



ADDIS ABABA UNIVERSITY
SCHOOL OF GRADUATES STUDIES
LAW SCHOOL

**THE 2015 PARIS CLIMATE AGREEMENT; POLICY AND
LEGISLATIVE IMPLICATIONS FOR ETHIOPIA**

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LEGISLATIVE IMPLICATIONS FOR ETHIOPIA**

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DECLARATION

I, Ruhama Taffese, hereby declare that this work is an original work and has not been in any other institutions before. All referred materials are duly acknowledged.

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ACRONYMS

CFC – Chlorofluorocarbons

CH₄ - Methane

COP – Conference of parties

CO₂ – Carbon di oxide

CO – Carbon Monooxide

EINDC- Ethiopia's Nationally Determined Contribution

FDRE – Federal Democratic Republic of Ethiopia

EPACC – The Ethiopian Programme of Adaptation to Climate Change

GCMs - General Circulation Models

GHG – Greenhouse Gasses

HCFCs – Hydrochlorofluocarbons

ILS – International Law Association

INDC – Initial Nationally Determined Contributions

IPCC – International Panel on Climate Change

LDC – Least Developed Country

MEFCC – Ministry of Environment Forest and Climate Change

NAMA - Nationally Appropriate Mitigation Actions

NAPA – National Adaptation Programme of Action

NDC – Nationally Determined Contribution

NO_x – Nitrogen oxides

N₂O - Nitrous oxide

ODS - Ozone Depleting Substances

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O₃ – Ozone

Pb – Lead

PFCs - Perfluorocarbons

SF₆ - Sulphur hexafluoride

SO_x – Oxides of Sulphur

UNFCCC – United Nations Framework Convention on Climate change

ABSTRACT

This paper assesses the policy and legislative implications of The Paris Agreement for Ethiopia. In examining this issue, it discusses the global as well as the national climate challenge posed currently and the international legal steps taken as a response to this challenge. Climate change has become an undisputed fact and it is threatening the globe, and this is why states have tried to come up with international law solutions for the past half a century. The most recent of these is the 2015 Paris climate agreement under the United Nations Framework Convention on Climate change. This paper explains the basic structure of and commitments under The Paris Agreement. The paper argues that there has been a big step taken by Ethiopia towards the implementation of its policy commitments under The Paris Agreement, although the practicability of these policy instruments is not yet proved positive. This paper also argues that there has been no binding legal instrument, in Ethiopia, with regards to climate change in general and The Paris Agreement in particular and therefore recommends the issuance of such laws before 2020. The paper also concludes that the existing environmental policy of Ethiopia seems to be neither exhaustive nor specific of climate change issues under The Paris Agreement and recommends that its revision under progress becomes considerate of this.

CHAPTER ONE

INTRODUCTION

1.1 Background of the Study

Climate change has been a global issue of concern for many years now, responses to this issue were and are being directed from different angles in which international legal actions are one. The international community has been reacting to the existing fact of climate change in different declarations which originated from different conferences before it adopted a permanent structure in the United Nation Framework Convention on Climate Change in 1992. This framework agreement has resulted in many protocols and agreements under its umbrella, the 2015 Paris Agreement being the latest one. Ethiopia is a party to both the framework convention and The Paris Agreement that have indispensable legislative and policy implications. For proper implementation of The Paris Agreement, which Ethiopia has committed to when it signed it, the policies and legislations regarding climate change of the country need to be in line with it.

1.2 Research Questions

Understanding the policy and legislative implications of The Paris Agreement requires understanding of the climate challenge in the first place, as the agreement is a response for this challenge. This is followed by the need to understand the context in which The Paris Agreement came in to existence and the structure of the agreement itself. Then the policy and legislative related issues under the agreement as well as their implication in the Ethiopian context needs insight. Therefore the research questions are presented as follows;

- What is the extent of the global Climate challenge?
- What are the climate challenges which Ethiopia is facing?
- What is the overall structure of The Paris Agreement?
- What policies and legislative actions does The Paris Agreement require from its parties?
- What legislative and policy actions has Ethiopia taken in light of The Paris Agreement?
- Are the laws and policies of Ethiopia in line with these requirements of The Paris Agreement?
- What changes or modifications are needed to make to the laws and policies of Ethiopia in line with The Paris Agreement?

1.3 Scope of the Study

Due to time and space factors this research is limited to the policy and law related provisions of The Paris Agreement and their application in the context of Ethiopia and selected policy instruments with relation to climate change will be assessed.

1.4 Objectives of the Study

1.4.1 General Objective

The main objective of this study is enquiry or assessment of any legislative and policy implications of The Paris Agreement and assessing where the policy and legislative instruments of Ethiopia stand in light with the country's commitments under The Paris Agreement.

1.4.2 Specific Objective

The following are the specific objectives of the research

- To briefly explain the climate challenge of the globe in general and Ethiopia in specific.
- To briefly explain the evolution of international law in climate change and briefly overview The Paris Agreement.
- To explain the Environmental policy and subsequent policy instruments of Ethiopia in light of The Paris Agreement.
- To explain the Environmental laws of Ethiopia in light of The Paris Agreement

1.5 Significance of the Study

- This research plays an important role in assessing the soundness of the policy and legislative instruments of in light of The Paris Agreement.
- This research is also highly significant for directing the legislative and policy actions to be taken for implementation of The Paris Agreement by Ethiopia.
- It will serve as a literature for further research by scholars.
- It would give insight for the global climate challenge as well as Ethiopia's climate challenge.
- It would give a better understanding on The Paris Agreement.

1.6 Research Methodology

This research utilizes the traditional qualitative/doctrinal research methodology, focusing its attention ON the existing literature in the area. This research explores the literature on the area of climate change in the international as well as local legal instruments and policies.

1.7 Limitations On The Study

While carrying out this research, I was limited by the lack of information provided by the governmental institutions; specifically the House of People's Representatives and Ministry Of Foreign Affairs were not cooperative to my requests. Another limitation was the lack of research that has been done in this area, as The Paris Agreement itself is a new comer to the arena

CHAPTER TWO

THE CLIMATE CHALLENGE

One of the greatest challenges the planet has faced in its entire history, is the danger posed by the speedy increase of its atmospheric temperature. Major part of what makes the earth suitable for life is; its perfect distance from the sun and the suitable natural conditions it possess as a result of these,¹ but what has been happening to its atmosphere during the last two centuries(following industrialization) has threatened this suitability. The increase in the atmospheric temperature resulted in climate change, a long term change in earth's climate, and the effect of this climate change manifests itself in; fundamental changes in wind and rain patterns, rise of sea level, extreme weather conditions (floods in proven desert areas and draught in proven rainy areas), melting of glaciers and many more.²

Emission of different hazardous and polluting substances and in particular carbon dioxide cause increase in temperature which in turn cause climate change.³ The carbon dioxide that causes climate change originates from different sources the most significant of these according to Sands are: first burning of fossil fuels (such as coal), second carbon dioxide release from cutting of tree and third production of cement, “but global emissions of CFC-11 and methane and nitrous oxide also pose a significant threat.”⁴ If average temperature of the earth increases more than 2 degrees to what it was before industrial levels, then it poses danger in ecosystems.⁵

¹ <https://www.livescience.com/31788-why-earth-perfect-for-life.html>

² Council of Europe parliamentary assembly, Climate change: a framework for a 2015 global agreement, (November 2013), p.4

³ E. Louka, International Environmental Law: Fairness, Effectiveness, and World Order, (2006), p.356

⁴ P. Sands, Principles of International Environmental Law, (2nd ed.2003), p. 358

⁵ Council of Europe cited above at note 2 p. 5

“Carbon dioxide concentration doubled since pre industrial times and will be tripled by the year 2100, if human activity maintains its current pace. In 1990, the Intergovernmental Panel on Climate Change (IPCC) presented evidence that man-made emissions of CO₂ far exceeded the natural range of the last 650,000 years.”⁶ If the global community doesn’t take actions to cut emission soon, scientists warn that permanent damage may occur.⁷ Therefore state actions in emission may not proceed as they are going today.⁸

Anthropogenic gasses such as aldehydes, benzene and polyaromatic hydro carbons(collectively known as trace organics) and Sulphur oxides (SO_x), Nitrogen oxides (NO_x), Carbon mono oxide (CO), lead (Pb) and suspended particulates are causes of land and marine ecosystems acidification.⁹

The Greenhouse effect, another cause for climate change, occurs when naturally existing greenhouse gasses contain the heat in the atmosphere and emit it back to earth; this is a natural occurrence as long as the balance is maintained.¹⁰ GHG start to cause increase in atmospheric temperature and climate change when their concentration in the atmosphere become greater than the natural balance and when there are not enough sinks to absorb and remove them.¹¹

Boarders do not limit the adverse effects of loss in natural sinks and increase in GHG emissions, the climate of the globe is affected in its entirety.¹²Unpredicted environmental hazards result from climate change among these sudden floods as a result of rise in sea levels and expansion of

⁶ Ibid

⁷ Id. P. 1

⁸ Id. P. 7

⁹ UNEP, Environmental Data Report (1991), pp. 10, 12 and 37–40 and Sands cited above at note 4, p. 323

¹⁰ Louka cited above at note 3, p.357

¹¹ Ibid

¹² J. Ebbesson & P. Okowa (eds.), Environmental Law and Justice in Context ,(2009) p.316

deserts are some examples.¹³ Climate change caused problems such as extreme weather that resulted in people migrating for survival; there are over 30 million climate refugees.¹⁴ The number of climate refugees is predicted to escalate to be 250 million by the end of the first half of this century.¹⁵ For these reasons and many more, taking action against the consequences of climate change is to be costly.

