

STOCKHOLM INFORMAL DIALOGUE MEETING ON LEGAL ISSUES RELATING TO THE 2015 CLIMATE CHANGE AGREEMENT – CHAIR’S REFLECTIONS ON KEY POINTS

Stockholm, 28-29 May 2015

arranged by the *Swedish Ministry of the Environment and Energy* and
Stockholm Environmental Law and Policy Centre at *Stockholm University*

1 Background and context

On 28-29 May 2015, legal advisers and negotiators of more than ten UNFCCC Parties from different parts of the world, representatives of groups of states and from the UNFCCC secretariat, and leading scholars in international climate law met in Stockholm for an *Informal dialogue meeting on legal issues relating to the 2015 Climate Change Agreement*. The Swedish Minister for Climate and the Environment, Ms. Åsa Romson also participated at the meeting.

The intention of the meeting was to bring legal advisers and negotiators of governments together with a group of leading scholars in international climate law and general international law to *focus on the legal dimension* of politically complex issues in the ongoing climate change negotiations. The dialogue meeting aimed at assisting the Parties to get to a common ground and understanding of core legal matters, and to find a way to achieve an effective and durable Climate Change Agreement, “a protocol, another *legal instrument* or an agreed outcome with *legal force* under the Convention, applicable to all Parties”, as set out in the Durban Platform. In doing so, the meeting also served to a “strengthening of the multilateral, *rules-based regime* under the Convention”, recognised in the Durban Platform as a requirement for fulfilling the ultimate objective of the Convention.

The meeting was chaired by Jonas Ebbesson, Professor of Environmental Law, Director of Stockholm Environmental Law and Policy Centre, and Dean of the Faculty of Law at Stockholm University. The Chair’s reflections may not necessarily reflect the views of all participants.

2 The legal nature and the durability of the 2015 Climate Change Agreement

- The Durban Platform should be interpreted in such a way that the outcome in Paris must include at least a legally binding instrument. Thus, COP decisions only would not be sufficient to fulfil the mandate.
- A durable and dynamic agreement must include a requirement to regularly update the “nationally determined contributions” (NDCs) in light of the long term goal of the agreement.
- Legally binding instruments by themselves or in combination with non-legally binding instruments can provide trust, and also be sufficiently dynamic and flexible.

3 The legal nature and structure of the Agreement and the balance between mitigation and adaptation

- The structure of the agreement and its provisions can help providing a proper balance between mitigation and adaptation.
- Since mitigation and adaptation are fundamentally different in nature, these issues should be treated differently. Thus, a proper balance between mitigation and adaptation does not imply a strict symmetry between them.
- While in some sense mitigation and adaptation are connected, the legal implications of a possible long term goal of adaptation need to be further clarified.

4 The legal nature of NDCs

- The legal character of the NDCs does not depend on where they are located, but rather on the language and content of the commitments in relation to the NDCs.
- The NDCs should be submitted within a legally binding structure and framework.
- Submitting an NDC should be required for joining the agreement.
- The NDCs should contribute to the long term goal of the agreement.
- The notion of progression needs to be further clarified in order to understand its legal implications.

5 The legal nature of provisions on transparency and accountability

- The agreement should include a legally binding transparency and accountability framework, in order to promote trust and effective implementation.
- Transparency and accountability provisions could be supplemented with provisions on facilitation.
- The transparency and accountability provisions should apply universally.
- Effective provisions on transparency and accountability, including compliance, are essential regardless of the legal character of the NDCs.