8 ESSENTIAL FEATURES OF

A NATIONAL CLIMATE LAW

The successful transition to a net zero emissions society requires a binding legal framework supported by a strong suite of governance features.

1. LEGALLY-BINDING FRAMEWORK

Legislation speaks louder than a thousand political promises. Legal frameworks guide and coordinate stable decision-making over the short, medium and long-term.

STRONG INSTITUTIONS

Institutional arrangements for climate governance are essential: for example, **provisions for coordination**, the **extent of ministerial discretion**, or **conditions for judicial review**.

CLEAR OBJECTIVES

For long-term and interim targets. Framework laws are strongest when they set **clear goals** and **provide for the creation of detailed policy instruments** to achieve them.

ROBUST ACCOUNTABILITY

Legal frameworks should incorporate multilayered mechanisms of accountability, including third party, parliamentary and civil scrutiny. Real access to justice is essential for real accountability.

COLOMBIA'S CLIMATE ACTION LAW (LEY CLIMATICA, 2021)

In 2021, Colombia enacted its Climate Action Law, which included both the goal of carbon neutrality by 2050 and its 2030 NDC target. It is an example of strong national climate governance in a developing country.

Colombia's climate law sets accountability mechanisms, defines pillars to enable the transition, and sets a range of economy-wide, sectoral mitigation and adaptation targets, alongside other measures.

To ensure the goals of the law are achieved, a 'Low Carbon Development Implementation and Follow-up Plan' is required. The plan involves regions and other levels of governance, encouraging them to create and deliver implementation plans, too. Every two years from 2023, an 'Intersectoral Commission on Climate Change' (CICC) reviews progress. It monitors compliance and can recommend adjustments to the implementation plan and, if necessary, the adoption of additional measures.

The law establishes carbon budgets for 2020-2030 by 2023 as well as a Study Commission to promote and develop carbon markets. The target has separate emission reduction and removal targets, an indication of high integrity.

2. NET ZERO TARGET & INTERIM MILESTONES

End and interim targets provide policymakers and the private sector with the certainty they need, and lays down the markers for future accountability and progress reporting.

QUANTITATIVE MILESTONES

Economy-wide quantitative targets, set several years in advance, help to define a clear, yet flexible, path to the long-term objective — for both long-term (e.g. 2050) and interim milestones (e.g. 2030).

BACKCASTING BUDGETS

Provides an orderly path to net zero by the intended date and creates planning security. To be successful, long-term mitigation targets must be divided into achievable milestones.

UPDATABLE TARGETS

Several existing framework laws include provisions for the establishment of future targets (Denmark, Germany and Sweden) and/or a review process for upgrading them accordingly.

NEW ZEALAND'S 'ZERO CARBON ACT' (2019)

The Act sets an overall target to reduce all greenhouse gases except for biogenic methane to net zero by 2050. Its targets for biogenic methane emissions (from agriculture and waste) are 10% by 2030 and 24%-47% reduction by 2050.

New Zealand takes a carbon budget approach to setting interim targets. Its independent expert body, the **Climate Change Commission (CCC)**, advised the government to implement five-year emission budgets from 2022 to 2035 in order to put New Zealand on track to meet its 2050 targets. In 2022, the Government published the first of three emission budgets to reduce emissions 35% by 2035 (2.3% lower than what the CCC recommended). The law outlines obligations to monitor the successful meeting of budgets.

The Zero Carbon Act is clear that emission budgets can be revised in certain circumstances, for example, when updated science comes to light (e.g. via Intergovernmental Panel on Climate Change assessment reports) or New Zealand's relevant obligations under international agreements.

3. PROGRESS MONITORING & UPDATE CYCLE

Regular reporting of progress towards interim milestones allows implementation measures to be assessed and plans to be updated accordingly.

ANNUAL REPORTING

Regular reporting obligations should assess implementation against near-term targets and the effectiveness, or lack thereof, of current policy settings.

TRANSPARENCY & ALIGNMENT

Reporting should be accessible to the public. It should also inform domestic budgets and NDC updates, as well as international obligations such as the UNFCCC's Global Stocktake and emission inventory submissions.

A RATCHET MECHANISM

A dedicated update mechanism for reviewing and setting future interim targets, firmly in line with the Paris Agreement cycle for nationally determined contributions.