Another problem related to climate change is in relation to the depletion of the ozone layer. “The ozone layer is thought to provide a shield against harmful exposure to ultraviolet radiation from the sun and control the temperature structure of the stratosphere.”¹⁶ Chlorofluorocarbons (CFCs) which were a late 1920s innovation, at first considered as wonder gasses, became a cause of ozone depletion.¹⁷ “scientists belatedly realized in the 1970s, when these gases reach the ozone layer, they are exposed to ultraviolet rays and break down, releasing free chlorine (from CFCs) and Bromine (from Halons), which break up the ozone molecules and deplete the ozone layer.”¹⁸ Carbon tetrachloride, methyl chloroform, and Hydrochlorofluocarbons (HCFCs) are also among the hazardous gasses.¹⁹ HCFCs that at first were thought to be a better replacement for CFCs, happened to be as bad.²⁰ It was later proved that these gasses are capable of depleting the ozone and increase temperature (because they tend to stay in the atmosphere for a long time).²¹

¹³ Louka cited above at note 3, p.356

¹⁴ UN general assembly Resolution 1655, (2009)

¹⁵ Council of Europe cited above at note 2, p. 6

¹⁶ Sands cited above at note 4 p. 342

¹⁷ D. Bodansky, The Art and Craft of International Environmental Law, (2010), p 40

¹⁸ Sands cited above at note 4, p. 342, Bodansky cited above at note 17 .p. 41

¹⁹ Louka cited above at note 3 p.344

²⁰ Ibid

²¹ Ibid

Ozone depletion in the Antarctic was evident in spring time for the past half a decade.²² The global effect of technology-emanated anthropogenic activities was brought in to light when the problem of ozone depletion became a widely known notion.²³ “From 1987, various other substances have been added to the list of Ozone Depleting Substances (ODS), including Hydrobromofluorocarbons (HBFCs), Bromochloromethane, methyl bromide, and halons.”²⁴ The 1990s experienced greater increase in the rate and spread among the globe of ozone depletion.²⁵ Depleted ozone layer means less protection from direct ultraviolet rays, which cause damage to plant and cause different health complications of skin, eye and immune system of the human body²⁶ and “the environment, including organisms in the marine environment ”.²⁷

Human advancement in technology and industry resulted permanent and extensive and possibly irreversible, possible harm to the atmosphere.²⁸ Among these technological advancement fossil fuel consuming industrial and domestic use gadgets, “in particular, coal-fired power plants to generate electricity and the internal combustion engine to power cars” played their part to the rising level of GHG emission and global warming.²⁹

Dealing with this challenge is no easy task due to diverse reasons. Among those, the different needs and conditions of countries, the expensiveness of responses to this challenge, absence of universal agreement on the exact effect of climate change and lack of cooperation among states are some.³⁰

²² Sands cited above at note 4,p. 343

²³ Bodansky cited above at note 17,p. 41

²⁴ Louka cited above at note 3,p. 344

²⁵ Sands cited above at note 4,p. 343

²⁶ Louka cited above at note 3,p.344

²⁷ Sands cited above at note 4,p.342

²⁸ Bodansky cited above at note 17,p. 41

²⁹ Ibid

³⁰ Louka cited above at note 3,p.343

2.1 Evolution of International Law in Climate Change

International environmental law, in the issue of climate, was a little action taken too late.³¹ Different court cases contributed their share in the development of this part of environmental law; the arbitral award on *Trail Smelter* case between US and Canada ; *nuclear test case* Australia and New Zealand Vs. France are among the most prominent.³²

“Several incidents such as 1970s of acid rain damage in Europe and North Ameica; the 1986 Chernobyl accident; growing evidence in the 1980s of depletion of the ozone layer; and, most recently, evidence that increased atmospheric concentrations of carbon dioxide and other greenhouse gases and forest fires with transnational effects”³³ “highlighted the danger posed by the ongoing trend of human activity, on the climate.”³⁴ Customary International Law in this regard, as restated by International Law Association (ILA),³⁵ requires states to avoid cross boundary air pollution that inflicts a significant harm to another state.³⁶ The above cases and relevant international law documents (*opinio juris*) summed with *usus* indicate the Customary International Law in this regard, It is made clear that States are not allowed to inflict cross-boundary harm to other states.³⁷ This point is also upheld by ILC’s 2001 draft Articles on Prevention of Trans-boundary Harm.³⁸

³¹ Sands cited above at note 4 p.317

³² Id pp.. 317-318

³³ [www.unep.org/unep/per/for fire/fire.htm](http://www.unep.org/unep/per/for%20fire/fire.htm).

³⁴ IPCC, *Third Assessment Report: Climate Change 2001* (2001)

³⁵ The ILA, founded in 1873, is a private organisation of lawyers whose objects include ‘the study, elucidation and advancement of international law, public and private’. (Art. 2 of the ILA Constitution).

³⁶ Sands cited above at note 4, p.321

³⁷ Ibid

³⁸ Id ,p. 322

At first international law response to climate change came much late and in few instruments lacking the necessary detail, but as time went international instruments began to address the pollution of the atmosphere (as a result of gascious pollutants like sulphur) and ozone depletion.³⁹ Later in time different international agreements addressing diverse issues of climate began to take place globally, these issues included “trans-boundary pollution by sulphur dioxide, nitrogen oxide and volatile organic compounds, the protection of the ozone layer, the prevention of climate change, and the protection of the environment of outer space.”⁴⁰ International legal actions that restrict countries significantly on the emission of pollutants and ozone depleting substances have been taken.⁴¹

The 1985 Vienna convention, the first of its kind in dealing with ozone depletion, concerned itself in restating scientific facts and other procedural actions rather than playing its role of setting normative standards.⁴² The Montreal protocol rectified the drawbacks of the Vienna convention and focused its purpose on actual matters of controlling mechanism for ozone depletion, through controlling ozone depleting substances,⁴³the protocol also had a purpose of assuring technology transfer to developing countries.⁴⁴

“In 1990, the IPCC (Intergovernmental Panel on Climate Change, established by WMO and the UNEP, at the request of governments) issued its first report that stated clearly that if states continue business as usual, the global temperature will

³⁹ Ibid

⁴⁰ Ibid

⁴¹ Id p.389

⁴² Louka cited above at note 3,p. 346

⁴³ Id .347

⁴⁴ Id p.353

*rise in the next century by an average of 0.3 degrees C per decade – a rate of change that has never been encountered before in human history.*⁴⁵

This report became the scientific basis for the adoption of the UN convention on climate change, and approach of legal apparatus which would be followed by protocols was chosen by states to deal with this climate change and the UNFCCC was adopted.⁴⁶ Disagreement on the state of scientific facts and the status of climate change, the large number of states and the diverging difference in their priorities made the adoption of the frame work convention a rough path.⁴⁷ The convention tried to accommodate different standpoints and priorities of state parties under its umbrella in order to assure its universal acceptance.⁴⁸ It aimed at facilitating cooperation among its member states through setting basic meeting ground and giving everyone the satisfaction of accommodation of interests.⁴⁹ Specific targets of the convention were agreed to be dealt by consequent protocols, and Kyoto protocol, which entered in to force in early 2005, came for this purpose.

2.2 The Kyoto Protocol

“The Kyoto Protocol was agreed at COP3 in 1997; and while it was envisioned as the first step toward emission reductions and did bend the emissions curve for many developed countries, it also launched a heated debate about who is responsible and affected, and who should act.”⁵⁰ It

⁴⁵ Id p.358

⁴⁶ Ibid

⁴⁷ Ibid

⁴⁸ Ibid

⁴⁹ Id p.361

⁵⁰ Bodansky, D. (2010) ‘The Copenhagen Change Conference: A Postmortem’, The American Journal of International Law, 104 (2), p. 232, cited by Maria Ivanova, “Good COP, Bad COP: Climate Reality after Paris”, Global Policy, Volume 7 . Issue 3, September 2016

took eight years for the Kyoto protocol to enter in to force.⁵¹ The Kyoto Protocol tackles the emissions of six greenhouse gases: carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulphur hexafluoride (SF₆)⁵². The protocol dealt with “reduction of emissions of an average of 5% below 1990 levels, for industrialized countries (Annex I countries) for the period 2008-2012.”⁵³ Kyoto protocol also triggered the notion of accountability to the current problem of climate change and actions to be taken based on this accountability.⁵⁴ Kyoto majorly obliged developed countries, the burden almost entirely laid up on these countries and other parties seemed like they took advantages with no counter responsibility.⁵⁵ In addition emission targets were not enough to respond to the problem and there was no clearly set approach as to how to achieve this goal; it was too rigid that it didn’t leave room for newly emerging ideas.⁵⁶

The Kyoto Protocol differentiated countries based on historic accountability to the posing problem of climate change, promoting a system that made some responsible and left others free.⁵⁷ The emission reduction goal of the Kyoto protocol was less likely to be achieved because the commitment only applied to developed countries in annex 1 that were responsible for only 14% of global emission of GHGs.⁵⁸ An already set emission target only for annex one countries

