>
<td>€1,250,000 - €1,499,999</td>
<td>BP, Eni S.p.A., Koch Industries, ExxonMobil, Shell, Statoil, Total, Volkswagen</td>
</tr>
<tr>
<td>Eurelectric</td>
<td>17</td>
<td>11</td>
<td>€400,000 - €499,999</td>
<td>Accenture, Siemens AG, Tesla (Europe) Ltd</td>
</tr>
<tr>
<td>Confederation of European Paper Industries (CEPI)</td>
<td>7</td>
<td>4</td>
<td>€400,000 - €499,999</td>
<td>Confederation of Paper Industries (CPI), Norsk industri</td>
</tr>
<tr>
<td>The European Steel Association (EUROFER)</td>
<td>8</td>
<td>2</td>
<td>€600,000 - €699,999</td>
<td>ArcelorMittal, Tata Group</td>
</tr>
</tbody>
</table>

Trade associations have utilised a range of arguments to restrict the ambition of climate policies in the EU. Whilst organisations have taken different positions, certain arguments have gained particular prevalence.

Trade associations have utilised a range of arguments to restrict the ambition of climate policies in the EU. Whilst organisations have taken different positions, certain arguments have gained particular prevalence. This section will analyse the arguments used, assessing why they seem unsupportive of ambitious climate action.

“Trade associations have utilised a range of arguments to restrict the ambition of climate policies in the EU. Whilst organisations have taken different positions, certain arguments have gained particular prevalence.”

“The EU should not take unilateral action on climate change”

Many trade associations – including BusinessEurope, CEFIC, CEPI, EUROFER, Eurometaux, FuelsEurope and OGP – have argued broadly against the EU taking unilateral action on climate change, and that emission reduction targets should only be increased in the case of similar commitments from the EU’s major trading partners.

This can be considered inconsistent with the need for climate action for a number of reasons. The demand for “equal commitments from other global competitors”10 is something politically difficult to achieve, given the probability that China would agree to legally binding targets at the same level of commitment as the EU.11 As such, this lobbying position can be seen as encouraging inaction at a time when it is imperative for individual nations and blocs to increase efforts to reduce emissions and spur investment in low-carbon technology.

This position also undermines the EU’s ability to set an ambitious precedent on climate legislation, having previously been considered the ‘international agenda setter’ for climate change mitigation at several critical junctures.12 This will affect the economic future of the EU, a region which could benefit from showing leadership with ambitious energy policies.

Evidence suggests that European focus on increasing the proportion of energy from clean sources has already helped reduce the costs of renewable-energy technologies. Since 2008 when European leaders first agreed legislation in this area the cost of solar has fallen by 80%, and Deutsche Bank forecasts that by the end of 2017 solar power will be at grid parity in up to 80 per cent of the global market.13 Offshore wind costs have fallen by a third, and it is predicted that wind farms will be operationally competitive without subsidies in the next decade.14 As other major economies, such as China and the US, advance in their transition towards a low-carbon market, the EU will have to show ambition to retain a competitive edge with these technologies.

The benefits that such a framework can reap were demonstrated recently with Aviva’s announcement that it will invest £500 million annually for the next 5 years in low-carbon infrastructure. It has specifically targeted Europe for these investments as it considers the region to be the most established market supported by a clear and relatively stable climate change and energy policy framework and therefore the most suitable for long-term investors. Aviva claims that the policy clarity makes it easier for them to commit capital.15 Europe needs to retain its lead in order to continue to attract leading businesses around the world to invest capital in low-carbon assets.

In addition, this line of argument taken by trade associations is often inconsistent with the stated policy position of member companies. For example, in Rio Tinto’s “Public Climate Change Position”, the company recognises that until a coordinated global approach to reducing emissions is in place, it will be necessary for individual jurisdictions to take actions to mitigate against the risks of climate change.16

“Overall, the common position of the European trade associations is that the implementation of any higher climate and energy policy framework should be delayed.”

“A deficiency in government support for renewable energy and energy efficiency initiatives threatens the conditions which nurture investor certainty in these areas, and could lead to uneven growth in renewable energy generation.”