DENMARK'S CLIMATE ACT (2020)

The Danish Climate Act sets a target to reach climate neutrality by 2050 and to reduce Denmark's emissions by 70% by 2030 compared with 1990. The short Act sets out a comprehensive annual reporting cycle — ensuring transparency and independent progress monitoring.

The law sets out an annual cycle to ensure sufficient government action towards meeting the targets:

- **February:** The annual status report from Denmark's independent advisory body, the Danish Council on Climate Change determines if Denmark's current policies are in line with its national targets and also EU targets.
- **April:** The administration publishes its annual official Climate Projection (KF) which also presents "the reduction deficit" in regard to the near-term 2030 target.
- **September (the same month the government usually presents its proposed budget for the next year):** The Minister of Climate must present the government's "climate programme". The programme must contain the government's own assessment of whether the current policies will fulfil Denmark's targets.
- **December**: After the state budget is approved, the Minister for Climate, Energy and Utilities must present an annual report to the Danish Parliament on the effects of overall climate policy and can be questioned by Parliament on failure to achieve the goals in the law.

Denmark's independent advisory body, the **Danish Council on Climate Change**, assists the Minister — for example, assessing whether the government's climate efforts make it probable that the climate targets will be reached.

4. STRATEGIC PLANNING

Provisions should be made for adopting realistic long-term strategies that include sector-specific policy responses and just transition measures to support communities.

LONG-TERM STRATEGY

A detailed strategy should **guide how the end goal will be achieved**; how it aligns with, and relates to, short-term policies and targets; and how it will allow for sectoral flexibility.

POLICY INTEGRATION

Climate laws should mandate that governments develop **(i) long-term strategies** (e.g. to 2050) and **(ii) short- and medium-term plans** with specific policies and measures (e.g. to 2030, 2035).

SECTORAL PLANS

Climate laws should **ensure a multi-sectoral response**, but should also contain flexibility so policy design and implementation can be tailored to different economic sectors.

FINLAND'S CLIMATE ACT (2022)

Finland aims to be the first developed country to reach net zero, in 2035, and net negative – absorbing more CO_2 than it emits – by 2040. But what really sets its law apart is the planning system it lays out.

The Climate Act in Finland establishes an explicit "climate planning system", which includes a long term plan, to reach the 2040 goal, as well as plans for different sectors including land use sector and adaptation.

The plans are updated in different cycles, but also, if the science-based monitoring shows poor progress, additional measures to reach the targets are introduced. The Annual Climate Report is the main progress-tracking tool and enables the parliament to have a climate conversation which advises the government and the different climate plans for different sectors.

Responsibility for preparing the climate plans is spread over three ministries; Environment, Employment and the Economy, and Agriculture and Forestry. Finland's Ministry of the Environment is responsible for the medium-term climate plan, which spells out more specific individual policies for the ESR sector.

The Climate Act in Finland also established the Sámi Climate Council, incorporating independent, expert, indigenous knowledge to climate decision-making.

5. PUBLIC PARTICIPATION

People cannot be left out of decision making. Public participation is an integral component of access to justice and to achieving an equitable and balanced transition.

ACCESS TO JUSTICE

MEANINGFUL PARTICIPATION

CREDIBILITY AND LONGEVITY

National authorities should be answerable to their citizens. Baking **access to justice, judicial review** and the **right to litigate** into climate frameworks means real accountability and enforcement.

Public participation **at critical stages of policy development**. This helps to secure buy-in and inject democracy into the just transition. Spain's law even specified consulting a **climate assembly**.

Forging cross-party and stakeholder support in the development and process of change **strengthens the allegiance to, and credibility of, climate action**. Securing civic buy-in also helps policies survive political challenges.

PORTUGAL'S CLIMATE FRAMEWORK LAW (2021)

Portugal's climate framework law outlines a climate neutrality target by 2050, and establishes 17 goals and 11 principles for climate policy. Portugal's law has extensive instruments for public participation.

The law establishes as a principle the participation of citizens and NGOs in the planning, decision-making, and evaluation of public climate policies. The law provides citizens with the right to participate in the process of developing climate policy instruments and in the process of reviewing them. In addition to public consultations in the traditional form of written contributions, clarification and debate sessions will be organised between citizens and decision-makers, either at the initiative of the administration or at the request of, at least, 30 citizens.