⁵¹ Maria Ivanova, “Good COP, Bad COP: Climate Reality after Paris”, Global Policy, Volume 7 . Issue 3, September 2016 p.414

⁵² Louka cited above at note 3,p.359 and Kyoto protocol annex A

⁵³ Kyoto protocol article 3

⁵⁴ Bodansky, cited above at note 50 p. 232 cited by Ivanova

⁵⁵ Rajamani, L. , “Ambition and Differentiation in the 2015 Paris Agreement: Interpretive Possibilities and Underlying Politics”, International and Comparative Law Quarterly, vol. 65 (2), (2016) pp. 494

⁵⁶ Ibid

⁵⁷ Id P.411

⁵⁸ Id p. 412

failed to promote fairness and legitimacy.⁵⁹ Therefore a system that universally distributes responsibility to all parties proved to be the next best choice.⁶⁰

Giving solutions to the notions left unresolved in the Kyoto protocol, and paving the way for its success was the next task of countries after Kyoto's adoption.⁶¹ "Agreed in 2009, the nonbinding Copenhagen Accord recognized the need to limit temperature rise in this century to below 2°C".⁶² This Copenhagen accord witnessed the least of cooperation and agreement of parties among all previous climate change negotiations.⁶³ In 2011 countries agreed to come up with an effective regime for post Kyoto era, and they aimed for this regime to be ready by 2015.⁶⁴ The platform aimed its target at "ensuring the highest possible mitigation efforts by all Parties", including developing country parties.⁶⁵

The idea of another international climate change agreement with the notion of differentiation faced a strong opposition from developed countries which were tired of the entirely onerous and one sided responsibility placed up on them by the Kyoto protocol.⁶⁶ As a result a more balancing international agreement, "agreement that strikes a careful balance between ambition and differentiation",⁶⁷ was in need, and efforts towards this end began.

⁵⁹ Ibid

⁶⁰ Id , p 502

⁶¹ Council of Europe cited above at note 2 p.12

⁶² Rajimani cited above at note 55 p.4

⁶³ Savaresi, A. "The Paris Agreement: A New Beginning?", Journal of Energy & Natural Resources Law, vol. 1 (11), (2016) , pp. 18

⁶⁴ Council of Europe cited above at note 2

⁶⁵ Id p.7

⁶⁶ Rajamani. cited above at note 55 , p.494

⁶⁷ Id p.493

CHAPTER THREE

BRIEF OVERVIEW OF THE 2015 PARIS AGREEMENT

196 UNFCCC country parties adopted the Paris climate agreement on 12th December 2015 in the capital of France. The Paris Agreement will become the next climate change international law regime when it enters in to force.⁶⁸ “It will effectively replace the Kyoto Protocol whose second commitment period ends in the year 2020.”⁶⁹

“The agreement has been adopted under the UNFCCC, which remains valid and binding upon Parties”,⁷⁰ and “it represents the legally binding core of the post-2020 climate regime.”⁷¹ The Paris Agreement is a binding international instrument on its signatories.⁷²The Paris Agreement has notion of NDC at its center of procedural mitigation requirements and it further sets up transparency framework as an implementation strategy.⁷³ “Many less precise and prescriptive obligations and provisions, including a number of rather programmatic statements, are best understood as establishing a political narrative that aims to guide the implementation and future evolution of the Agreement.”⁷⁴

⁶⁸Charlotte Streck et al, “The Paris Agreement: A New Beginning”, journal for European environmental & planning law, Vol.13, (2016),p.8

⁶⁹ Ibid

⁷⁰ Id p.6

⁷¹ Meinhard Doelle , “The Paris Agreement: Historic Breakthrough or High Stakes Experiment?”, climate law, vol.6, 2016, p.5

⁷² Sebastian Oberthür and Ralph Bodle, Legal Form and Nature of the Paris Outcome, climate law, vol 6, 2016,p.48, Bodansky, D, the Paris climate change agreement: a new hope, the American journal of international law, Vol. 110:269, 2016 p.290

⁷³ Oberthür and bodle cited above at note 72 p.42

⁷⁴ Ibid

Parties to The Paris agreement agreed to be legally obliged to report on their individual NDCs and to give further data required as a result of future binding decisions of Conference of Parties.⁷⁵ For instance, article 4.8/4.9 establishes a legal obligation to transmit ('communicate') nationally determined contributions and provide certain information in accordance with cop decision 1/cp.21 and any future decisions of the 'Conference of the Parties serving as the meeting of the Parties to The Paris Agreement'.⁷⁶

3.1 Overview of The Paris Agreement

The Paris Agreement aims to hold "global temperatures well below 2°C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5°C."⁷⁷ under article 4(1) Parties aim to reach global peaking of greenhouse gas emissions as soon as possible, , and to undertake rapid reductions thereafter to achieve a balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of this century. "The agreement is ambitious, universal,"⁷⁸ and "contains extensive obligations and rigorous oversight."⁷⁹ The Paris Agreement attempts to involve everyone on board through provisions requiring participation like its stock-take and follow-up actions.⁸⁰ Preparation of NDCs together with proper follow up for implementation of mitigation goals of such NDCs is taken as a commitment by parties of The Paris Agreement.⁸¹ Improving these NDCs in a more ambitious manner that is responsive of the

⁷⁵ Id p.46

⁷⁶ Ibid

⁷⁷ The Paris Agreement Art. 2.1.(a).

⁷⁸ Ban, Ki.-moon, "The Paris Climate Challenge", Boston Globe, (25 November 2015), Opinion.

⁷⁹ Rajamani cited above at note 55, p.513

⁸⁰ Streck et al cited above at note 68 p.3

⁸¹ Ivanova cited above at note 51 p.12

stock-take taken globally is also agreed upon under The Paris Agreement.⁸²“The Paris Agreement clearly establishes obligations on individual parties in relation to the preparation, communication, maintenance, and implementation of NDCS, as well as transparency and accounting.”⁸³ Among the parties of The Paris Agreement 188 have already prepared INDCs and are expected to set greater goals of mitigation when they revise their NDCS.⁸⁴

NDC being at the center of The Paris Agreement gives parties the chance to decide on their own emission reduction goals, it also provides a flexibility mechanism by which states may opt-in to future emissions reductions and other long term strategies for handling climate change, NDCs are aiming to create an entry option for everyone to be on board.⁸⁵ Countries are obliged to commit more by the day and report on the practical status of their NDCs under article 13(7) of the agreement and a peer review process under article 13(11).⁸⁶ Other cornerstone notions of The Paris Agreement are: reduction of the ongoing increase in the temperature of the atmosphere, common but differentiated responsibilities of all parties and means of flow of finance.⁸⁷

The Paris Agreement is similar with its predecessor UNFCCC with regards to its objectives that are to be implemented with due consideration to sustainable development and eradication of poverty.⁸⁸ These objectives are:

“Stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system,

⁸² Ibid

⁸³ Oberthür and Bodle cited above at note 72, p. 49

⁸⁴ Ivanova cited above at note 51, p.412

⁸⁵ Ayse Kaya and Anita Desae, “COP21 and The Paris Agreement; change and status quo”, Global policy, (August 2016), p.5

⁸⁶ Ivanova cited above at note 51 p.413

⁸⁷ Bodansky, cited above at note 51 p.231 cited by Ivanova

⁸⁸ Paris Agreement Article 2(1)

achieving such level within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development proceed in a sustainable manner.”⁸⁹

Food security, sustainable development and eradication of poverty are given priority while strengthening global response for climate change is called for under the agreement.⁹⁰ The Paris Agreement in its preamble recognizes responses to climate change, and that these responses themselves affect the climate. These responses are recognized to have effect on equitable utilization of resources which in turn impact sustainable development.⁹¹ “Sustainable development provides the context in which The Paris Agreement operates.”⁹²

The Paris Agreement follows the path of its umbrella framework convention the UNFCCC with regard to the principles it follows; common but differentiated responsibilities and respective capabilities constitute one of these principles.⁹³ This principle emphasizes on the leadership role of developed countries to take economy-wide emission reduction and for provision of financial support to developing country parties.⁹⁴

Other legal principles relevant for the interpretation of the goal of The Paris Agreement (with regards to food production and eradication of poverty) are sustainable development and equity.⁹⁵ Environmental integrity, transparency, accuracy, completeness, comparability and consistency, and the avoidance of double counting, are key principles in respect of accounting emission

⁸⁹ UNFCCC article 2

⁹⁰ Paris Agreement article 2

⁹¹ Paris Agreement preamble

⁹² Francesco Sindico, “Paris, Climate Change, and Sustainable Development”, *climate law*, vol. 6, 2016, p.133

⁹³ Streck et al cited above at note 67 P.7

⁹⁴ Ibid

⁹⁵ Article 2 of The Paris Agreement

reductions.⁹⁶ The agreement also reflects the principle of Progressive realization by setting long term goal of, balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of this century.⁹⁷The principle of cooperation is reflected under article 12.

