

The United Nations Framework Convention on Climate Change
A new era of Global Environmental Governance



1 Introduction

Though criticized by some as an inept tool that has so far failed to achieve its core objective of reducing greenhouse gas emissions that largely account for the continuing global warming, the United Nations Framework Convention on Climate Change (“UNFCCC”) that entered into force on 21st March 1994 remains extremely influential in today’s global climate change discourse. Adopted by more than 160 countries at the Rio Earth Summit in Brazil in June 1992, the UNFCCC established the first widely accepted collaborative international framework for addressing global warming.

The UNFCCC ushered in a new era of global environmental governance that has elevated climate change matters to the forefront. As this article expounds, the prominence of the UNFCCC as the anchor framework upon which all international remedial climate change actions have been founded since 1994 cannot be overlooked.

2 What is the UNFCCC?

With international consensus in the late 1980’s for a legally binding global environmental treaty primarily dealing with greenhouse gas emissions, the United Nations General Assembly in 1990 constituted the Intergovernmental Negotiating Committee (“INC”) with the specific mandate of negotiating a convention with appropriate measures for combating climate change.

Birthing through a process that saw negotiations concluded in a record 15 months, the UNFCCC has become the most important global framework seeking ways to address climate change with its core objective of stabilizing greenhouse gas concentrations in the atmosphere that interfere with the climate system.

3 UNFCCC negotiations

That it took only 15 months for the INC and State Parties to finalize and agree on the text of the convention eventually adopted for signature in Brazil at the Rio Earth Summit in 1992 does not mean that the process was a walk in the park. As it is still the case and as demonstrated by post UNFCCC negotiations that gave rise to the Kyoto Protocol and later the Paris Accords, climate change talks are not only complex but protracted as well. The UNFCCC deliberations were no

exception!

The State Parties to the UNFCCC negotiations namely the developing countries, developed countries, the United States and oil exporting countries had varied economic and social interests that a convention on climate change could potentially upend if their concerns were not taken into consideration. To achieve an agreeable position accommodating all such interests documented in the UNFCCC was a monumental feat.

4 UNFCCC as a framework convention

A key concern during the negotiations was whether the UNFCCC convention would take the substantive approach setting out immediately at adoption the specific commitments for combating climate change or as a framework initially with general principles of cooperation to address climate change. This was equally an issue regarding the title name of the convention/treaty itself. Though “the United Nations Framework Convention on Climate Change” was adopted some had suggested the title name as the United Nations Convention on Climate Change.

A majority of developing countries pushed for a convention with specific commitments for dealing with climate change but with differentiation to allocate greater responsibility to the developed countries being the biggest climate polluters. Whereas a majority of developed countries did not object to a substantive treaty with specific commitments, the United States and some oil exporting countries preferred a framework protocol setting out general principles to subsequently build on later with specific commitments.

As a compromise to accommodate the Parties’ varied interests to move forward the global climate change governance agenda, the UNFCCC took the convention protocol approach through which as a first step the institutional framework for international cooperation to address climate was established and only as a second step would specific commitments be agreed upon. Subsequent protocols to the UNFCCC such as the Kyoto Protocol and Paris Accords eventually set out the specific commitments for combating climate change.

The framework approach had been used with success in the international governance regime for the protection of the Ozone layer. The 1985 Vienna Convention for the Protection of the Ozone layer initially provided for a framework of cooperation to protect the globe’s ozone

layer. The 1987 Montreal Protocol on Substances that Deplete the Ozone Layer was later adopted under that convention with concrete specific actions and commitments of achieving the aspiration.

5 Common but Differentiated Responsibilities (CBDR)

To foster further climate equity, the UNFCCC formalizes the principle of Common but Differentiated Responsibilities and Respective Capabilities (“CBDR”) under Article 3 to the effect that all states share the obligation of addressing environmental destruction but without equal responsibility with regard to environmental protection.

This CBDR principle acknowledges that the more industrialized a country is, the more likely that it has contributed to climate change. For this reason, industrialized nations ought to be allocated greater responsibility for climate change mitigation than developing countries should.

The CBDR principle is therefore akin to the polluter-pays principle where historical contribution to climate change and respective ability to combat climate change determines the allocation of responsibility for environmental protection.

It is for this reason that parties to the UNFCCC were classified into different groups or annexes with varied responsibilities consistent with their perceived contribution of pollution and ability to support with climate mitigation and adaptation.

