

# Ambition in a Post-GlobalStocktake World



# NDCs as *Prescribed Qualified Unilateral Acts* in International Law

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# Outline

- How can the output of the GST enhance ambition – is there a legal lever?
- Overview over mandate and process
- Procedural rules on ICTU
- Qualification of NDCs in international law



# Article 4.9 Paris Agreement

- On mitigation, Article 4.9 requires that when Parties communicate their NDCs – every five years – they take the **outcomes of the stocktake** into account.
- This requires the design of the stocktake to result in outcomes that can *qualitatively inform* the next submission of NDCs, through aligning timeframes and through substantial outcomes.
- *How can the consideration of outcomes and outputs be ensured – is there a legal “lever”?*

# Three Phases of the GST

1. **Information Collection** – Decision 19/CMA.1 para.36 lists information types and para.37 lists information sources
2. **Technical Assessment** – addressed all elements of para.6(b) 19/CMA.1
3. **Consideration of Outputs** → COP28

Consideration of outputs, focusing on discussing the implications of the findings of the technical assessment *with a view to achieving the **outcome of the global stocktake of informing Parties** in updating and enhancing, in a nationally determined manner, their actions and support...as well as in enhancing international cooperation for climate action.*

# Technical Assessment Phase

- Co-Chairs Guiding Questions
- Inputs of Parties and NPS
- TD1.1 – 1.3

Mitigation + Adaptation + Means of Implementation  
*CMA decides* that the outputs ...should summarize opportunities and challenges for enhancing action and support in the light of equity and the best available science, as well as lessons learned and good practices...(19/CMA.1)

| Title   | Author               | Theme   |
|---|----------------------|---|
| Joint submission of the Durham Centre for Sustainable Development Law and Policy, The Centre for International Law at the National University of Singapore, and the International Cryosphere Climate Initiative to the global stocktake | University of Durham | Capacity-building, Mitigation, Science and research |

**Aiming for 1.5°C:**  
 Science, Law & the Global Stocktake

- Strengthening intersecting cryosphere science & law in interpreting the Paris Agreement's temperature thresholds
- Emphasising the role of academic research in developing the GST as a legal process

**The Scientific Urgency**

- The current trajectory of GHG emissions will lead to **irreversible impacts** because of the cryosphere's long-term response & the potential to cross **critical thresholds** for each increment above 1.5°C.
- Thawing **permafrost emissions** & **sea level rise**, triggered by global warming, pose a real threat to intergenerational equity.
- **Ocean-based mitigation & adaptation** could play a big role in achieving the 1.5°C goal and addressing climate impacts to marine biodiversity & coastal communities.

**The Legal Implications**

- COP/CMA decisions can constitute authentic means of **treaty interpretation** (Art. 31(3)(a) 1969 VCLT).
- COP 26 & 27 decisions emphasising the scientific urgency suggest a common understanding among Parties that **1.5°C is the target** that should be pursued.
- Scientific evidence forms the basis of **evolving case law** that climate targets in countries taking a leadership role should be modelled in accordance with the 1.5°C target.

**Policy Alignment for 1.5°C: The Global Stocktake**

- Domestic policy & law frameworks & climate targets should be **aligned with the 1.5°C temperature limit** especially in countries that take a leadership role.
- The Ocean Dialogue indicates that clear mandates & ocean-specific assessment tools & targets are needed in the GST to fully account for Parties' **ocean-based actions & needs** under NDCs.
- Interdisciplinary academic research, such as on cryospheric limits, is a **key part** of supporting the GST as a **robust international, legal process**.

**Role of Academia**

- **Academia-country collaboration** should be supported & recognised as a means to develop best practices in achieving country-specific transitions to a low-carbon economy.
- **Cooperating** with academics can help provide clarity of the nature of the mechanism in operationalising the link between the GST & NDCs.

**CIL** Durham University Cryosphere Climate Initiative

Scan the QR code to access the full GST submission!

# Qualified Prescribed Unilateral Acts

- NDCs as unilateral acts become **integral** parts of the treaty.
- Only with the **prescribed unilateral act** can the objective of the treaty be fulfilled.
- The **qualification element** is added **through the global stocktake**, the evaluation of all efforts in their cumulative effect.
- Good faith is elevated to “Geltungsgrund” through the treaty context.
- There is an additional duty of due diligence (ICTU), derived from modes of implementation (COP decisions).

# Thank you!

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