The Paris Agreement in general sets goals in the areas of first mitigation, second adaptation and third loss and damage, to be met through means of, flow of finance, technology transfer and capacity building. With regards to mitigation, The Paris Agreement aims to hold global temperatures to well below 2°C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5°C.⁹⁸ “The core of the mitigation provisions of The Paris Agreement is nationally determined contribution”.⁹⁹

“The Paris Agreement in the area of adaptation acknowledges the role of adaptation actions and/or economic diversification plans”.¹⁰⁰ Cooperation, especially financial cooperation, between parties of The Paris Agreement is to base up on their adaptation plans and its implementation.¹⁰¹ “The text focuses on procedural aspects of adaptation planning, and does not mandate concrete areas of action or provide quantifiable commitments of support for developing countries.”¹⁰² With regards to the third area of goal, loss and damage, “cooperation include early warning systems, emergency preparedness, and slow onset events.”¹⁰³

⁹⁶ Streck etal cited above a t note 68 PP. 5-6

⁹⁷ Paris Agreement Article 3 and 4

⁹⁸ The Paris Agreement Art 2.1.(a)

⁹⁹ Streck etal cited above at note 68,P.11

¹⁰⁰ Id p.14

¹⁰¹ The Paris Agreement Article 7

¹⁰² Streck etal cited above at note 68, p.18

¹⁰³ Ibid

“Regarding the means of implementation, The Agreement is based on the recognition that developing countries need support in the implementation of their NDCs and that such support will allow for more ambitious mitigation action under article 4.5, The Paris Agreement mandates that developed countries provide financial resources, notes the importance of technology transfer, and calls for Parties to cooperate and enhance capacities.”¹⁰⁴

In the case of technology transfer, the Agreement establishes a framework to provide overarching guidance to in implementation of technology transfer that is supportive of achievement of the goals of Paris Agreement.¹⁰⁵ This framework is crafted to find out challenges, priorities and capacities of parties and it aims to support the cooperation among parties with regards to development and transfer of technology.¹⁰⁶

The means of capacity building under The Paris Agreement enhances the effective participation of developing country parties.¹⁰⁷ Capacity building is a commitment to be taken by all parties, and sharing of capacity by developed countries to developing countries make one part of this commitment.¹⁰⁸

¹⁰⁴ Id p.19

¹⁰⁵ Paris Agreement article 10(4)

¹⁰⁶ Streck etal cited above at note 68 p.20

¹⁰⁷Burleson, E. (2016) ‘Paris Agreement and Consensus to Address Climate Challenge’, ASIL Insight, [online]. Available from: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2710076 P.12

¹⁰⁸ Streck etal cited above at note 68 p. 20

The Agreement with regards to Finance flow as a means of implementation expects developed countries to financially and technologically support developing and less developed countries, in their effort to battle climate change and adaptation to climate change.¹⁰⁹

3.2 The Paris Agreement Vis A Vis The Kyoto Protocol

In this subsection the novelty of The Paris Agreement as well as its continuity with regards to the previous regime will be assessed.

Although The Paris Agreement sets a global mitigation goal like the Kyoto protocol, it doesn't quantify emission reductions on a single party basis.¹¹⁰ Parties to The Paris Agreement have the discretion to decide on what they would do in order to achieve the global goals of the agreement.¹¹¹ "It represents a step forward, overcoming the many divisions that had marked the Kyoto area: between developed and developing countries, between industrialized nations inside the Protocol and those outside, and between those supportive of market mechanisms and those that vehemently opposed them."¹¹² Unlike The Kyoto protocol, The Paris Agreement creates universal obligation on all parties and recognizes that every party has a contribution to climate change, although the degree might differ.¹¹³

Under its annex B the Kyoto Protocol sets specific emission reduction goals for individual countries to be measured from a certain base year in accordance with article 3.¹¹⁴ But The Paris

¹⁰⁹ Paris Agreement article 9

¹¹⁰ streck etal cited above at note 68, p. 5

¹¹¹ Ibid

¹¹² Id p.3

¹¹³ Bodansky, cited above at note 72 p. 290

¹¹⁴ Streck etal cited above at note 68, p. 12

Agreement and its NDC mechanism does not entail such kind of targets.¹¹⁵ The Paris Agreement doesn't contain details of kinds of greenhouse gasses whose emissions are targeted to be reduced (unlike article 3(8) and annex A of Kyoto) nor does it list categories of countries with different level of commitment to reduce emission (unlike annex B of Kyoto). "It abandons the static, annex-based approach to differentiation in the UNFCCC and the Kyoto Protocol, in favor a more flexible, calibrated approach."¹¹⁶

The Paris Agreement is also innovative in its adaptation provisions setting a goal of adaptation to be met through reduced vulnerability to climate change, strengthened resilience and developed capacity of adaptation.¹¹⁷ Predetermined emission goals for specific developed countries which tailed the mindset of negotiations and commitments in the pre-Kyoto and Kyoto regimes were left behind by The Paris Agreement.¹¹⁸ The Paris Agreement rather emphasizes the leadership role of developed countries recognizing that the sole effort of these developed countries is not enough to tackle climate change.¹¹⁹

"The compliance mechanism of The Paris Agreement is facilitative with the objective of promoting treaty compliance."¹²⁰ The agreement takes a different path in its compliance mechanism than the previous regime which used allowance or prohibition of transfer of mitigation outcomes to ensure compliance.¹²¹"The Paris Agreement departs from other international legal agreements by explicitly designing the compliance mechanism to be 'expert-based and facilitative in nature and function in a manner that is transparent, non-adversarial and

¹¹⁵ Ibid

¹¹⁶ Bodansky cited above at note 72 p.290

¹¹⁷ Streck et al cited above at note 68, p.18

¹¹⁸ Id p.26

¹¹⁹ Ibid

¹²⁰ Id p.22

¹²¹ Ibid

non-punitive’.”¹²²The Paris Agreement established different mechanisms to facilitate implementation including the committee under article 15. It opened the door for interested parties to participate in the system as observers under article 16.

The Paris Agreement not only differs from the previous regime but also coincides with it. For instance The Paris Agreement under its 6th article encourages cooperation of parties on projects pertaining to mitigation and this looks much like the mechanisms under the Kyoto protocol, more specifically the clean development mechanism.¹²³ The Paris Agreement also has other issues in common with the previous regime. Some of these issues are: accommodation of sustainable development in the course of attaining its objectives, recognition of the principle of common but differentiated responsibility and capacity in tackling the problem of climate change and imposition of the leading role up on the developed countries. The regimes also share commonality with respect to the general commitment and cooperation of states; most of the obligations under both regimes are similar. For instance both call for response to climate change in a cooperative manner, enhancement of Natural sinks and reservoirs as a means of reducing emissions.

3.3 Paris Agreement; Is It A Step Forward?

“In some respects, such as obligating all Parties to contribute to climate change mitigation and adaptation, The Paris Agreement is a breakthrough which exceeded expectations. In other respects, The Paris Agreement leaves countries with a great deal still to negotiate.”¹²⁴ For

¹²² Ivanova cited above at note 51 p.412 citing article 15 of The Paris Agreement.

¹²³ Oberthür and bodle cited above at note 72 p.51

¹²⁴ Streck etal cited above at note 68 p.4

instance common time frame for NDCs is to be decided by the 1st session of conference of parties according to article 4(10). “Other areas for further negotiation are: rules for the sustainable development mechanism, procedures and guidelines for developed countries to report on their financial contributions, institutional arrangements for capacity building and modalities and procedures for the compliance committee established by Article 15.”¹²⁵

Some provisions of the Paris agreement are to be elaborated by further negotiations of parties like the transparency framework under article 13, periodical stock-take under article 14 and approaches for new market mechanisms.¹²⁶ Therefore The Paris Agreement leaves the door wide open for the inclusion of party’s interest through further negotiations globally and bilaterally.¹²⁷

“The Paris Agreement is a treaty as a matter of international law, yet despite the binding character, it contains few mandatory provisions that formulate precise and enforceable provisions.”¹²⁸ “Paris Agreement is weak in its compliance mechanisms as it ‘did not deliver the specific rules that will govern the monitoring, reporting and verification of emissions and national implementation of those pledges and policies’.”¹²⁹ The Paris Agreement doesn’t strictly make its enforcement mechanisms binding and it also does not set emission targets as in the Kyoto protocol, it rather encourages compliance based on the good will of its parties.¹³⁰ There is no sanction on parties for not revising their NDC with in the given time and for not reporting on

¹²⁵ Id P.6

¹²⁶ Bodansky cited above at note 72 p.291

¹²⁷ Streck etal cited above at note 68 P.28

¹²⁸ Streck etal p.5 citing Cf. Abbott, K, Keohane, R., Moravcsik, A., Slaughter, A., Snidal, D., The Concept of Legalization (2000) 54 International Organization 401.