A number of trade associations – including OGP, BusinessEurope, Eurelectric, EUROFER, Eurometaux and CEFIC – have pushed for the removal or phasing out of renewable energy and energy efficiency targets, as well as individual national support schemes for renewables.

This position poses problems since it is recognised that a deficiency in government support for renewable energy and energy efficiency initiatives threatens the conditions which nurture investor certainty in these areas, and could lead to uneven growth in renewable energy generation.17 This could also limit the speed of Europe’s transition to an economy based on renewable energy and thwart the creation of hundreds of thousands of ‘green’ jobs.18 This lobbying position appears particularly detrimental to companies like Unilever and IKEA Group who are committed to low-carbon ventures, and would benefit from clear government indications in these areas.

“EU Emission Trading System reforms are undesirable”

The EU ETS is a regulatory market with an objective to promote reductions of greenhouse
emissions in a cost-effective manner. Due to a number of factors, by 2027 the price of carbon had fallen to zero, and has since remained insufficient to incentivize substantive emissions reductions. A major problem that needs to be remedied is the significant oversupply of emission allowances in the market. Despite this, PSI's research indicates that BusinessEurope, CEFIC, CEPI, EUROFER, Eurometaux and OGP all took positions broadly in keeping with the view that backloading and other structural reforms were undesirable. Backloading – the act of freezing the auctioning of CO2 permits – would perform a rebalancing measure, allowing the large incoming supply and existing oversupply of credits to be absorbed. If implemented effectually, backloading could help secure a workable carbon price and revise the incentive effect of the ETS.

The lobbying against these reforms is inconsistent with the recent support that many companies – including Total and BP – have given to carbon pricing. A number of companies have acted to distance themselves from this obstructive behaviour. Shell and Unilever amongst others coordinated a letter to members of the European Parliament Council and Climate Change Committee to offer support for backloading.22

“Economic growth vs. Climate”

In responses to EU consultations, trade associations including BusinessEurope, OGP, CEFIC, Eurometaux, FuelsEurope and Eurelectric used arguments that promoted the view that there is a trade-off between economic competitiveness and climate action. For example, OGP “urges EU policymakers to carefully weigh up the impact of new policies in terms of estimated ‘green job’ creation vs. the loss of industrial competitiveness and existing jobs in other sectors”.23 This feared trade-off between jobs and effective climate policy has received rigorous scholarly attention, which has indicated the impacts will be complex. Whilst in the short term, jobs will shift from high-carbon to low-carbon activities, the net effect could be job creation, slowing the rate of carbon technologies to tend to be more labour-intensive.24 An initial broad structural adjustment expected in the long term is likely to trigger an episode of rapid transition associated with innovation, job creation and growth. Therefore it is not proven that there is a genuine contradiction between climate change and economic growth.

In the long run, investors will find no economic gains from delayed climate action. As the 2015 Mercer Report indicates, “A 2°C scenario does not have negative return implications for long-term diversified investors at a total portfolio level over the period modelled (to 2050), and is expected to better protect long-term returns beyond this timeframe.”25 These findings run counter to a common view that a rapid transition to a low-carbon economy would come at a significant financial cost to investors, instead recognising that the lowest emissions scenario does not result in a drag on investment returns.

As Lord Stern pointed out in his landmark report, there will be a huge economic cost to delaying effective climate policy. His research suggested the present cost to be 1% of global GDP, whilst unabated climate change could cost the world 5% of GDP each year, and if the more dramatic predictions occur costs could rise to 20% of GDP. Shifting to a low-carbon path could benefit the global economy by $2.5 trillion, and by 2050 the low-carbon technology market could be worth $500 billion.26 A recent report by the Economist Intelligence Unit valued the losses to assets as a result of climate change at $4.2 trillion and claims that “provided warming from climate change can be kept under 2°C, the average projected losses can be cut in half, while the extreme losses can be reduced by more than three-quarters.”

The companies that will find this transition most challenging are traditional carbon intensive companies with large funds available for lobbying, in contrast to the smaller companies who stand to benefit from the move to a low-carbon economy. Investors need to be aware of this imbalance as they scrutinise the lobbying activities of portfolio companies

Risks to investors

Obstructive and incoherent lobbying by trade associations and their members on climate policy carries a number of risks for investors. It is therefore important that political activities are monitored to ensure consistency with companies’ and investors’ interests in relation to climate risk.