6 The Conference of Parties

To facilitate the reduction of greenhouse gas emissions into the atmosphere, the UNFCCC provides for the Conference of Parties (“COP”). The COP is a formal annual meeting of the UNFCCC parties. To date over 27 sessions have been held with the first in Germany in 1995 and most recent one in Egypt.

The COP is the supreme body of UNFCCC as its highest decision-making authority and hosts thousands of delegates as many as 25,000 each year. The COP is responsible for reviewing the implementation of the UNFCCC and any related legal instruments, and has to make the decisions for the implementation of the convention.

UNFCCC decisions are by consensus. All parties need to agree to positions proposed but this in part delays decision making.

7 The Secretariat

There is a secretariat under the UNFCCC currently based in Bonn, Germany that provides technical and administrative support among others in the achievement of the convention objectives. Headed by Simon Stiell, the Executive Secretary, this secretariat presently has over 400 employees. The secretariat today supports several stakeholders and bodies advancing the implementation of the convention. The secretariat also organizes the COP and any other sessions needed to achieve the objectives of the UNFCCC.

8 The Subsidiary Bodies

There are two permanent subsidiary bodies under the UNFCCC that support its objectives. These are the Subsidiary body for implementation (“SBI”) and the other for scientific and technological advice (“SBA”).

The one for scientific and technological advice supports the work of the COP through providing technical counsel and timely information on science and technology matters while the SBI assists the governing bodies in the assessment, review and implementation of the convention.

9 Protocols

As already explained in this article, the UNFCCC took the approach of a framework convention meaning that new protocols could be adopted in the future premised on better and evolved knowledge to supplement its objectives. So far 2 protocols have been adopted under the UNFCCC. These are the Kyoto Protocol of 1997 and the Paris Accords of 2015 and these provide for specific commitments to be adhered to by the Parties to reduce greenhouse gas emissions.

10 Climate change mitigation

All parties to the UNFCCC commit to take proactive steps set out therein to mitigate climate change and the more developed countries placed under Annex 1 and Annex 11 countries have the greater weight of this responsibility.

Annex I consisting of 41 industrialized countries and economies must significantly reduce their greenhouse emissions while Annex II countries ought to support less developed countries adapt to the adverse effects of climate change. This includes transferring or financing the acquisition of environmentally sound technologies by less developed countries.

As we will explain in subsequent articles, technology transfer has played a key role in confronting some of the challenges arising from climate change let alone climate change mitigation itself.

11 Climate finance

The UNFCCC established a financial mechanism entrusted to the global environmental facility (“GEF”) through which developed countries would provide financial resources to assist developing countries implement the convention. The other special climate funds that have since been set up include the special climate change fund (“SCCF”), the least developed countries fund (“LDCF”), the green climate fund (“GCF”) and the adaptation fund (“AF”).

12 Other provisions

The UNFCCC contains several other provisions including but not limited to settling disputes, amendment of the

convention, development and transfer of technologies, promotion of education, training and public awareness of climate change among others.

13 Conclusion

Despite criticism, the UNFCCC has been the pivot point for the climate change discourse since 1994. It is with hindsight that it started off as a framework convention facilitating a breakthrough in the negotiations enabling the global climate change governance agenda to take off. Some countries had expressed reservations on the initial inclusion of specific commitments in the convention at adoption.

The global climate change discourse continues to evolve with the emergence of new scientific evidence, social and political understanding that has enabled parties to take bolder decisions subsequently. Indeed, with time, protocols such as Kyoto and Paris were adopted outlining specific commitments and compliance obligations the parties must adhere to in addressing climate change. Though initially strongly focused on mitigation, adaptation measures too are now discussed owing to the evolution of knowledge and circumstances.

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Contacts for this Publication



Denis Yakoyasi Kakembo

dkakembo@crystaladvocates.com
+256 751 834 168

Denis is the Managing Partner at Cristal Advocates where he also leads the energy and tax practice. He is qualified both as a Lawyer and Chartered Accountant with vast experience serving various industries in Sub Saharan Africa. Before joining Cristal Advocates, he had worked for close to 10 years with Deloitte and Touche where he started his career and rose to senior managerial positions.

At Deloitte, he lived and worked in Uganda, Kenya, Tanzania and the United Kingdom for over 6 years and subsequently became the firm's chief of staff for the Energy and Resources Industry Group seeing him play a lead advisory role in Uganda, Kenya, Tanzania, Mozambique, South Sudan, Somalia and Ethiopia.

Denis is widely published and a regular commentator in the local, regional and international media and speaker at various forums regarding the taxation and financing of energy projects as well as the protection of large capital projects within the framework of international investment law.