¹²⁹ Ivanova cited above at note 51 (citing p.21 Falkner, R. (2016) ‘The Paris Agreement and the New Logic of International Climate Politics’, International Affairs, 92 (5) p.12)

¹³⁰ Ivanova cited above at note 51 p.417

the implementation of such NDCs.¹³¹ Preparation and maintenance of NDC is the responsibility of state parties and purely a domestic matter which makes it difficult to supervise and implement. There is also the danger of “a downward spiral of weakening trust and lower ambition.”¹³²NDCs are not to be included with in the treaty document under The Paris Agreement and this makes their content and revision a unclear for other parties and loosens their ‘stability and predictability’¹³³

On the other hand Voluntary NDCs open the door for a high NDC commitment. In accordance with article 6(1) which expects states to be ambitious in their NDCs, states are going to decide their own NDC, and there is no set maximum. This encourages states to engage in high level commitment to reduce emission and enhance sinks. And when NDCs are implemented as planned then it will improve the cooperation and confidence between parties.¹³⁴

The Paris Agreement departed from burdensome responsibilities of industrialized countries laid up on them as a result of their historic emission, and focused on common responsibility which recognized future ability for emission.¹³⁵ Because of The Paris agreement, more recent international climate talks focus on voluntary mitigation actions of countries rather than the notion of differentiation of countries and pre-set emission goals.¹³⁶ A great step forward counted for The Paris Agreement is its combination of domestically prepared national pledges together with overall global mitigation goal.¹³⁷ “This harnessed domestically driven climate policies toward a global climate commitment that reflects the range of domestic priorities, concerns, and

¹³¹ Ivanova cited above at note 51 citing Falkner 2016

¹³² Ivanova cited above at note 51 p. 417

¹³³ Oberthür and Bodle cited above at note 72, p.48

¹³⁴ Ivanova cited above at note 51, p. 417

¹³⁵ Streck etal cited above at note 68 p. 26

¹³⁶ Id p.27

¹³⁷ Ivanova cited above at note 51 p. 417

opportunities.”¹³⁸ “The risk however, is that individual country contributions fall short of the overall goal and that The Paris Agreement remains a shell without sufficient action and support, unable to address the collective action problem of climate change.”¹³⁹

Not neglecting all of the steps forward of The Paris Agreement, Whether The Paris Agreement represents a step forward in addressing global climate change problem is disputed.¹⁴⁰ A gap exists between what it takes to tackle the problem and what the parties to the Paris Agreement currently offer, therefore further voluntary and more ambitious commitments by countries is required to fill this gap.¹⁴¹

“The Paris Agreement does provide a strong foundation for mobilizing countries to transition to a low-emission, climate-resilient development path, away from fossil fuels, and toward renewable energy.”¹⁴² Although it’s not yet time to say Paris Agreement is a success with certainty, it sure has a better hope of success than The Kyoto protocol because of its stronger foundation.¹⁴³ The previous regime had rigid emission targets and it classified countries for its implementation, and this failed to bear a fruit, The Paris Agreement to the contrary seems to be more realistic and on the ground which makes its probability of success much higher than its predecessors.¹⁴⁴

Although The Paris Agreement highlights common responsibilities, developed countries are principally responsible for flow of finance under article 9 and other parties assume much less

¹³⁸ Ibid

¹³⁹ Streck et al cited above at note 68 P.29

¹⁴⁰ Id p.28

¹⁴¹ Ibid

¹⁴² Doelle Cited above at note 71, P.17

¹⁴³ Bodansky, cited above at note 72 p.288

¹⁴⁴ Ibid

obligations than the developed countries.¹⁴⁵ “The lack of a concrete, time-bound commitment on climate finance in The Paris Agreement was a major concession by developing countries for which greater level of climate finance was a key demand.”¹⁴⁶

The already communicated NDCs fall far behind the aimed aggregate goal of The Paris Agreement, and this might make The Paris Agreement a lion on a paper or a toothless one.¹⁴⁷ Paris Agreement needs the participation and support of different stakeholders for its successful implementation.¹⁴⁸ “The success of Paris, however, will be measured by what happens in the next three to five years.”¹⁴⁹ “Despite this fact, for now, we should take some comfort from the fact that we are in a better position today than we were before Paris, and that Paris has offered the global community an opportunity to rise to the challenge.”¹⁵⁰

¹⁴⁵ Streck et al cited above at note 68, p.7

¹⁴⁶ Id p.19, this concern was partly rectified by the Paris decision on The Paris Agreement, the decision clarifies that the ‘existing mobilization goal’ (i.e. usd 100 billion per year from 2020) will continue through 2025, and that from 2025, ‘Parties to The Paris Agreement shall set a new collective quantified goal from a floor of usd 100 billion per year’ (Para. 54 pd).

¹⁴⁷ Id , p.3

¹⁴⁸ Ivanova cited above at note 51,p 418

¹⁴⁹ Id P.411

¹⁵⁰ Doelle cited above at note 71, page 20

CHAPTER FOUR

THE PARIS AGREEMENT: POLICY & LEGISLATIVE IMPLICATION

4.1 Ethiopia's Climate

Although Ethiopia contributed less for climate change it is still well affected by it and the global climate challenge discussed under the first section of this paper, is also the challenge of Ethiopia; as the country is part of the globe and borders do not prevent effects of climate change. Ethiopia needs to adapt and keep on adapting to the ongoing climate change, caused majorly as a result of GHG emission from developed countries;¹⁵¹ although at 1.8 tCO₂e¹⁵², “Ethiopia’ per capita GHG emissions are insignificant compared to total global emissions.”¹⁵³ Unpredictability in the course of Ethiopia’s weather and increase in its atmospheric temperature are to be expected due to climate change.¹⁵⁴ “Climate models suggest that Ethiopia will see further warming, in all seasons, of between 0.7°C and 2.3°C by the 2020’s and of between 1.4°C and 2.9°C by the 2050s.”¹⁵⁵ CRGE document states that, there is much uncertainty about the future distribution, timing and intensity of rainfall. Predicting the pattern and level of seriousness of climate change born incidents such as draught and floods is hard, “because these events are influenced by the El Nino Southern Oscillation and sea surface temperatures in the Indian Ocean, and are difficult to

¹⁵¹ Ethiopia’s vision for a Climate Resilient Green Economy hereinafter CRGE P.13

¹⁵² CO₂e is the shorthand for carbondioxide equivalents. It is the standard unit in carbon accounting to quantify greenhouse gas emission, emissions reduction and carbon credits .it is expressed in tonnes and written as tCO₂e. <http://www.climate-change-wisdom-.com/CO2e.html>

¹⁵³ Ethiopia’s Initial Nationally Determined Contribution (hereinafter EINDC), p.7

¹⁵⁴ CRGE cited above at note 150 p.7

¹⁵⁵ Ibid

model with any degree of confidence.”¹⁵⁶ Further, most of the climate refugees are projected to originate from LDCs and other countries whose emission contribution is insignificant for climate change.¹⁵⁷

For a better understanding of the climate change in Ethiopia a table presented in the CRGE document, summarizing the past and the future of Ethiopia’s climate is presented below. The document clarifies that the summary in the table is from the results of two recent studies which synthesize the results of multiple General Circulation Models (GCMs).¹⁵⁸

Table 4.1: Summary of the past and future of Ethiopia’ climate

	Temperature	Rain fall	Extreme events
Historical trend	Mean temperature increased by 1.3°C from 1960 to 2006. More hot days and nights fewer cold days and nights	Highly variable from year to year, season to season, decade to decade. No significant trend.	Regular sever flood and drought events. No evidence of changes in frequency or intensity of extremes.

¹⁵⁶ Id , p.8

¹⁵⁷ Council of Europe cited above at note 2, p.6

¹⁵⁸ As stated in the document these two studies are Conway, D and Schipper, EL, 2010. Adaptation to climate change in Africa: Challenges and Opportunities identified from Ethiopia, Global Environmental Change And McSweeney, New and Lizcano, 2008. UNDP Climate Change Country Profiles, Ethiopia. UNDP, School of Geography and Environment, University of Oxford and Tyndall Centre for Climate Change Research. <http://countryprofiles.geog.ox.ac.uk>

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2020s	+1.2°C (0.7 - 2.3°C)	+0.4% increase in rainfall	Greater increases in rainfall in October to December, especially in the south and east.
2050s	+2.2°C (1.4 - 2.9°C)	+1.1% increase in rainfall	Heavier rainfall events and uncertain future El Nino behaviors bring large uncertainties.
2090s	+3.3°C (1.5 - 5.1°C)	Wetter conditions	Flood and drought events likely to increase, heat waves and higher evaporation.

