UPLIFT

UPSTREAM, DOWNSTREAM AND EVERYTHING IN-BETWEEN:

Developments in Assessing Scope 3 Emissions in the UK

Executive Summary

How did the vast majority of emissions in the oil and gas industry manage to stay invisible in the regulatory process for decades? This report examines the treatment of scope 3 greenhouse gas (GHG) emissions in the UK Environmental Impact Assessment (EIA) process in light of the landmark UK Supreme Court Finch judgment. In Finch, the Court clarified that downstream emissions from the end-use of fossil fuels are a foreseeable indirect effect of extraction projects and must, where relevant, be assessed. In this report, we highlight our key recommendations and the elements of statutory guidance published by the UK Government following the Finch judgment that are critical for ensuring a robust and credible approach to assessing Scope 3 emissions in any jurisdiction.

It situates the UK experience within a broader international context and draws lessons for regulators, developers, and decision-makers seeking to align project appraisal with climate science and legally binding climate targets. Scope 3 emissions should be accounted for in their totality and evaluated against global climate limits, while industry approaches that downplay responsibility or rely on unproven mitigation measures must be rejected. Meaningful public consultation strengthens decision-making, and collectively these developments are likely to increase scrutiny of future oil and gas projects' climate compatibility and legal robustness within the UK EIA framework.

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Introduction and Context

Over the past year and a half, there have been significant legal and policy developments in how the UK assesses downstream scope 3 emissions — the emissions created from burning the oil and gas they produce — for offshore oil and gas projects. Here we set out the processes that led to the UK Government issuing new Supplementary Guidance for assessing the effects of scope 3 emissions on climate for EIAs of offshore oil and gas projects. Many of these developments will have relevance in other jurisdictions which are beginning to grapple with the question of when and how to assess the climate impacts of scope 3 emissions of fossil fuel and other major projects.

The Finch Case

For decades, it has been the norm for oil and gas companies not to disclose their scope 3 emissions when seeking project approval, even though these emissions are the main drivers of climate change. This lack of transparency obscures the true climate impacts of projects and shifts the resulting harms onto the public — often those least responsible and least able to adapt — while allowing companies to avoid accountability for the full consequences of their activities. However, in a decision handed down in June 2024, the UK Supreme Court ruled that the planning permission granted for oil production at an onshore oil field was unlawful because it failed to identify and assess its scope 3 emissions.[1] Following this landmark ruling, projects that require an EIA must identify, describe, and assess their likely direct and indirect environmental impacts, including scope 3 emissions. As the judgment points out, it is *"not merely likely, but inevitable"* that the oil extracted will be refined, undergo combustion, and produce these emissions.[2] In other words, the reality — that once oil is taken out of the ground, it will inevitably be burned and produce greenhouse gases — can no longer be ignored. While it has been argued in defence of countless fossil fuel projects that the assessment of climate impacts should be restricted to the immediate locality of the development itself, the Supreme Court rejected that approach, recognising that climate change is a global problem *"precisely because there is no correlation between where GHGs are released and where climate change is felt. Wherever GHG emissions occur, they contribute to global warming"*.[3]

Supplementary Guidance

What the Supreme Court's ruling in the Finch case did not do, however, was explain how the climate impact of scope 3 emissions should be assessed. As the Court's interpretation is equally applicable to the existing Offshore EIA Regulations,[4] the UK Government conducted a public consultation on draft guidance for assessing the effects of scope 3 emissions on climate for offshore oil and gas projects in late 2024. Among many others, Uplift responded to this consultation with our full submission here. The UK Government then published its revised and final guidance for the sector in June 2025[5] with significant improvements from the draft that had been subject to consultation.

International Relevance

The Supreme Court's interpretation in Finch and its practical application in the Supplementary Guidance reflect legal principles that apply across Europe and potentially beyond. While the Supplementary Guidance for offshore oil and gas projects in the UK is based on UK law, the relevant regulations are part of retained European Union (EU) law, implementing the EIA Directive 2011/92/EU (EIA Directive).[6] Similar legal developments in other fossil fuel-producing countries, including Norway and Australia,[7] have occurred where courts have ruled that scope 3 emissions must be assessed. However, other countries have yet to provide clear, practical guidance on how to do this effectively. To move from court rulings to real-world impact, regulators and fossil fuel companies must develop credible methods for calculating scope 3 emissions, integrate these assessments into the approval process, and ensure transparency so that the full climate consequences of fossil fuel projects are understood and addressed.