The law stipulates that the government shall create and make available a public and accessible web tool to enable citizens and civil society to participate in climate action and monitor national climate data.

6. INTERNAL COORDINATION

Mechanisms for coordination of policy development and implementation horizontally between agencies and vertically across national, regional and local levels.

INSTITUTIONAL ARRANGEMENTS

Setting out the internal arrangements for climate governance ensures that implementation of the strategy towards climate neutrality is happening in a coordinated and transparent manner.

DIVISION OF RESPONSIBILITY

Coordination requires strong, clear mandates in the legal framework that allocates responsibilities and gives sufficient authority to the agency or ministry in charge.

REVIEWING TARGETS

Several existing laws include provisions for the establishment of future targets (Denmark, Germany and Sweden) and/or a review process for upgrading them.

GREECE'S NATIONAL CLIMATE LAW (2022)

The Greek Climate Law aims for climate-neutrality by 2050 and establishes new institutions for the implementation, delegation and monitoring of the country's transition.

- The **Scientific Committee on Climate Change**, under the **Ministry of Environment and Energy** oversees carbon budgets, while the **Ministry of Climate Crisis and Civil Protection** deals with adaptation plans. The law outlines that different ministries create the Long-term Strategy and National Energy and Climate Plans.
- The law requires each municipality to create **Municipal Emission Reduction Plans ("MERP")** with an inventory and net emission reduction targets of at least 10% by 2025 and 30% by 2030.
- It provides for the revision of targets and for the adoption of new measures, based on the latest science. And by a joint decision of the Ministers of Environment and Energy and Finance, climate objectives may be strengthened, or new ones established.

7. INDEPENDENT EXPERT ADVICE

Independent expert advice on science and policy helps to ensure evidence-based decision-making and consistent policy delivery. A strong advisory body can be useful in more ways than one, helping to forge trust, transparency and legitimacy.

GROUNDED IN EVIDENCE

All good frameworks feature an independent expert advisory body set up for the express purpose of advising on the latest science and policy best practice.

MONITORING & ACCOUNTABILITY

An advisory body can double as independent assessors to monitor progress i.e. whether emission reduction efforts and adaptation measures are yielding results.

CREDIBLE POLICY ADVICE

The advisory function might also involve consultation in the formulation of non-politicised climate policy itself — e.g. analyses on sectoral mitigation options or nascent technologies.

THE UK'S 'COMMITTEE ON CLIMATE CHANGE'

The Committee on Climate Change (CCC) has had a strong positive influence on UK climate policy. Its analysis is used and trusted by stakeholders on all sides of the debate, and its statutory advice has generally been followed.

WHAT & HOW?

- Experts and secretariat
- Recommends five-yearly carbon budgets 12 years in advance
- Modelling and scenario-planning
- Advises on the risks and opportunities from climate change
- Monitors progress on emission reductions and climate resilience

OUTCOMES

- Independent, objective analysis
- Transparency, trust and legitimacy
- Advice on targets generally followed
- Evidence-informed advice
- Used in Parliament to push for greater ambition.

8. ALIGNING FINANCIAL FLOWS

Aligning budgets, fiscal policies and investment with climate goals helps to unlock the capital necessary and supports the systemic change required.

ALIGNED BUDGETS & POLICIES

Net zero planning and reporting should directly inform budgets. A nation's fiscal levers and investment can then be

TARGETED INVESTMENT

Investment in clean technology is proven to set in motion the reinforcing feedbacks of innovation and improvement that slashes

RISK ASSESSMENTS

Climate change risk assessments help governments identify where finance and investment should flow to reduce risks and adjusted to align with its near and long-term climate objectives.

costs, displaces incumbents and scales-up deployment and competitiveness.

scale up support for opportunities to reduce emissions and increase resilience.