He holds a Master of Laws degree in Petroleum Taxation and Finance from the University of Dundee in the United Kingdom, a Post Graduate Diploma in Legal Practice and a Bachelor of Laws degree from Makerere University. ■



Bill Page

bpag@crystaladvocates.com

Bill is a Senior Advisor with Cristal Advocates. He has concentrated on working with energy companies with a particular focus on cross border transactions and M&A since 1989 and is a leading global energy and tax practitioner with wide international experience. Between 1986 and 1998, he worked in London with the UK tax authorities and Big Four accounting firms. From 1998 to 2004, he was based in Kazakhstan working across the Caspian region with Deloitte. He was in the region at the time it was developing its infrastructure for crude oil production with international investment following the collapse of the Soviet Union.

From 2004 to 2008, he worked in Russia where he led Deloitte's oil and gas industry group and established Deloitte's office in Sakhalin. He moved to East Africa in 2009 leading Deloitte's energy and resources industry group in Uganda, Kenya, Tanzania, Rwanda, Ethiopia and Mozambique. He was initially based in Kampala, Uganda later relocating to Dar es Salaam, Tanzania. Bill returned to the UK in 2014 supporting Deloitte UK teams working on outbound projects investing in Africa and was a key member of Deloitte UK's energy and resource practice until his retirement from the firm in September, 2018.

Bill is a graduate of Oxford University and completed his inspectors' training with the UK Inland Revenue in 1989. ■



John Teira

jteira@crystaladvocates.com
+256 704 493 997

John leads the public policy and advocacy practice at the firm and combines unique public and private sector experience.

Prior to joining Cristal Advocates, he had worked as a Private Secretary to the President of the Republic of Uganda. During this time, he participated in several public and private sector engagements that included advising and coordinating activities relating to oil and gas as well as infrastructural projects of national significance. John had earlier worked with the Post Bank Uganda Limited and Shonubi Musoke and Co. Advocates.

He holds a Bachelor of Laws degree from Makerere University and a Post Graduate Diploma in Legal Practice from the Law Development Centre and various other qualifications. ■



Dickens Asiimwe Katta

dasiimwe@crystaladvocates.com
+256 772 370 021

Dickens leads the oil and gas practice at Cristal Advocates. He has an in depth appreciation of Uganda's oil and gas sector having served as the maiden Company Secretary of the Uganda National Oil Company (UNOC) and the Uganda Refinery Holding Company Limited (URHC). UNOC represents the Government of Uganda commercial interests in the oil and gas sector while URHC represents government interests in the refinery project as well as managing the petrol based industrial park.

Dickens was instrumental in UNOC's formation and initial period of operation and also served as its head of Contracts, Negotiations and Advisory until May 2018. Prior to joining UNOC, Dickens was Legal Counsel at the Petroleum Directorate of the Ministry of Energy playing key legal advisory roles on the negotiation and implementation of PSAs, Joint venture and other oil and gas agreements. He was also part of the team that shepherded the process of enacting the current Ugandan oil and gas Legislations and Regulations including the local content requirements.

He is a certified project control specialist (IFP) and holds a Master of Laws Degree in Petroleum Law and Policy from the University of Dundee in the United Kingdom, a Post Graduate Diploma in Legal Practice and a Bachelor of Laws degree from Makerere University. ■



Francis Tumwesige Ateenyi

ftumwesige@crystaladvocates.com
+256 702 540 936

Francis leads the litigation and dispute resolution practice at the firm. He is an Advocate of the High Court of Uganda with expertise in oil and gas, infrastructure and dispute resolution. He has been part of teams advising on projects in Uganda, Tanzania, Mozambique and South Africa. He specializes in regulatory compliance, national content, health and safety and dispute resolution.

He joined Cristal Advocates from Kizza, Tumwesige, and Ssemambo Advocates. He previously worked with the Advocates Coalition for Development and Environment (ACODE). He also undertook a traineeship with the oil and gas division of Webber Wetzel in Johannesburg, South Africa.

He holds a Master of Laws degree in Petroleum Law and Policy from the University of Dundee in the United Kingdom and various other qualifications. ■



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Contact us

Cristal Advocates
32 Lumumba Avenue
4th Floor, Padre Pio House
Lumumba Avenue

P.O. Box 1769 Kampala, Uganda
Tel: +256 (414) 671 274
Email; admin@cristaladvocates.com
www.cristaladvocates.com