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Key Recommendations & Lessons from the UK Experience

Account for Emissions in Their Totality

It is crucial for any assessment of the climate impacts of scope 3 emissions to take a **precautionary approach**, based on the worst-case scenario of the highest possible production from the project. The UK Government's Supplementary Guidance adopts Uplift's recommendation that the starting point for estimating emissions is **a (rebuttable) presumption that all produced hydrocarbons over the lifetime of the project will be combusted**. This recommendation is built upon the Supreme Court's rejection of the common industry argument that a developer is not in control of the end product, and cannot be certain where it will go or how it will be used: *"[t]o know that the combustion emissions will occur and quantify them, there is no need to know anything about where the oil will go after it is extracted or what the oil will be used for or when or where it will be burnt. It is sufficient to know — as is known with virtual certainty — that the oil will be refined and ultimately used as fuel"*.[8] The rebuttable presumption in the Supplementary Guidance puts the onus back on the developer to prove otherwise.

To ensure that the totality of a project's scope 3 emissions are assessed, the calculation should **compare the emissions to a 'do nothing' or 'no action' baseline**. A baseline is a *"reference point against which the impact of a new project can be compared"*,[9] making it an essential component of the impact assessment as it allows a project's impact to be measured as the difference between the state of the environment with, and without, the project. Thus, the project should be assessed against the baseline emissions in the absence of the project, with all emissions beyond this baseline. In doing so, it is possible to look at the world with, and without, the project.

Assess Emissions in the Context of Global Climate Limits

Any robust approach to understanding the climate impact of scope 3 emissions must assess those emissions in relation to the **global temperature goal of limiting warming to 1.5°C**. The International Court of Justice (ICJ) has recently confirmed in its Advisory Opinion on States obligations in respect of climate change that the agreed primary temperature goal under the Paris Agreement is 1.5°C.[10]

Further, scope 3 emissions assessments must include a **strong cumulative assessment** that recognises the emissions from other existing and approved fossil fuel projects globally. The most straightforward and transparent approach to meaningfully assessing the significance of a project's emissions is a global **carbon budget approach.**[11] Another approach to determining cumulative effects is an **emissions-pathway approach**, consistent with methodologies adopted in the International Energy Agency's (IEA) World Energy Outlook (WEO) or in the University College London (UCL) report on the climate implications of new oil and gas fields in the UK.[12] For such an assessment, credible, peer-reviewed published estimates of committed emissions from fossil fuel production projects can be used in addition to data through widely-used service providers.[13]

Explicitly Rule Out Industry Approaches Which Do Not Reflect the Climate Reality

If every developer claimed that fossil fuels would be supplied by another developer if their project does not go ahead, who is left accountable? The Supplementary Guidance in the UK rightly confirms that such claimed **substitution is not a legally relevant factor** in determining which scope 3 emissions need to be assessed. This confirmation aligns with case law in the

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UK and the Production Gap Report, which states that *"leaving oil in the ground in one place does not result in a corresponding increase in production elsewhere"*.[14] We also recommend that substitution is ruled out as a relevant factor in assessing the significance of those emissions. While the Supplementary Guidance in the UK does allow developers to include substitution arguments for narrative context on likely significant effects, there are strong guardrails on how and when this will be permitted.

The fossil fuel industry has often argued that it is not aware or cannot control where extracted hydrocarbons will eventually be burned. However, in the context of scope 3 emissions, which are inherently global, this is not relevant, and it would be inappropriate to differentiate between effects depending on where combustion takes place. It should be made explicit that **where the emissions are released is irrelevant** to the assessment of the significance of a project's scope 3 emissions.