FRANCE AND CLIMATE FINANCE PROVISIONS

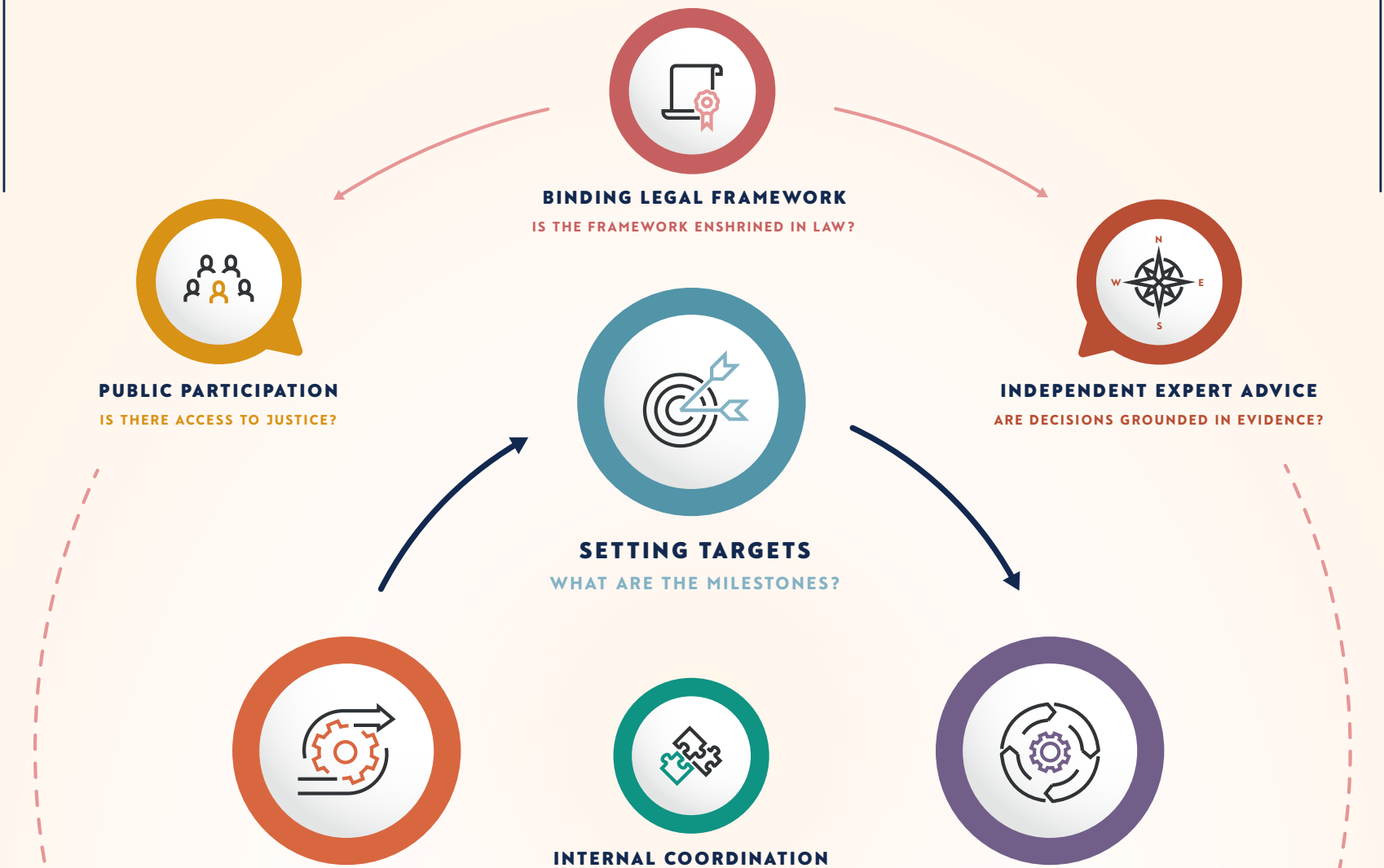
France's climate law introduces 'green budgeting' into the budgetary process, meaning climate and broader environmental impacts are assessed in each year's state budget proposal.

The green budget assesses, and rates, the green impact of all State budget expenditures, including impacts on greenhouse gas mitigation, air pollution and biodiversity. It increases access to information on finance and strengthens climate planning.

France's 2024 budget will include a €7 billion increase in funding to support the transition to a low carbon economy, bringing this investment to a total of €40 billion. A new tax credit will also be introduced, enabling green technology manufacturers to benefit from a tax reduction representing 20% to 45% of their investments.

The law also aligns the non-financial reporting obligations of French companies with European norms, for example by requiring financial institutions to publish their strategy for reducing biodiversity impacts. They must include specific targets and a measure of alignment with international biodiversity goals.

LEGALLY-BINDING FRAMEWORK



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net zero lawyers alliance

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CREATIVE COMMONS