Source: CRGE document

4.2 Policy and Legislative Implications

Ethiopia has actively participated in the negotiations leading to the 2015 Paris agreement, as drawn from the different documents on the views of the Ethiopian delegation, which was presented at different stages of negotiations in addition to that Ethiopia had become one of the first signatories. Ethiopia has communicated its initial NDC to the UNFCCC secretariat carrying out its major obligation under the agreement. Ethiopia's economic status did not prevent it from carrying out its obligation of preparing national programs under The Paris Agreement, and taking necessary steps for the implementation of the agreement.¹⁵⁹

It is expected of parties to The Paris Agreement to come up with climate legislations at the latest by the end of the second decade of this century.¹⁶⁰ These legislations must be aimed at reducing emission by the end of the first half of this century in accordance with article 4 of The Paris Agreement. Assessment of country commitments is to be taken to make sure its compliance with global goals of mitigation.¹⁶¹ In order to ensure and evaluate the implementation of the goals of The Paris Agreement countries need to report on their legislations aiming at emission reduction.¹⁶²

The Paris Agreement's article 4(4) states that developed Parties should continue taking the lead by undertaking economy-wide absolute emission reduction targets. Developing Parties should continue enhancing mitigation efforts, and are encouraged to move over time towards economy-wide emission reduction or limitation targets in the light of different national circumstances. This

¹⁵⁹ EINDC cited above at note 152 p.7

¹⁶⁰ Council of Europe cited above at note 2 p.2

¹⁶¹ Ibid

¹⁶² Ibid

provision “urges developing countries to continue to enhance their mitigation efforts; which they have done in leaps and bounds in the last decade.”¹⁶³ It calls on to these countries to make a move towards economy wide emission reduction in the long run.¹⁶⁴ Paris Agreement itself contains a number of legal, institutional, and political tools. “These tools are designed to (1) assist in assessing the scale of the gap between the ‘top-down’ temperature limit goal and the ‘bottom-up’ efforts of parties, and (2) create political pressure to ramp up mitigation ambition to address this gap.”¹⁶⁵

Article 4(2) of The Paris Agreement states Each Party shall prepare, communicate and maintain successive nationally determined contributions that it intends to achieve. Parties shall pursue domestic mitigation measures, with the aim of achieving the objectives of such contribution. The provision makes the commitments taking national actions and commitments in relation to formulating and implementing national contributions an obligation and the “obligation happens to be obligation of conduct rather than result.”¹⁶⁶ The provision links national actions with international goals, and “it establishes a standard for assessing domestic measures to implement the NDCs: the measures must be pursued with the aim of achieving the NDCs’ objectives.”¹⁶⁷ This is where the legislative and policy actions expected from Ethiopia (a developing country party) come to the picture.

¹⁶³ Rajamani cited above at note 55 p.510

¹⁶⁴ Ibid

¹⁶⁵ M. J. Mace, Mitigation Commitments Under The Paris Agreement and the Way Forward, climate law vol. 6,2016 p.35

¹⁶⁶ Rajamani cited above at note 55, p.497

¹⁶⁷ Oberthür and Bodle cited above at note 72, p. 54

Climate-Resilient Green Economy Initiative of Ethiopia aims to achieve middle-income status by 2025.¹⁶⁸ This vision document has an objective of “Contributing to the global effort in responding to climate change.”¹⁶⁹ But there has been no strictly binding legislative progress aimed at implementing this initiative and in general the commitments under The Paris Agreement.

“The Climate Resilient Green Economy Strategy (CRGE) issued by the Federal Democratic Republic of Ethiopia provided an important opportunity to: Transform to a new economic development model, using domestic resources and global climate change finance; and Build resource-competitive advantages, while responding to the adverse effects of climate change.”¹⁷⁰

The NDCs already communicated to the UNFCCC include “quantitative, such as absolute emission reduction targets” like USA, and “qualitative, such as goals to adopt climate friendly paths” such as India.¹⁷¹ Some contributions depend on international financial support like India, and some don’t depend on such conditions like Brazil.¹⁷² Article 3 of The Paris Agreement provides parties are to undertake and communicate ambitious efforts with the view to achieving the purpose of the agreement and these efforts of mitigation and adaptation shall improve with time.

¹⁶⁸ CRGE cited above at note 150, p.16

¹⁶⁹ EINDC cited above at note 152, P.11

¹⁷⁰ Ibid

¹⁷¹ Rajimani cited above at note 55 p497

¹⁷² Ibid

The Paris Agreement extends financial, technological and capacity building support to developing countries.¹⁷³ Generally speaking although The Paris Agreement under article 9 obliges Developed country Parties to provide financial resources to assist developing country Parties with respect to both mitigation and adaptation in continuation of their existing obligations under the Convention, aside from the already existing financial resources and technology support (prior to Paris) there has been no move in specific application of this financial mechanism.¹⁷⁴

4.3 Environmental Policy of Ethiopia¹⁷⁵

The overall goal of the Environmental policy emphasizes on the improvement and enhancement of the health and quality of life of Ethiopians, and promotion of sustainable development, through appropriate use of resources.¹⁷⁶ “The ‘key guiding principles’ are the principles on which the ‘overall policy goal’ and the ‘specific policy objectives’ are based.”¹⁷⁷ The notion of sustainable development is a notion widely echoed in The Paris Agreement and in other international climate change agreements as well. The Paris Agreement from its preamble to the details of its provisions promotes sustainable development and its inclusion in policies of country parties. Environmental sustainability is considered as an inevitable tool for long lasting accomplishment under the constitution and key policy documents of Ethiopia.¹⁷⁸ Response for climate change through the UNFCCC in general and The Paris Agreement in particular was needed primarily to tackle the effects of climate change and sustain the environment.

¹⁷³ Id. p 506

¹⁷⁴ MEFCC, finance assessment directorate

¹⁷⁵ The current environmental policy of Ethiopia is under review (*information from the legal directorate of the MEFCC) but the revision is not completed yet, therefore this paper sticks to the currently working policy.

¹⁷⁶ Environmental policy of Ethiopia, 1996 p.3

¹⁷⁷ Khushal Vibhute, Environmental policy and law of Ethiopia: a policy perspective, J. Ethiopian L. 23,2008, P. 80

¹⁷⁸ Environmental policy cited above at note 175 p. 2

The Environmental policy states the overall policy goal is:

“To improve and enhance the health and quality of life of all Ethiopians and to promote sustainable social and economic development through the sound management and use of natural, human-made and cultural resources and the environment as a whole so as to meet the needs of the present generation without compromising the ability of future generations to meet their own needs.”¹⁷⁹

The preamble of The Paris Agreement urges Parties to respect, promote and consider their respective obligations on the right to health, when taking action to address climate change. Eradication of poverty is given due regard in the implementation of the agreement.¹⁸⁰ Management of forest as natural resources and their enhancement as sinks of GHG is also emphasized by The Paris Agreement.¹⁸¹

The Environmental policy also gives specific policy goals. Among these one that relates to climate change aims to efficiently prevent the pollution of the atmosphere in order to minimize loss and stand in an advantageous position.¹⁸²

The policy encourages the planting of trees to satisfy the need of wood as an energy source, and there is no mention of issues such as adaptation mitigation and loss and damage and means of finance flow technology transfer and capacity building, as structured in Paris agreement. This is probably because the policy predates The Paris Agreement by almost two decades.

¹⁷⁹ Id. page 3

¹⁸⁰ The Paris Agreement articles 2(1) and 4(1).

¹⁸¹ The Paris Agreement article 5(2)

¹⁸² Environmental policy cited above at note 175 P.4

The environmental policies regarding energy resources aim “to promote the development of renewable energy sources and reduce the use of fossil energy resources for ensuring sustainability and for protecting the environment, as well as for their continuation into the future.”¹⁸³ Emission reduction, a notion at the heart of The Paris Agreement, directly relates to fossil fuels as fossil fuels increase GHG concentration. Therefore the reduction of fossil fuels plays its part towards reduction of GHG emission, and this is what the implementation of The Paris Agreement requires.

“Maintaining an up-to-date register of toxic, hazardous and radioactive substances, and to make the information available on request” is another specific goal of the policy.¹⁸⁴ This helps the implementation of the country’s commitment under article 13(7) of The Paris Agreement.

4.4 Environmental Legislations

National legislations are indispensable for the success of The Paris Agreement as it creates the political conditions necessary for its implementation.¹⁸⁵ “Domestic legislation on climate is absolutely critical, essential linchpin between action at the national level and international agreements.”¹⁸⁶ Legislators play a very important role in effective overcoming of the challenge of climate change; they are in charge of promulgating laws and following up implementation, “as well as approving national budgets and holding climate negotiators accountable”¹⁸⁷. Capacity building action for legislators is an important task, as it develops their efficiency and makes their

¹⁸³ Id. P. 12

¹⁸⁴ Id. P. 17

¹⁸⁵ Council of Europe cited above at note 2 p.2 and 8

¹⁸⁶ Id p. 9 citing extract from the speech delivered at the GLOBE Climate Legislation Summit in January 2013

¹⁸⁷ Council of Europe cited above at note 2 p.3

impact on international climate negotiations a constructive one. .¹⁸⁸ It is in light of this we should see the policy and legislative steps taken and documents of Ethiopia.

4.4.1 The Constitution

At the top of the hierarchy of environmental legislative documents, relevant to climate change, sits the FDRE constitution; the constitution regarding the environment proclaims that there is a right to clean and healthy environment, and a right to sustainable development.¹⁸⁹ Which are both the notions backing The Paris Agreement. The policy objectives section of the constitution under Article 92 states Government shall endeavor to ensure that all Ethiopians live in a clean and healthy environment, the design and implementation of programs and projects of development shall not damage or destroy the environment and government and citizens shall have the duty to protect the environment. This provision of the constitution upheld the notion that the involvement of everyone is needed to protect the environment and battle climate change (noted under the preamble of The Paris Agreement) and that development should be considerate of the environment.

4.4.2 Proclamations

Regarding proclamation, next to the constitution in hierarchy, we find proclamation number 916/15 which replaced proclamation numbers 295/02 and 803/13. Proclamation number 295/02 was environmental protection authority establishing proclamation, while proclamation number 803/13 was a proclamation establishing the Ministry of environment and forest which replaced the functions and mandate of the previous environmental protection authority. The current

¹⁸⁸ Ibid

¹⁸⁹ FDRE constitution article 44(1) and (3) respectively

existing and working proclamation in this regard is proclamation number 916/2015 as mentioned above. This proclamation established the ministry of environment forest and climate change and transferred the mandates functions and powers given to the previous ministry of environment and forest to the present ministry of environment forest and climate change. In addition The Paris Agreement, by virtue of article 9(4) of the constitution, makes part of the proclamations effective in the country, in the matters of environment, and more specifically climate change.