Another strength of the Supplementary Guidance in the UK is the **rejection of the 'drop in the ocean' approach** to the assessment, which has also been unsuccessful in court cases around the world.[15] For example, Rosebank's total projected emissions, which is the UK's biggest undeveloped oil and gas field, are greater than the combined 2024 emissions of the lowest-emitting 73 countries and territories, representing over 114 million people.[16] As recognised by the Guidance, comparing a project's emissions solely in numeric terms against global GHG emissions and arguing that this is 'a drop in the ocean' *"would not on its own provide a meaningful expression of the global effect of those scope 3 emissions"*,[17] as such an approach would render any individual project's emissions inherently insignificant, regardless of its real and additive impact on cumulative emissions.

Reject False Mitigation Proposals

When it comes to oil and gas production, **scope 3 emissions cannot be avoided, prevented or reduced if the project goes ahead**. The UK Supreme Court explained in the Finch case that *"the combustion emissions are unavoidable if the project proceeds and no pollution control regime could be relied on to prevent or reduce them"*.[18] The Supplementary Guidance in the UK does allow for mitigation measures for scope 3 emissions, but acknowledges that they are limited. Any proposal for mitigation must not be speculative. The developer must be accountable and responsible for the delivery of the mitigation, and the delivery plan must be included in the Environmental Statement (ES). They must be linked explicitly to the proposed project, demonstrate permanence, and include robust monitoring, reporting and verification.

The EIA Directive, which the Offshore EIA Regulations implement, points towards measures for offsetting, *"if possible"*, but in many cases it is **neither appropriate nor possible to offset scope 3 emissions** from burning oil and gas.[19] The sheer volume of scope 3 emissions through the burning of oil and gas is simply too much for any nature-based offsets. Other mechanisms, such as carbon capture and storage (CCS) technologies, are highly uncertain and not operating at scale. The Supplementary Guidance discourages offsetting and the use of carbon credits, which are not an effective mitigation measure for scope 3 emissions from oil and gas projects.

Benefits
of a Public Consultation Process

With successful advocacy from civil society and environmental organisations, and the willingness of the UK government to build upon this legal development, the impact of the *Finch* case has now gone far beyond its application to fossil fuel developments, such as the assessment of indirect environmental impacts related to agriculture and aviation.[20] The *Finch* case has presented an opportunity to comprehensively review and reform the rules and guidance around the whole EIA process – ensuring not only greater clarity for developers and the public, but hopefully a more credible environmental assessment of the true climate impact of oil and gas production in future.

The Supplementary Guidance in the UK on assessing the effects of scope 3 emissions on climate has greatly benefited from a period of public consultation. The differences between the draft guidance and the final guidance, which was issued following public consultation are very significant. Any other jurisdiction grappling with the question of how to meaningfully assess the impact of scope 3 emissions for fossil fuel projects (or downstream effects of any project) should consider the example set by the UK in this instance and the benefits of really engaging with and listening to members of the public, academic and scientific experts, and environmental and climate organisations when developing policy.

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Impact
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The true test of the success and impact of these legal and policy developments in the UK will be how the Supplementary Guidance is applied in practice. With the first ESs for oil and gas projects now submitted by developers under the Supplementary Guidance, which still gives the Secretary of State significant discretion to take into account factors other than scope 3 emissions, we await decisions on whether new fields will be approved for development. But there are lessons to be learned from the way in which the opportunities for meaningful policy change were seized by the sector and by the Government in this instance. What is clear is that the climate impact of a project's scope 3 emissions now *must* be assessed in the UK, and based on the Supplementary Guidance, we expect that assessment to be credible and robust.

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16. National emissions are sourced from the EU EDGAR database 2025, with per-country GHG data (excluding land use changes) extracted for 2024 (the most recent year available). Note that EDGAR country codes do not necessarily reflect single countries (e.g., France and Monaco are treated collectively; the Falklands Islands has its own code). Population data for 2024 is sourced from the World Bank Group, with any missing values filled in using data from the respective administrative authority websites or World Population Review.

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Uplift is a research and campaign organisation that supports efforts to create a rapid and fair transition away from oil and gas production in the UK that both protects workers and affected communities and aligns with climate science.

www.upliftuk.org