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Conference Report

The Global Stocktake and International Law: Paradigm,
Process and Ambition

Annual International Conference – 22nd & 23rd June 2023

The international conference on 'The Global Stocktake and International Law: Paradigm, Process and Ambition' was held on the 22nd and 23rd of June 2023 at Durham Law School. This conference was the first part of a series of two conferences that are jointly organised between the Durham Centre for Sustainable Development Law and Policy (CSDLP) at Durham University and the Centre for International Law (CIL) at the National University of Singapore.

Under Article 14 Paragraph 1 of the Paris Agreement, the Conference of the Parties serving as the Meeting of the Parties to the Paris Agreement (CMA) is bound to periodically take stock of the implementation of the Paris Agreement to assess the collective progress towards achieving the purpose and the long-term goals of the Paris Agreement. This is referred to as the "global stocktake" (GST). To identify opportunities for enhanced action and support, the CMA shall assess this collective progress in a comprehensive and facilitative manner, considering mitigation, adaptation and the means of implementation and support, in the light of equity and the best available science.

The conference explored the paradigms of the GST as a central mechanism for the implementation of the Paris Agreement. It also highlighted the role of academia within the different phases of the GST which started at the Glasgow Climate Summit (CMA 3). The first GST will conclude with the third phase, the consideration of outputs, at the 5th CMA in December 2023 (CMA 5). This phase will be critical for the implications of the findings of the preceding technical assessment phase, based on the initial information collection and preparation phase. The expectation is that the outputs of the final phase will identify opportunities and challenges in enhancing action and support in collective progress and summarise good practices and key political messages for strengthening action, cooperation, and support.

The conference explored the legal and political components of all phases of this first GST and its potential to inform nationally determined contributions (NDCs). It also underlined the importance of collaboration between all stakeholders, including academia and negotiators, in shaping this mechanism, both to enhance ambition and to serve as a template for future stocktakes.

The conference benefitted from the contributions of experienced negotiators, leading policymakers, and NGO representatives as well as academic experts. This report summarises key messages that resonate from the discussions on both days. We would like to thank all those who contributed through presentations, chairing of panels, questions, and organisational support.

The Paradigm of a New Oversight Mechanism

The CSDLP was honoured to have Professor Claire O'Malley, Pro-Vice Chancellor (Global), Professor Colin Bain, the Pro-Vice Chancellor (Research), and Professor Volker Roeben, Professor of International Law and Dean at Durham Law School to provide opening remarks for the conference at the Hogan Lovells Lecture Theatre at Durham Law School.

Professor Petra Minnerop, Director of the CSDLP, also welcomed the in-person and online attendees of the conference and thanked the conference team, consisting of Jessica Banks, Matthias Nouvet, Manon Hirschbuehl, and Ghulam Mustafa Kamran.

The Honourable **Justice Brian Preston**, Chief Judge of the Land and Environment Court of New South Wales and Visiting Professor at Durham Law School, started the first day with a prologue for the conference. His presentation, titled ***'Can Litigation Assist in Implementing the Outcome of the Global Stocktake?'***, analysed the limitations of the Paris Agreement and posited that the 28th Conference of the Parties (COP 28) and CMA 5 will come to the conclusion that the current nationally determined contributions (NDCs) are largely insufficient and risk that the long-term goals of the Paris Agreement will not be achieved.

Justice Preston in particular addressed the question of how climate litigation strategies could be developed further in the light of the outcomes of the GST. He developed several strands of future litigation activities. Litigants could continue using the Paris Agreement's long-term temperature goal as a reference point while turning to the outcomes of the GST to provide additional evidence for the current insufficiency of national targets.

The key points from Justice Preston's presentations include the eight manifestations of global solidarity.