“Proclamation 295/02 is the first Proclamation in the series of the Proclamations that are tuned, contextually, thematically as well as operationally, to the tone of the environmental policy of Ethiopia.”¹⁹⁰ As discussed above the proclamation establishing the Environmental Protection Authority was replaced by amendment proclamation 803/13. Article 2(6) of this proclamation added an 11th sub article to article 37 of proclamation 691/10. This addition states that the rights and obligations of Environmental protection authority re-established under proclamation 295/02 are transferred to the ministry of environment and forest. Later, proclamation 916/15 by virtue of its article 30(2) replaced its predecessors. Therefore the existing Ministry of environment forest and climate change (herein after MEFCC) possesses all the rights responsibilities, and mandates given to the previous Environmental protection authority and the ministry of environment and f For the purpose of this subsection, provisions of the mentioned legislations, which directly relate to the commitments of Ethiopia under the 2015 Paris agreement, will be assessed. As discussed above the Ministry of Environment Forest and Climate Change is mandated with issues of climate change, and the proclamations deal with this organ. The MEFCC is given a list of mandates by virtue of the above mentioned proclamations, those mandates in relation to climate change and The Paris Agreement will be discussed subsequently.

¹⁹⁰Vibhute cited above at note 176, p.83

The MEFCC is mandated to coordinate measures to ensure that the environmental objectives provided under the Constitution and the basic principles set out in the environmental Policy of Ethiopia are realized.¹⁹¹

In consultation with the competent agencies, MEFCC is mandated to formulate or initiate and coordinate the formulation of policies, strategies, laws and programs to implement international environmental agreements to which Ethiopia is a party; and upon approval, ensure their implementation.¹⁹² It is also mandated to prepare programs and directives for the synergistic implementation and follow up of environmental agreements ratified by Ethiopia pertaining to anthropogenic environmental hazards with the objective of avoiding overlaps, wastage of resources and gaps during their implementation in all sectors and at all governance levels.¹⁹³

Another mandate is coordinating the nationwide responses to these agreements.¹⁹⁴ This is also in accordance with what is expected of Ethiopia from The Paris Agreement, as implementation lies at the heart of international agreements for their success and the whole point of becoming a party to a certain international agreement is willingness and commitment to implement it. The Paris Agreement in its entirety encourages parties to take actions (such as NDCs mitigation programs adaptation programs) for the effective implementation of the agreement and the success of the goals of the agreement.

The MEFCC is mandated to prepare and avail to the government as well as the public a periodic report on the state of the environment and forest of the country as well as climate resilient green

¹⁹¹ Proc. Number 295/02 article 6(1) and proc. No 803/13 article 33(1) a.

¹⁹² proc. No. 295/02 6(9), Proc. No. 803/13 article 33(1)h and proc. No. 916/15 article 30(1)h

¹⁹³ Proc. No. 803/13 article 33(1) f and proc. No. 916/15 article 30(1)f

¹⁹⁴ Proc. No. 803/13 article 33(1)g and proc. No. 916/15 article 30(1)g

economy.¹⁹⁵ Article 12 of The Paris Agreement provides for such kind of commitment and cooperation in taking measures, as appropriate, to enhance climate change education, training, public awareness, public participation and public access to information.¹⁹⁶

Promotion or assistance in the formulation of environmental protection action plans and projects and solicit support for such action plans and projects also make the mandate of the ministry.¹⁹⁷

Another mandate is to prepare directives to implement environmental protection laws and, upon approval, ensure their implementation.¹⁹⁸ MEFCC is also mandated to prepare, review and update, or as necessary, cause the preparation of environmental policies strategies and laws in consultation with the competent agencies, other concerned organs and the public at large and upon approval, monitor and enforce their implementation.¹⁹⁹ This is consistent with the country's commitment under article 4(6) and 7(9) of The Paris Agreement, where Ethiopia committed to engage in adaptation planning processes and the implementation of actions including the development or enhancement of relevant plans and policies.

Preparing a mechanism that promotes social, economic and environmental justice as well as channel the major part of benefits derived thereof to the affected communities to reduce emissions of greenhouse gases that would otherwise have resulted from deforestation and forest degradation is also mandated to the MEFCC.²⁰⁰ The proposal of incentives or disincentives to discourage practices that may hamper the sustainable use of natural resources or the prevention

¹⁹⁵ proc.no 295/02 article 6(16), Proc. No. 803/13 article 33(1)o and proc. No. 916/15 article 30(1)o

¹⁹⁶ The Paris Agreement article 12

¹⁹⁷ Proc. No. 295/02 article 6(18)

¹⁹⁸ proc. No. 295/02 article 6(19)

¹⁹⁹ Proc.no.295/02 Article 6(2)

²⁰⁰ Proc. No. 803/13 article 33(1)c and proc. No.916/15 article 30(1)c

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of environmental degradation or pollution adds to the mandate.²⁰¹ The Paris Agreement in this regard, under its article 5(2), encourages policy approaches and positive incentives for activities relating to reducing emissions from deforestation and forest degradation, and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries.

The MEFCC has a mandate to establish a system to rehabilitate degraded forest lands and ensure its implementation to enhance their environmental and economic benefit.²⁰² In this case The Paris Agreement recognizes the importance of the conservation and enhancement, as appropriate, of sinks and reservoirs of the greenhouse gases in its preamble and 5th article.

Coordination of actions on mobilizing the resources that are necessary for all inclusive required f climate resilient green economy is also the mandate of the ministry.²⁰³ One of the objectives and aims of The Paris Agreement, presented under article 2, is making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.

MEFCC is mandated to coordinate, and as may be appropriate, carry out research and technology transfer activities that promotes the sustainability of the environment and the conservation and use of forest as well as the equitable sharing of benefits accruing from them while creating opportunities for green jobs.²⁰⁴ This mandate seems to emanate from Paris agreement texts under Article 10, and specifically sub article 5 that states:

²⁰¹ Proc. No. 803/13 article 33(1) k and proc. No.916/15 article 30(1)k)

²⁰² Proc. No. 803/13 article 33(1)s and proc. No.916/15 article 30(1)s.

²⁰³ Proc. No. 803/13 article 33(1) d and article 30(1) d

²⁰⁴ Proc. No. 803/13 article 33(1)m and proc. No.916/15 article 30(1)m

“Accelerating, encouraging and enabling innovation is critical for an effective, long term global response to climate change and promoting economic growth and sustainable development. Such effort shall be, as appropriate, supported, including by the technology mechanism and, through financial means, by the Financial Mechanism of the Convention, for collaborative approaches to research and development, and facilitating access to technology, in particular for early stages of the technology cycle, to developing country Parties.”

In light of this mandate and its aimed objectives presented in the Initial Nationally Determined Contribution of Ethiopia, the ministry organized the preparation of policy instruments, majorly NAPA, NAMA and EPACC. These documents are also the outcome of the country’s commitments, “to undertake adaptation initiatives to reduce the exposure of its population, environment and economy to the unavoidable negative effects of climate change, based on its Climate Resilient Green Economy Strategy (CRGE)”²⁰⁵, under its INDC.

4.5 Ethiopia’s NDC²⁰⁶

Ethiopia has taken steps towards the implementation of The Paris Agreement specifically towards its commitments under article 4(2) and 4(4) of The Paris Agreement. A better knowhow on the effects of climate change and the pay offs of combating climate change prompt domestic mitigation efforts.²⁰⁷ Taking action to avoid the risk of climate change has benefits of:

²⁰⁵ EINDC cited above at note 152 p.1

²⁰⁶ All data under this sub section is derived from the INDC document Ethiopia submitted to the UNFCCC

²⁰⁷ Council of Europe cited above at note 2 p. 9

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minimizing cost, effective usage of available resources and becoming competent.²⁰⁸In this regard Ethiopia has prepared and submitted Nationally Determined Contribution (available at the UNFCCC website) and its environmental policy is under revision and even more it had prepared policy documents regarding mitigation measures, such as The National Adaptation Programme of Action (NAPA), Nationally Appropriate Mitigation Actions (NAMA) and The Ethiopian Programme of Adaptation to Climate Change (EPACC).

The Paris Agreement under its articles article 4(2)and (3) states “

“Each Party shall prepare, communicate and maintain successive nationally determined contributions that it intends to achieve, which will represent a progression beyond the Party’s then current nationally determined contribution and reflect its highest possible ambition, reflecting its common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.”

When a party ratifies The Paris Agreement, its INDC will become its first NDC save that the party presents another substitute NDC.”²⁰⁹ Therefore every party to The Paris Agreement already has NDC.²¹⁰ Ethiopia’s NDC should also be seen with this fact as a background.