Reputational Risk

Reputational risk may arise if a funded third party organisation acts contrary to a company’s own code of ethics or corporate responsibility policies. Membership of ALEC became contentious when in 2012 ALEC’s endorsement of certain US legislation was revealed. Following widespread negative media coverage and public reaction, companies including McDonalds, PepsiCo, and Kraft Foods left the trade association.

Membership of organisations that have lobbied obstructively on climate legislation could also undermine a company’s social licence to operate and authority on sustainability issues. When companies make public commitments to climate action but place trade associations that take contradictory positions, companies face a loss of credibility. This can lead to a loss of confidence as it becomes difficult to discern which companies are genuinely supporting climate policy and which ones are blocking these efforts behind the scenes. As businesses come under increasing pressure to take climate risk seriously, uncertainty surrounding a company’s environmental credentials will attract negative attention from a wide range of audiences including the media, global investor networks and civil society.

An example of a company that has come under public and investor scrutiny regarding the sincerity of its stated commitments to climate action is Shell. Despite recommending that shareholders vote in favour of shareholder resolutions on climate risk, being a leading advocate of a call for a global carbon price and making a recent decision to leave ALEC, Shell remains a member of various lobbying groups that have fought to weaken climate policies – including BusinessEurope, FuelsEurope, CEFIC (as a member of Shell Chemicals) and OGP (as a member of Shell International Exploration & Production BV). Concerns have raised media attention, and an international group of investors recently co-signed a letter calling on Shell to distance itself from obstructive lobbying groups. These reputational risks can be passed on to investors, as seen in a recent open letter to The Wellcome Trust, which observed that they are indirectly funding Shell’s lobbying activities.27

Business Risks

The business risks associated with obstructive lobbying on climate policy will be apparent in both the short and long term.

In the short run, companies that have committed to progressive climate initiatives will be adversely affected by the lack of a strong support framework. Companies engaged in low-carbon research and development, and those who have pledged to transition to use of 100% renewable energy will benefit from clear government signals that shift the risk-reward balance in favour of less carbon-intensive investment.28 Under such conditions these ventures would be commercially viable. In 2015, BHP Billiton stated the need for a ‘road map’ to inspire confidence in further investment in low-carbon technologies.29 Companies and investors need to consider whether their trade associations are undermining the value of climate initiatives by lobbying against this government support.

In the long term, almost all businesses will face risks in the absence of a clear policy framework addressing the need to mitigate the worst consequences of climate change, and adapt to the challenges it presents. Of the largest 500 businesses responding to CDP in 2013, 83% stated that they faced physical impacts on their operations from climate change. Whilst the material risks might not seem immediate, the need for action is. The Intergovernmental Panel on Climate Change (IPCC) indicates that the window for avoiding the worst consequences of climate change, and adapt to the challenges it presents. Of the largest 500 businesses responding to CDP in 2013, 83% stated that they faced physical impacts on their operations from climate change.22 Without urgent action, businesses and wider society will face a ‘carbon lock-in’ driven by path-dependent increasing returns to scale.28

Likewise, the adaptation required to ensure the future viability of fundamental public infrastructures will need to be more anticipatory and less reactive than it has previously been. A recent policy briefing analysing the National Adaptation Programme for England found that in certain cases, action is needed now to cope with the scale, speed and potential irreversibility of climate change impacts.29 This infrastructure – roads, schools, flood defences – underpins the operations of all companies, and thus is in the interests of all far-sighted investors.
Other means. Many of the mechanisms that are commonly used to influence policy are companies' climate positions with those of associations supported through membership or their portfolio companies, there is a need for greater transparency on the alignment of for investors to effectively scrutinise the risks that corporate lobbying may pose to portfolio companies. Whilst in the short run, carbon intensive industries may benefit from weakened regulations on emissions management, more vulnerable sectors will be negatively affected by the consequences to which this could lead. British food and drinks retailer ASDA recently reported that 95% of its fresh produce would be affected throughout its supply chain, stating that “whether food sourcing, processing or transportation, there is a risk to all aspects of our operations – just how much this could be is well into the millions of pounds.40

Best practices on corporate lobbying
A Caring for Climate Report by the United Nations Global Compact, the secretariat of the United Nations Framework Convention on Climate Change and the United Nations Environment Programme – in cooperation with the World Resources Institute, CDP, WWF, Ceres and The Climate Group – sets out a guide for responsible corporate engagement on climate policy.41 The five core elements are outlined below:

Five core elements of responsible corporate engagement in climate policy

1. Legitimacy: Refers to a company’s approach, intentions and understanding of climate policy. Defining elements include that companies can explain their intentions and positions, and avoid participating in policy interventions that increase the risks and impacts of climate change.