Volker Roeben



Claire O'Malley

“Eight manifestations of solidarity:

The idea of fair share; solidarity among peers; solidarity among nations; solidarity in supporting and financing technology and science; solidarity among private stakeholders; intergenerational solidarity; interspecies solidarity (non-human); and Inter-jurisdictional solidarity between the courts worldwide”



Justice Brian Preston



1.5°C

“90 % of global emissions are under corporate control and 60 % of global emissions are controlled by 157 companies”

13 CLIMATE ACTION



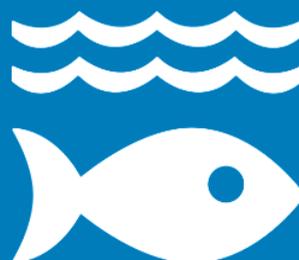
“Evaluating the **global stocktake** and **climate policy transformation**”

15 LIFE ON LAND



“The ocean, **70 %** of the globe yet no discussion of the ocean in the global stocktake framework”

14 LIFE BELOW WATER



“Challenges and Opportunities for the **Global South**”

Professor Colin Bain chaired the first panel of the conference.

- **Dr Nilüfer Oral**, Director of the Centre for International Law at the National University of Singapore, former Chair of the United Nations International Law Commission, and Co-Chair of the ILC Study Group on Sea Level Rise, presented her topic: ***‘What Does the Global Stocktake Mean for 70 Percent of the Planet – the Ocean’***.



Colin Bain

Quoting Article 4(1)(d) of the United Nations Framework Convention on Climate Change (UNFCCC) and Article 5 of the Paris Agreement, Dr Oral provided an overview of the historical development of the integration of the ocean into the climate change law regime. **The ocean is at the warmest level since records, and this affects marine life and the lives and communities of those who depend on seas.** Additionally, the sea-level rise poses a threat to the Small Island Developing States (SIDS). Dr Oral stressed that the ocean should be maintained, conserved, and enhanced.



Nilüfer Oral

Looking at the previous progress, she highlighted COP 23 which successfully launched the Ocean Pathway and also appreciated the outcomes of COP 25 – the “Blue COP” – which created a close link between the climate and the health of the ocean. Notwithstanding all these advancements, Dr Oral conveyed her concerns that the entire framework of the **GST fails to sufficiently take the ocean into account; it is more than just a sink, and should become an integral part of the GST.**

- **Professor Liz Fisher**, Professor of Environmental Law at the University of Oxford presented on ***‘Of Courts and Carrier Bags: Climate Change, Narrative, and Public Law Imagination’***, and pointed towards the crucial question of global understanding of the climate change crisis and universal readability of the climate change law and policy framework. While talking about the **evolution of legal imagination**, Professor Fisher underlined the central role of narrative in law and policymaking which should take **“everyone”, “everything”, and “everywhere”** into account. Professor Fisher emphasised that climate change is a multi-layered issue, and the sources are spread across from international instruments to domestic legislations; from decisions taken in COPs, CMAs, and similar international conferences to the information available in the academic commentary. Hence, it is challenging to provide a collective, detailed, and legible narrative for climate change. Having this perspective in mind, Professor Fisher suggested that international climate change policymaking should regard the **different legal and cultural narratives** to construct an effective global policy.



The Ocean – the world’s greatest ally against climate change – generates 50 percent of the oxygen we need, absorbs 25% of all CO₂, and captures 90% of the excess heat.



Liz Fisher



Amir Sokolowski



Andrew Haines

- **Mr Amir Sokolowski**, the Global Director for Climate Change at CDP (formerly Carbon Disclosure Project). Mr Sokolowski raised the question of **how limits can be imposed on the profit-making rights of private businesses and corporations** around the world.

He highlighted the fact that 90% of global greenhouse gas emissions are under corporate control and that 60% of global greenhouse gas emissions are controlled by 157 private companies. These 157 private companies are cross-jurisdictional and there is no reasonable way to monitor them effectively. Since some of the private sectors are producing more emissions than some State Parties, Mr Sokolowski suggested that considering and **harmonising** the information and data that flow from the accounting and reporting of **major emitting private companies into the GST framework is critical for the success of the process.**

- **Professor Andrew Haines**, Professor of Environmental Change and Public Health at the London School of Hygiene and Tropical Medicine, presented his research under the topic: ***'The Potential Contribution of Health Perspectives to the GST'***.

