

Legal Aspects of the Paris Climate Change Agreement

International Workshop

under the auspices of the Belgian Federal Minister of Energy,
Environment and Sustainable Development

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Opening speech by Marie Christine MARGHEM Federal Minister for Energy, Environment and Sustainable Development

(Courtesy Translation - check against delivery)

Dear international guests, dear colleagues, ladies and gentlemen,

It is with great pleasure that I welcome you here today in Brussels for an exchange of views about the important issue of legal aspects of the future Paris agreement.

As you know, there is an urgent need to cope with the climate change challenges through effective and appropriate action on the international level. This means the Paris Conference must adopt an ambitious agreement that allows us to keep on a mitigation pathway consistent with the 2°C target.

As early as 2011, when the Durban Platform to prepare this new agreement was established, its Mandate placed the emphasis on the importance of the agreement's legal force. Though by priority, it is the substance of the Paris Agreement that has been discussed up to now, the moment has come to consider the legal aspects of this agreement, including its form.

The Paris Agreement has to be legally binding under international law. Therefore, it should ideally take the form of a protocol to the Framework Convention.

Further to this formal aspect, it is important to consider the role of **legal force** of the Parties' commitments in safeguarding environmental integrity. Legal force not only depends on the legal form of the new agreement, but also on the procedures to be set up for the implementation of the contributions of each Party.

During this workshop, we aim to create a platform for examining and discussing these and other legal aspects in more depth.

Allow me to touch upon a few questions that may retain our attention.

Firstly, one may look into whether **the duty of due diligence**, clearly affirmed in international law, could constitute an appropriate appreciation criterion of what could reasonably be expected from every Party, taking its specific capacities as well as the equity principle into account?

Another important aspect that seems worth exploring is the relationship between the international commitment and national legislation. There is a huge diversity of domestic legal systems, each featuring their own constitutional processes and various constraints.

Indeed, the ratification of the Paris Agreement by different Parties will not only depend on their political determination to commit, but also on the capacity of their respective legal systems to effectively put their respective commitments into operation.

Thirdly, we may consider how the Paris Protocol could, through **procedural obligations**, guarantee that all Parties will effectively and equitably contribute to the fight against climate change, and can expect other Parties to deliver on their contributions. Our citizens, economic actors and our societies in general would have similar expectations.

Precedents exist, for example in the context of environmental agreements of the United Nations Economic Commission for Europe, in application of the ‘environmental democracy’ concept included in the 1992 Rio Declaration. A similar notion is included in the 1993 North American Agreement on Environmental Cooperation.

Being a jurist myself, I am particularly interested in the legal aspects of the Paris Agreement. I think the academic world can considerably contribute to this debate, and I am happy to welcome the internationally acknowledged experts who will take the floor today. I most sincerely wish to thank them for their participation in our workshop. In addition, speakers having international negotiation experience will certainly allow us to have highly valuable panel discussions.

Before diving into today’s subject matter without further delay, allow me to particularly thank Mister Michael Zammit Cutajar for having accepted to chair our activities today, as well as for the precious support he already provided in preparation of this day. Indeed we are extremely lucky to benefit from his vast experience and wisdom in this field.

Finally, Ladies and Gentlemen, I also thank you for coming, and for your participation in this workshop which I hope will be very productive, and will usefully contribute to the preparation of the Paris Conference.