

Transparency Under the UNFCCC and the Paris Agreement

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1. Participation of “non-Party stakeholders” under the UNFCCC: Options for Future Engagement

Freedom-Kai Phillips*

Abstract

Participation of “non-Party stakeholders” in the work of the UNFCCC was identified as an essential priority in the decision adopting the Paris Agreement. It was also flagged in the preamble of the Agreement itself. The importance of engagement with civil society in supporting the achievement of domestic nationally determined contributions (NDCs) has become evident following the decision of the United States to withdraw from the Paris Agreement. This paper surveys modalities for non-Party stakeholder participation in three international forums, exploring various approaches adopted in Convention processes, to identify lessons learned, and propose potential avenues for enhancing stakeholder engagement under the climate framework. Existing modalities for observers under the UNFCCC are assessed in relation to approaches adopted in two other international forums – the United Nations Convention to Combat Desertification (UNCCD) and the Framework for Engagement of non-State Actors under the World Health Organization (WHO). A critical analysis is provided to consider the value and applicability of potential modalities to improve stakeholder engagement in the climate context and to draw attention to practical challenges. Recommendations are provided to inform approaches to non-Party stakeholder engagement considered by the Parties to the UNFCCC. Caution must be employed to ensure goals of increased stakeholder engagement support the negotiating and implementation processes and do not result in a further burden to an already complex negotiating environment.

* **Freedom-Kai Phillips**, BSc (E. Michigan), MA (Seton Hall), LLB (Dalhousie), LLM (Ottawa), is a Research Associate with the International Law Research Program (ILRP) at the Centre for International Governance Innovation (CIGI), a Legal Research Fellow with the Centre for International Sustainable Development Law (CISDL), and the Manager of the CISDL International Secretariat. Mr. Phillips has most recently served as Interim Director of the Centre for Law Technology and Society, at the University of Ottawa, Faculty of Law. In the past Mr. Phillips has served as Legal Researcher for the Ramsar Convention Secretariat, a representative to the UN Commission on Sustainable Development, and as a private sector sustainability consultant. His research focuses on access and benefit sharing (ABS), governance of marine and terrestrial biodiversity, financial incentives relating to sustainable development, carbon offsetting and renewable energy promotion, and legal measures to support achievement of the Sustainable Development Goals (SDGs).

2. Are Emissions Trading Schemes a Pathway to Enhance Transparency under the Paris Agreement?

Ling Chen **

Abstract

The Paris Agreement (PA) serves as a foundation providing a future for global carbon markets that Parties can embrace to realize their nationally determined contributions (NDCs) in a transparent manner. The PA references transparency throughout the text among which Article 13 establishes an enhanced and flexible transparency framework requiring all Parties to regularly submit a national GHG inventory and provide information of their progress in implementing and achieving their NDCs, and to undergo expert and peer review. Article 6.2 features “cooperative approaches” allowing the use of internationally transferred mitigation outcomes in achieving Parties’ NDCs and ensuring environmental integrity and transparency. This paper suggests that the cooperation may take the form of developing and linking ETSs in different jurisdictions. Much literature provides the environmental, economic, and strategic benefits from such initiatives. Adding to those benefits, there is a good opportunity for enhanced transparency of accounting and reporting GHG emissions and information sharing about climate action.

This paper aims to investigate the use of the ETS to enhance transparency on tracking GHG emissions and climate efforts in the PA context. It first identifies key issues and governance challenges for operationalizing cooperative approaches and market-related transparency provisions of the PA, drawing upon the discussions and submissions of Parties surrounding these provisions. It identifies the innovative aspects of the PA that can support future ETS initiatives by comparison to market mechanisms and the measurement, reporting and verification (MRV) mechanisms in the ex-ante PA era. Then, the paper addresses the minimum requirements that qualify an ETS as transparent, and by illustrating the practice from established and emerging carbon markets, highlights that not only is a transparent MRV system for GHG emissions essential to a functioning ETS but also the MRV system itself can benefit from developing and linking ETSs.

** **Ling Chen** is a research associate with the International Law Research Program at the Centre for International Governance Innovation (CIGI). He is currently working on international environmental law and climate change law, with a focus on the market mechanism and transparency framework under the Paris Agreement. He also provides research and analysis on environmental law, climate change law, and intellectual property law in China and their relation to international law. Ling holds an LL.M. from the University of Toronto and an LL.B. and an LL.M. from Beihang University in China.

3. Achieving the Goals of the Paris Agreement: The Importance of Public Access to Information

Basil Ugochukwu ***

Abstract

Article 12 of the 2015 Paris Climate Change Agreement provides that “Parties shall cooperate in taking measures, as appropriate, to enhance climate change education, training, public awareness, public participation, and *public access to information*, recognizing the importance of these steps with respect to enhancing actions under this Agreement.” This article echoes Goal 16 of the United Nations Sustainable Development Goals (UN-SDGs) which aims to “promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.” Sub-goals include developing “effective, accountable and transparent institutions at all levels”, ensuring “*public access to information* and [protecting] fundamental freedoms, in accordance with local legislation and international agreements.” The Paris Agreement and the UN-SDGs – as well as other international instruments such as the United Nations Economic Commission for Europe’s Aarhus Convention on Access to Information, Public Participation in Decision-making, and Access to Justice in Environmental Matters - all recognize that public access to information is critical to achieving climate mitigation/adaptation goals and sustainable development. How to achieve it is the challenge. For example, there is also presently some uncertainty regarding the openness of certain technical meetings of the Conference of Parties of the UNFCCC on developing the Paris Rulebook as some have been closed to non-state observers while others are not. My presentation would examine the importance of public access to information in achieving the goals of the Paris Agreement (which includes sustainable development), the challenges that may be faced in this regard and how those challenges could be addressed. I will also be discussing how the international instruments mentioned above could facilitate citizen access to climate information in domestic legal contexts.