Professor Haines highlighted various mental and physical health conditions in all age groups that can be linked to climate change. Two key messages from Professor Haines' presentations are: firstly, he recommended **conveying positive hopes in communities**, and secondly, he suggested **introducing a health profile into the NDCs**. The reflection of the health impacts of human-induced climate change is crucial in GST.

Decision 19/CMA.1

Matters relating to Article 14 of the Paris Agreement and paragraphs 99–101 of decision 1/CP.21

"The Conference of the Parties serving as the meeting of the Parties to the Paris Agreement,

Recalling Articles 2 and 14 of the Paris Agreement, decision 1/CP.21, paragraphs 99–101, and other relevant Articles of the Paris Agreement and paragraphs of decision 1/CP.21,

Recognizing that the global stocktake referred to in Article 14 of the Paris Agreement is crucial for enhancing the collective ambition of action and support towards achieving the purpose and long-term goals of the Paris Agreement"

Sources of Input, Forms of Output, and the Procedure in - Between

Professor Catherine Montgomery, Deputy Executive Dean (Global), Faculty of Social Sciences and Health, Durham University, moderated the second panel of the conference.



Catherine Montgomery

- **Professor Sairam Bhat** from the National Law School of India University focused on *'Evaluating the Global Stocktake and Climate Policy Transformation'*. Professor Bhat highlighted environmental catastrophes around the globe, particularly, the 2022 **flood in Pakistan** and the major **cyclones in India**.

Criticising the GST framework, Professor Bhat noted that the NDCs **only talk about the aggregate targets** – not sectorial or particular – and this should not be considered comprehensive. This nature also blurs the lines between mitigation and adaptation of the GST. While adaptation should consider the **particular challenges of each country**, the same should be done for particular sectors.

- **Professor Joel P. Trachtman**, Professor of International Law and Henry Braker Professor of Commercial Law at The Fletcher School of Law and Diplomacy at Tufts University, joined the conference online.

Professor Trachtman's presentation focused on *'The Global Stocktake and the Role of the Trade System'*. He explained that although the trade system does not have a direct link or causation with the climate change crisis, it should be linked with the GST framework under the principles highlighted in **Article 6** of the Paris Agreement. The State Parties should pursue voluntary cooperation (through trade systems) in the implementation of their NDCs to allow for higher mitigation ambition and **to promote sustainable development**.

- **Dr Joseph Kobusheshe**, Director for Health and Environment, National Petroleum Agency of Uganda, talked about the *'Challenges and Opportunities for the Global South'* while highlighting the situation in **Sub-Saharan Africa**. Dr Kobusheshe emphasised the importance of equity in the GST framework. The presentation revealed that Uganda only constitutes **0.6% of the global population and is only responsible for 0.2% of global emissions**.

Sairam Bhat

Joel P. Trachtman

Joseph Kobusheshe



Moreover, looking at Uganda as one of the **fastest-growing countries with vast sources** and the youngest population, Dr Kobusheshe pointed towards the recent developments in the oil and gas sector. On the one hand the world is stopping oil and implementing climate change laws and policies, on the other, this new oil and gas venture is **not just essential for the development of Uganda but also of the neighbouring Sub-Saharan countries**. From this point of view, the most prominent issue to be considered is equity and the **GST will not have any significance in the absence of equity**.

- Continuing the discussion on the Ugandan oil and gas sector and its importance for Sub-Saharan Africa, **Mr Domisiano Owor**, Environment Officer, Petroleum Authority of Uganda, talked about the **'Climate Lessons and Opportunities for New Oil and Gas Producers'**.

Mr Owor's presentation provided a detailed overview of some of the active **oil, gas, and petrochemical megaprojects** in different countries including Kuwait, Oman, Qatar, Saudi Arabia, and the UAE. Mr Owor compared the Ugandan oil and gas sector with all these active megaprojects and provided information about the potential of the carbon sinks in Uganda. Echoing the words of Dr Joseph Kobusheshe, Mr Owor demanded adequate recognition of equity in the GST framework.



