

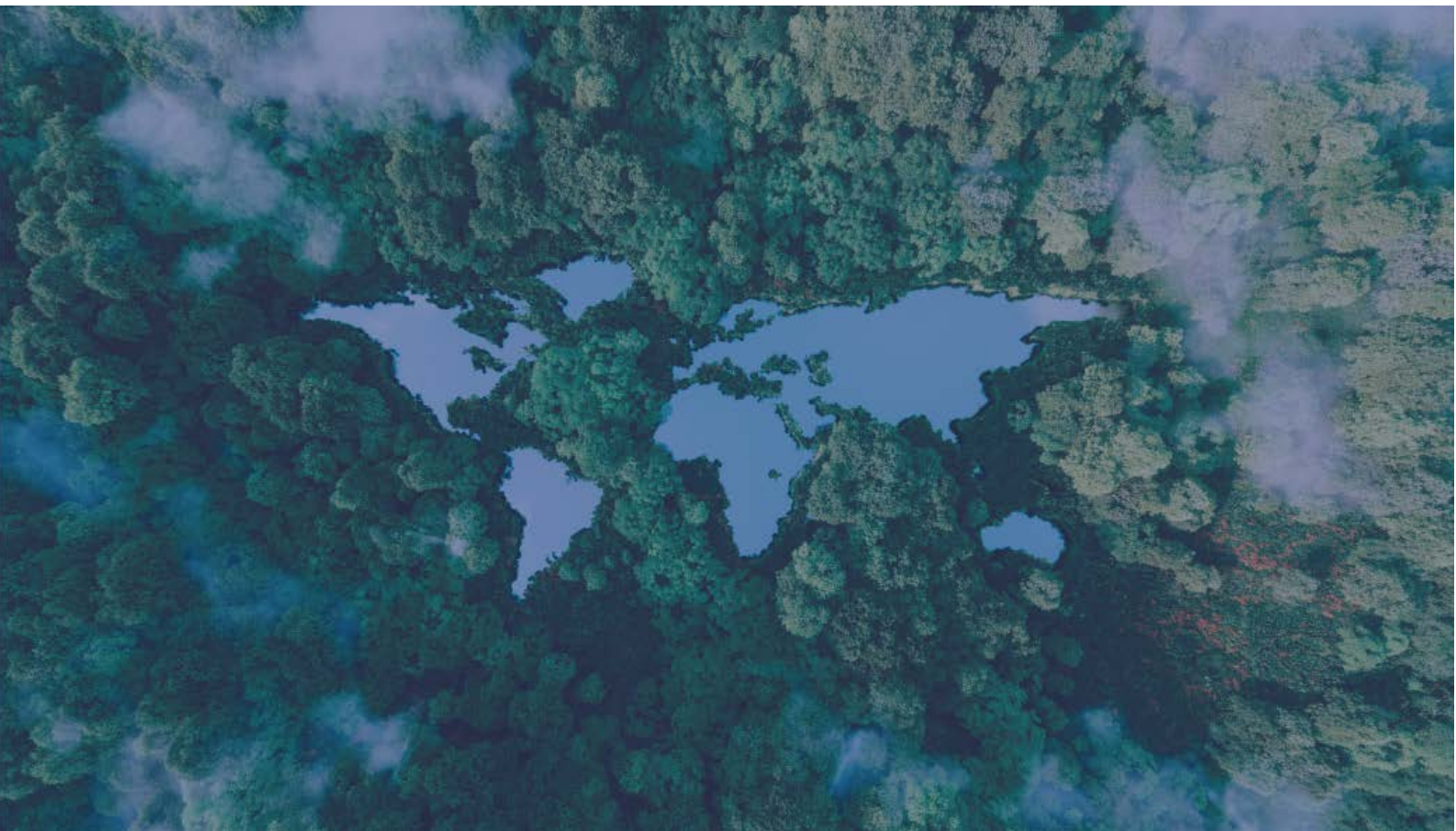


**British Institute of
International and
Comparative Law**

Global Toolbox on Corporate Climate Litigation: China National Conference

1 June 2024 | Event Report

Dr Gu Jin





**British Institute of
International and
Comparative Law**

Mission Statement

The British Institute of International and Comparative Law exists to advance the understanding of international and comparative law, and to promote the rule of law in international affairs.

Vision

To be a leading research institute of international and comparative law and to promote its practical application by the dissemination of research through publications, conferences and discussion.

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Introduction

The Chinese National Conference took place on 1 June 2024 at the Research Institute of Environmental Law (RIEL), Wuhan University. Prof Qin Tianbao introduced the event and gave opening remarks. He introduced the speakers and the context of the event, and also gave an overview of the BIICL project. The event as a whole had a primary focus on legal practice and detailed cases relating to climate change litigation, particularly corporate climate litigation.

There event was attended by 30 people, with another 50 joining online, from universities, law firms, companies and the judiciary.