2. Opportunity: Refers to how a company understands the benefits of climate policy and available channels of influence. This can be demonstrated by recognising risk mitigation, playing a positive and proactive role and articulating policy positions with broadly shared benefits.

3. Consistency: Refers to public and private interactions with policymakers, and with coherent strategies to ensure a company’s influences reflect climate science. This can be done by aligning public and private messages, and aligning words with action – ensuring lobbying is consistent with sustainability commitments and strategies.

4. Accountability: Refers to a company’s willingness and ability to act on its responsibilities to stakeholders. This can be done by pursuing the long-term interests of the company’s core business, and conducting due diligence with a broader perspective.

5. Transparency: Defining factors include making companies’ views on climate policy public, making intent clear and open, and recognising and being clear about the limits of transparency.

Recommendations for investors
For investors to effectively scrutinise the risks that corporate lobbying may pose to their portfolio companies, there is a need for greater transparency on the alignment of companies’ climate position with those of associations supported through membership or other means. Many of the mechanisms that are commonly used to influence policy are not transparent and are difficult to monitor.42 Greater disclosure will enable analysis of whether the lobbying being undertaken on behalf of companies is in the best interests of the company and its investors. In cases where there appears to be a misalignment, companies should review membership and take action to publicly distance themselves from policy positions on which they take disparate views.

Greater disclosure will enable analysis of whether the lobbying being undertaken on behalf of companies is in the best interests of the company and its investors.

Investors can:
- Engage with companies in their portfolio on these issues, including private meetings, companies’ earning calls, at AGMs, and through both public and private collaborative shareholder initiatives. Key questions to focus on could include:
  - What trade associations are you members of, and what role does your company play in influencing the climate change policy position taken by these groups?
  - Is your company broadly supportive of policy positions that these trade associations have taken?
  - Is this information transparently and publicly reported to shareholders?
  - If you feel there is a misalignment in this area, is the company willing to take action to distance itself from contradictory lobbying positions?
- For asset owners, encourage asset managers to engage with companies on disclosures around corporate lobbying and support shareholder initiatives requesting that companies distance themselves from obstructive trade association activity.
- Express public support by being a named signatory to investor letters on the topic such as initiatives put forward by UN PRI, the Institutional Investors Group on Climate Change (IIGCC) and ShareAction.

Conclusion
Across the EU and more globally, businesses use trade associations to lobby on climate policy more than any other approach. This largely undisclosed lobbying can put companies and investors at risk. Investors therefore need to take a strong stance on pushing for transparency and action.

Acknowledgements: ShareAction would like to acknowledge the assistance of Ben Fagan-Watson from the Policy Studies Institute for his help in producing this investor briefing.

Contact
Anne-Marie Williams
Senior Analyst and Engagement Officer
ShareAction
anne-marie.williams@shareaction.org
020 7403 7800

Juliet Phillips
Campaigns Officer
ShareAction
juliet.phillips@shareaction.org
020 7403 7806

About ShareAction
ShareAction (Fairshare Educational Foundation) is a registered charity that promotes responsible investment practices by pension providers and fund managers. ShareAction believes that responsible investment helps to safeguard investments as well as securing environmental and social benefits.

Disclaimer
ShareAction is not an investment adviser and does not make any representation regarding the advisability of investing in any particular company or investment fund or vehicle. A decision to invest in any such investment fund or entity should not be made in reliance on any of the statements set forth in the investor briefing. While the information presented is believed to be reliable, ShareAction shall not be liable for any claims or losses of any nature in connection with information contained in such document, including but not limited to, lost profits or punitive or consequential damages.
Lobbying by Trade Associations on EU Climate Policy


110x120