*** **Dr. Ugochukwu** holds a Bachelor of Laws (LL.B.), Abia State University, Uturu, Nigeria; a Master of Laws (LL.M.), Central European University, Budapest, Hungary and a Doctor of Philosophy (Ph.D.), Osgoode Hall Law School, York University, Canada. He is currently a Post-Doctoral Fellow at the Centre for International Governance Innovation, (CIGI) in Waterloo, Ontario, Canada. Basil’s current research focuses on how to reflect human rights and sustainable development goals in climate mitigation and financing projects. This includes analyzing regulatory and human rights risks that could result from market-based mechanisms in Article 5 and use of internationally transferred mitigation outcomes (ITMOs) to achieve nationally determined contributions in Article 6 of the Paris Agreement. Basil is working on research that examines how the above-mentioned mechanisms could facilitate sustainable financing for the transition to a green economy. He is a 2007 Open Society Justice Initiative Fellow and 2010 winner of the Osgoode Hall Law School Walter Williston Essay Prize on Civil Liberties. He was Lead Editor of the *Osgoode Hall Review of Law and Policy*, Contributing Editor to the *Dissent and Democracy Network* and is currently a Co-Managing Editor of the *Transnational Human Rights Review*. Basil is also a 2016 Fellow of the Transnational Law Summer Institute at Kings College, London.

4. Legal and Policy Aspects of Climate Finance Transparency Under the Paris Agreement

Patricia Galvao Ferreira****

Abstract

At the contentious 2009 twenty-fifth Conference of Parties to the UN Climate Change Convention in Copenhagen, developed countries and developing countries reached a new compromise whereby all Parties, independent of their level of development, would contribute with a significant share of climate efforts to achieve global goals of climate mitigation and climate adaptation. The pledge by developed countries to jointly provide and mobilize US\$100 billion in climate finance to developing countries annually by 2020, as a floor, lies at the heart of this compromise which was reflected in the 2015 Paris Agreement. Article 9 of the Paris Agreement restated the legal obligation of developed countries Parties under the Convention to provide climate finance, without specifying quantitative targets. The Agreement gave developed countries significant discretion to determine the scale and the nature of their individual financial contributions, while strengthening oversight and accountability of their efforts through inclusion of climate finance in the enhanced transparency framework under Article 13.

It is expected that the modalities, procedures and guidelines for climate finance reporting, currently being discussed under the APA for inclusion in the 2018 Paris rulebook, will have significant influence on how developed countries will fulfill their climate finance obligations, and how developing countries will access and use this financial support. This paper: a) identifies and analyzes the key legal and policy challenges related to the modalities, procedures and guidelines on climate finance transparency under discussion; b) makes recommendations on which challenges deserve priority attention, and which elements are too politically controversial and should be treated with extra caution.

**** **Patrícia Galvão Ferreira** is a postdoctoral fellow with CIGI's International Law Research Program. She holds an S.J.D. in law and development from the University of Toronto, which she earned concurrently with an interdisciplinary doctorate in the dynamics of global change from the Munk School of Global Affairs. She has an LL.B. from the Federal University of Bahia and an LL.M. from the University of Notre Dame. While at CIGI, Dr. Ferreira's research investigates how evolving international law principles and transnational regulatory initiatives contribute to state compliance with the United Nations Framework Convention on Climate Change. A special focus of her research is devoted to understand the evolution of institutional mechanisms to promote compliance by all leading greenhouse gas emitters, including emerging economies such as China, India and Brazil. A Brazilian national resident in Canada, Dr. Ferreira has been a visiting scholar and Joaquim Nabuco Chair in Brazilian Studies at the Center for Latin American Studies at Stanford University, a visiting scholar at the FGV Law School in São Paulo and a research associate at the Institute for Studies on Labor and Society in Rio de Janeiro. Her recent publications include "Common but Differentiated Responsibilities' at the National Courts: Lessons from *Urgenda v. The Netherlands*," (Peer Reviewed) 5th Special Anniversary Issue Article, 5(2) *Transnational Environmental Law Journal (TEL)* pp 329-351 (2016); "From Justice to Participation: The Paris Agreement Pragmatic Approach to Differentiation," in Randall S. Abate (Editor), *Climate Justice: Case Studies in Global and Regional Governance Challenges* (ELI Press, 2016); and "Did the Paris Agreement Fail to Incorporate Human Rights in Operative Provisions? Not if you Consider the 2016 SDGs" (Peer Reviewed) CIGI Papers No 113 (2016). Currently not a member of the Asian Society of International Law.