Chair

Prof. Qin Tianbao, Dean of the Faculty of Law, Director of Research Institute of Environmental Law (RIEL), Wuhan University;

Introductory Remarks on Chinese National Conference

Programme

Dr. Gu Jin, Lecturer, School of Literature and Law, Zhejiang A & F University
Practice and Future Development of Climate Change Litigation in China: Causes of Action, Procedure and Remedies

Assoc. Prof. Zhou Chen, Associate Professor, Deputy Director of the Environment and Energy Law Research Center, Law School, Xiamen University

The Theory and Comparative view of Corporate Climate Change Litigation

Judge Sun Qian, Senior Judge of the Third Level of the Environmental Resources Tribunal of the Supreme People's Court

Supporting "Dual Carbon Goal" Through Hearing Climate Change Litigation in Accordance with Law

Lawyer Wang Haijun, Senior Partner/ Deputy Director, Beijing DHH Law Firm
Legal Practice and Problems in Climate Change Litigation

Director Xiao Lin, Deputy Director of the Legal and Compliance Department, National Carbon Market Information Network

Typological Analysis on Carbon-related Cases and Advice

Comment and Discussion followed the presentations.

Session 1:

Practice and Future Development of Climate Change Litigation in China: Causes of Action, Procedure and Remedies

Dr. Gu Jin

China Institute of Boundary and Ocean Studies of Wuhan University (CIBOS)

Dr Gu gave an overview of the research conducted by the Chinese National Rapporteur and his team for the BIICL project “Global Perspectives on Corporate Climate Legal Tactics”. The research is published in the [China National Report](#) which Dr Gu discussed in detail, explaining the timeline of the process, the framework of the report and the typical cases analysed.

Session 2

The Theory and Comparative view of Corporate Climate Change Litigation

Assoc. Prof. Zhou Chen

Deputy Director of the Environment and Energy Law Research Center, Law School, Xiamen University

Prof Zhou provided a comparative view of corporate litigation and introduced legal cases in Germany and the Netherlands. She provided a brief introduction to the different laws and regulations that could be causes of actions in China. In the context of procedure, she discussed the issue of standing as relatively easy under current environmental law in China. However, causation is notable obstacle in corporate climate litigation. Prof Zhou introduced the theory of 2 phases in causation. She also discussed judicial activism and mentioned the constitutional case of Germany, which illustrates the application of intertemporal law. To advance the process in establishing a causal link, scientific support in the form of best practice and an IPCC report is needed.

Session 3

Supporting “Dual Carbon Goal” Through Hearing Climate Change Litigation in Accordance with Law

Judge Sun Qian

Senior Judge of the Third Level of the Environmental Resources Tribunal of the Supreme People's Court

Judge Sun introduced climate change litigation in the context of policy and the progress of a “Dual Carbon Goal”. Her presentation focused on cases related to energy. Two typical bankruptcy cases were introduced, one in Qinghai and the other in Jiangyin. As for “new” energy, she noted two types of typical cases. The first is related to liquefied natural gas (LNG), where disputes could revolve around market risks and price adjustment. The other type is cases related to solar power stations, where the major risk involves disputes in the newly emerging field of engineering procurement construction (EPC). In practice, the impact of climate change is considered when hearing such cases.

She also discussed the global context of climate change litigation, based on the 2023 UNEP report on global climate change litigation cases. International practice in climate change litigation shows 4 main features: 1) development of laws relating to human rights, environment protection and climate change; 2) standards of jurisdiction has been low; 3) climate change litigation procedure has become a tool in the fight for rights and interests in many countries; and 4) there has been a growth in the impact on trade and commercial rules, such as disputes in WTO.

Session 4

Legal Practice and Problems in Climate Change Litigation

Lawyer Wang Haijun

Senior Partner/ Deputy Director, Beijing DHH Law Firm

Lawyer Wang Haijun shared his opinions and experiences of environmental cases, particularly two typical cases relating to corporate climate litigation: a contractual dispute on compliance of CCER market; a case of falsified carbon emission data, in which an NGO brought lawsuit against a third party institution for evaluation. Lastly, he provided insights on a carbon emission data fraud case in which he acted as the lawyer for an NGO. The case has not entered the phase of trial, but there has been an exchange of evidence. He mentioned two major obstacles. One is that CO₂ is not considered a “pollutant” in Chinese environmental law. In terms of a solution, he contends that CO₂ still falls within the category of controlled indicators in Chinese

environmental policy. Another obstacle is causation, particularly with regard to linking data fraud to climate change harms: which right is infringed? His opinion is that such fraud infringes the order of carbon market trade and the whole carbon trade system. As a final point, he discussed, within the context of revised Chinese criminal law, whether civil liability is still necessary if serious fraud could be a crime, and administrative liability is possible. In his opinion, civil liability is still of great importance, since it could bring more detailed coverage and act as a tool on cost of fraud.

Session 5

Typological Analysis on Carbon-related Cases and Advice

Director Xiao Lin

Deputy Director of the Legal and Compliance Department, National Carbon Market Information Network

Director Xiao Lin shared her experience of legal practice within the context of carbon trading. She described the basic structure of the National Carbon Market, processes, current condition and how it operates. It has been found that the price of carbon increases more before a period of compliance and that carbon prices are steadily increasing in China. As a result, a classification mode of court has been introduced, which contains 5 types of cases related to carbon trading. Among those 5 case types, 4 have already occurred in practice: 1) carbon trade disputes; 2) CO₂ emission report disputes; 3) enforcement of claims; and 4) emission quota administration penalty. Director Xiao then illustrated all four types with examples of actual cases.

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