Domisiano Owor

On the conclusion of the first day of the conference, the attendees observed evensong at Durham Cathedral and then had dinner where members of the CSDLP and speakers carried on informal discussions.

Catherine Montgomery and Joel P. Trachtman (on the projection screen) at the Hogan Lovells Lecture Theatre at Durham Law School.



Discussions during the conference. Markus Gehring, Tracy Bach, Pam Pearson, Rozemarijn Holst, and Petra Minnerop.

The Global Stocktake at the Intersection of Ambition and Compliance

Professor Kieren J. Fernandes, Associate Pro-Vice Chancellor (Engagement) chaired the third panel of the conference.

- **Professor Hua Lan** joined the conference online from the China University of Political Science and Law, Beijing. Her presentation titled **'Some Reflections on Outcomes of GST: Ambition and Compliance'** focused on potential limitations of the GST.

While arguing that like-minded developing countries emphasised the importance of pre-2020 data and calculations, Professor Lan pointed out that **the GST should include gaps of the past and gaps of the future**. She also argued that numeral targets and data will not help achieve the goals; **the GST requires substantive information**, should draw a big picture, and should be comprehensive enough to generate positive outcomes.

- **Professor Petra Minnerop** presented on **'NDC's as Prescribed Qualified Unilateral Acts in International Law'**, addressing the potential legal levers under international law that could turn the GST into a valuable ambition raising mechanism.

The presentation demonstrated that NDCs can be situated within the infinite variety of unilateral acts of States and that they constitute a legally relevant undertaking. To capture the specific nature of NDCs as a legal instrument, Professor Minnerop introduced the category of **prescribed qualified unilateral acts**. Each Party is obliged to submit and maintain an NDC, and the specific architecture of the Paris Agreement entails that over time, the substance of the NDCs will be qualified through the findings of the global stocktakes. This perspective has immediate consequences for the "next round" of NDCs, due to be submitted after the conclusion of the global stocktake.

- **Dr Markus Gehring**, Associate Professor at Cambridge University delivered his presentation on the topic: **'European Union (EU) and International Approaches to the Stocktake – Addressing Climate Change as a Constitutional Duty'**.

Dr Gehring argued that **climate change and sustainability is the key constitutional objective of the EU**. Since the GST is at the heart of the ambition mechanism of the Paris Agreement, the EU and its Member States are fully committed to contributing to and learning from this process. There is a gap where EU trade policies tackle border tax adjustments, but **border carbon adjustments are not fully addressed**. The goals enshrined in the Paris Agreement require a fundamental transformation of the economy and financial



Kieren J. Fernandes,
Hua Lan, Petra
Minnerop, and
Markus Gehring.

markets; therefore, **it is crucial to have legally binding decisions from the first GST** at CMA 5.

- **Ms Catherine Higham**, Policy Fellow at the Grantham Research Institute on Climate Change and the Environment at the London School of Economics, presented on her title ***'There and Back Again? Accounting for Domestic Climate Legislation and Institutions in the Global Stocktake'***. Ms Higham focused on the reinforcement and **the domestication of the Paris Agreement**. Higham pointed out the influence of UNFCCC where countries have adopted net-zero targets through domestic legislation. A key takeaway from her presentation are governance functions essential for any state to tackle climate change which require **coordination of private and public stakeholders for accountability and enforcement**.
- **Dr Maria Antonia Tigre**, Senior Fellow in Global Climate Litigation at Sabin Center for Climate Change Law at Columbia Law School, joined the conference online to present her topic: ***'The Role of Systemic Mitigation Cases in Pushing for Increased Ambition in Countries NDC's'***. She provided an analysis and overview of some landmark climate litigations to highlight the central role of these cases in the climate change law regime. **Domestic legal protections, such as climate litigation and legislation, play a critical role in pushing for increased ambition** domestically which can have a substantial positive impact on GST. Nonetheless, she also argued that the UNFCCC's principle of common but differentiated responsibilities and respective capabilities is a vague concept and should be applied equally while imposing obligations based on domestic legal outcomes.
- **Ms Danielle Yeow**, Climate Policy Lead from the Centre for International Law (CIL) at the National University of Singapore, joined the conference online and outlined ***'The Role of Stakeholders'*** and highlighted the GST as an intersection of ambition and compliance. Ms Danielle Yeow also mentioned the CSDLP's and CIL's joint submission to the GST and appreciated the CSDLP's participation and poster presentation at the Bonn Climate Change Conference (SB 58). Looking ahead, she highlighted the value of the continuing engagement of stakeholders beyond the technical into the political and implementation phase. While stressing **the importance of interdisciplinary academic research**, she recommended encouraging **collaboration between academia and State Parties to develop solutions and best practices** in achieving the transition to a low-carbon economy.

Catherine Higham



Maria Antonia Tigre



Danielle Yeow



Dr Nilüfer Oral chaired the last panel of the conference.

- **Professor Tracy Bach**, Co-Focal Point of the Research and Independent Non-Governmental Organisations, joined online to present on her topic: ***‘Designing for Collective Assessment and Individual NDC Ambition’***.

Tracy Bach outlined the institutional timeline – from the Paris Agreement to the upcoming COP28 – behind the establishment of the first GST. She underscored that despite the lengthy negotiations **there are still several questions which remain unanswered**. She asked how the collective assessment of the NDCs at the first GST is going to be fit for the purpose of achieving the Paris Agreement goals and enhancing ambition within the State Parties.

- **Pam Pearson**, Director and Founder of the International Cryosphere Climate Initiative, gave a presentation entitled ***‘Irreversible Thresholds: Cryosphere Loss, the GST, and International Law’***.

Ice melting is one major threatening consequence of the global temperature rise, and **the absence of the cryosphere in the climate change regime’s framework is a major gap**. The temperature target of 2°C is too high and even the **1.5°C lies within the risk, and several nations will face dire and irreversible disasters** if current emissions continue. Where environmental, technological, geophysical, and economic feasibility of tackling this issue is unquestionable, it comes down to the institutional and cultural feasibility of recognising these issues and addressing these catastrophes.

Tracy Bach



Pam Pearson



- **Dr Rozemarijn Roland Holst**, the incoming Co-Director of the CSDLP and Assistant Professor in International Environmental Law at Durham Law School, presented her research on *'The Ocean and Climate Action: Enhancing Synergies through NDCs and Beyond'*.

Recognising the ocean as the largest carbon sink, Dr Roland Holst highlighted some trends in ocean-based climate action in NDCs of coastal countries, including some developed countries and SIDS. Nonetheless, despite these trends and institutional support, there are some challenges, inter alia, **varied approaches to ocean-based actions and gaps in knowledge and data collection**. Dr Roland Holst also argued that giving enough consideration to the ocean will result in socio-ecological resilience, will have socio-economic and societal benefits, and will be pursuant to equity and environmental justice.

- **Joyce Kimutai**, Principal Meteorologist/Climate Scientist at the Kenya Meteorological Department and a PhD candidate at the African Development Institute, University of Cape Town, joined the conference online to talk about *'The Role of GST-I Outputs in Enhancing Kenya's NDC's'*.

Ms Joyce Kimutai provided an overview of Kenya's Climate Laws and Policies – pre-2010 and post-2010. She underscored that Kenya's National Climate Change Framework Policy was adopted and the Climate Change Act was enacted in 2016.

Looking at **Kenya's compliance and dynamic response to environmental issues** she also mentioned the Climate Change (Amendment) Bill 2023 which is under consideration. Ms Joyce Kimutai also highlighted the potential positive impact of the first GST in further improving Kenya's ambition towards climate control.



The conference concluded with complimentary closing remarks by Professor Petra Minnerop in which she conveyed gratitude to all speakers and participants on behalf of the Durham CSDLP and Durham University.

Rozemarijn Roland Holst

Joyce Kimutai





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