As drawn from the text of the Initial Nationally Determined Contribution of Ethiopia (EINDC), it plays its part in the international action to battle climate change, while at the same time

²⁰⁸ Ibid

²⁰⁹ Mace cited above at note 164 p.35

²¹⁰ Ibid and Decision 1/cp.21, para 22

building climate resilient green economy for Ethiopia.²¹¹ It indicates a step forward for the achievement of sustainable development “consistent with the Principle of Common but Differentiated Responsibilities and Respective Capabilities.”²¹²

4.5.1 Mitigation

The novelty of the 2015 Paris agreement, as discussed in previous chapters, majorly lies on its bottom-up approach. Nationally determined contribution to be prepared by each country party is intended to achieve globe wide emission reduction. Ethiopia in this regard “intends to limit its net greenhouse gas (GHG) emissions in 2030 to 145 Mt CO₂e or lower, which could have been 400Mt CO₂e on business-as-usual.”²¹³ Differently put this means there would be a 64% cut on per capita emission.²¹⁴ Ethiopia also aims to reduce its emission on economy-wide level and become carbon neutral through the implementation of the NDC.²¹⁵ This part of the INDC seems to be in line with the country’s commitment under article 4(4) of The Paris Agreement as it intends for economy wide emission reduction, particularly involving “agriculture (livestock and soil), Forestry, Transport, Electric Power, Industry (including mining) and Buildings (including Waste and Green Cities),” in the long term.²¹⁶ The GHGs whose emission would be reduced are enumerated in the INDC document to be Carbon Dioxide (CO₂), Methane (CH₄) and Nitrous Oxide (N₂O). The INDC further goes to elaborate on current sector specific emission sources and their intended reduction. The Economy wide emission reduction goal set by the INDC was

²¹¹ EINDC cited above at note 152 p. 13

²¹² Ibid

²¹³ EINDC cited above at note 152 P.1 and p.3

²¹⁴ Id p.1

²¹⁵ Id p. 11

²¹⁶ Id p.2

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calculated taking in to consideration the business-as-usual scenario and identifying abatement opportunities across sectors.²¹⁷

The INDC states that the successful implementation of the NDC depends on international support in finance, technology transfer and capacity building granted to the country by international agreements to be signed.²¹⁸ As a result Ethiopia can realize its full potential to act and increase its contributions even further.²¹⁹ This assumption of the INDC seems to have followed conditional approach (on the condition of international support), like India.²²⁰

The pillars for mitigation of GHGs emission with in the INDC are: the balance between food security and emission reduction, enhancing forest as sinks, emphasis on renewable energy and advancing to better technology.²²¹ These pillars appear to be inspired by the text of The Paris Agreement. The Paris Agreement under its article 2(1) b emphasizes food security, and the preamble and article 4 recognize and echo the notions of enhancement of sinks and use of best science available.

As expressed in the INDC, The Government of the Federal Democratic Republic of Ethiopia intends to sell carbon credits during the period to contribute towards achieving its Green Economy Strategy.

In general as mentioned in the EINDC document the emission reduction component of EINDC will help Ethiopia to achieve:

²¹⁷ Id p.3

²¹⁸ Id p.9 and p.1

²¹⁹ Id 134 p. 9

²²⁰ Rajimani cited above at note 55, p. 497

²²¹ EINDC cited above at note 152 p.2

- *“Economic development objectives in a resource-efficient way and attract global climate finance;*
- *Avoid the unintended consequences of a carbon-intensive development path such as fossil fuel dependence, health issues, traffic congestion and land degradation; and*
- *Contribute to the ongoing global fight against climate change while advancing the welfare of Ethiopians.”*²²²

And this is a leap forward in the implementation of policy commitments required of Ethiopia by the 2015 Paris agreement.

4.5.2 Adaptation

EINDC states Ethiopia is taking measures(current and near term, and medium and long term actions.) to adapt to the inevitable reality of climate change, with ultimate and long term goal of mainstreaming adaptation in to all of its development activities with the participation of its entire population, in order to reduce vulnerability and contribute to climate resilient economic growth.²²³

Under current and near term actions of the INDC, Ethiopia’s Programme of Adaptation to Climate Change (EPACC) “was developed to provide a framework to build resilience to climate

²²² Id p.11

²²³ Id p.4

shocks.”²²⁴ Under the same current and near term actions The National Adaptation Programme of Action (NAPA), nine National Regional States and two City Administrations adaptation plans, five sectoral adaptation plans and agriculture sector adaptation strategy were prepared.²²⁵ This requires us to take a peek at the mentioned programme documents, but for the purpose of this paper giving due consideration of space the NAPA and EPACC will be assessed. The major aim of this near term and current action plan is, to build the capacity needed to mainstream adaptation to climate change into all public and private development initiatives, which contributes to the long term and ultimate aim of adaptation.²²⁶

In its medium and long term actions Ethiopia aims to “increase resilience and reduce vulnerability of livelihoods and landscapes up to and beyond 2020 in three pillars namely drought, floods and other cross-cutting interventions.”²²⁷ The then ministry of environment and forest is mandated to monitor and evaluate the implementation and update of national as well as sub-national adaptation plans, through “regular consultative dialogues”.²²⁸

4.5.3 Means of implementation

The INDC itself states that the “full implementation of Ethiopia’s INDC requires predictable, sustainable and reliable support in the form of finance, capacity building and technology transfer.”²²⁹ The finance necessary for the implementation of mitigation strategies under the INDC need further research to be quantified exactly, but is generally grouped into unsupported

²²⁴ Id P.4 and P.12

²²⁵ Id p.4

²²⁶ Ibid

²²⁷ Details regarding these pillars given in the INDC document and further reference can be made to this document.

²²⁸ EINDC cited above at note 152 p.7 , and As discussed in the previous parts of this paper this organ’s mandates were transferred to the current ministry of environment, forest and climate change by virtue of proclamation number 916/2015

²²⁹ EINDC cited above at note 152 p.9

(solely by the Ethiopian government) and supported (through international support) contributions.²³⁰ The further research needed for mitigation finance is specifically intended to: limit the supported and unsupported contributions, to limit the quantity of emission and to “identify the technical support needed to introduce new and additional policies and actions that stimulate and enable investment in limiting emission to 145 Mt or lower.”²³¹

Finance with regards to adaptation also require further research to: identify and quantify the required all kinds of necessary international support for the “implementation of vulnerability abatement measures up to and beyond 2030”, for the effective mainstreaming of climate change adaptation into existing and planned policies and policy implementing instruments, to “quantify the cost of countering social, environmental and economic vulnerabilities that are likely to result from the adverse impacts of climate change.”²³²

4.6 Other Policy Instruments

The Paris Agreement under its article 4(6) instructs least developed countries to prepare and communicate strategies, plans and actions for low greenhouse gas emissions development reflecting their special circumstances. Sub article 19 of the said article states that, all parties should strive to formulate and communicate long-term low greenhouse gas emission development strategies. Ethiopia as a party to the agreement has developed different policy instruments and strategies for its emission reduction, mitigation and adaptation commitments. These are NAPA, NAMA and EPACC and will be discussed briefly.

²³⁰ Ibid

²³¹ Ibid

²³² Id p.10

4.6.1 NAMA

Ethiopia's NAMA, planned to be implemented until 2020 communicated to the UNFCCC, contains currently active and planned actions and projects in relation to:

- *“Electricity generation from renewable energy for the grid system including hydropower, wind projects and geothermal projects.*
- *Bio-fuel development for road transport and household use.*
- *Electricity generation from renewable energy for off-grid use and direct use of renewable energy.*
- *Railway projects with trains to run with electricity generated from renewable energy.*
- *Forests.*
- *Agriculture and*
- *Waste management.*²³³

Article 4(2) of The Paris Agreement states that parties shall pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions, Ethiopia's NAMAs seem to emanate from this commitment the country got under The Paris Agreement.

²³³ Ethiopia's NAMA Appendix II

4.6.2 EAPCC

The Paris Agreement, under its article 7(9) requires each party to The Paris Agreement to, as appropriate, engage in adaptation planning processes and the implementation of actions, including the development or enhancement of relevant plans, policies and/or contributions. The parties to the agreement now need to make sure if “adaptation policies are designed with skill and sensitivity.”²³⁴ It is also required of parties to submit and update periodically an adaptation communication, which may include its priorities, implementation and support needs, plans and actions.²³⁵ Continuous and enhanced international support shall be provided to developing country Parties for the implementation of these commitments in accordance with article 7(13). It seems as a manifestation of this commitment that the EAPCC was prepared.

“The necessarily general treatment of adaptation to climate change by the Environmental Policy of the Federal Democratic Republic of Ethiopia, combined with the various decisions taken by the various meetings of the Conference of the Parties to the United Nations Framework Convention on Climate Change and the nature of the Ethiopian environment gave rise to a draft of Ethiopia’s Programme of Adaptation to Climate Change.”²³⁶

The document lists the problems posed by climate change. EPACC does also forward the agents responsible for the solution for these problems climate change causes and supportive actions to help implement Ethiopia’s Programme of Adaptation to Climate Change.²³⁷ The programme

²³⁴ Simon Chin-ye, “briefing Africa and the Paris climate change agreement”, African Affairs, vol.115/459,(2016), p.368

²³⁵ Article 7(10) Paris Agreement

²³⁶ Ethiopia’s Programme of Adaptation to Climate Change hereafter EPACC p.2

²³⁷ Ibid

identifies the problems that climate change poses on or exacerbates in Ethiopia as: “human health problems, animal health problems, crop pest and disease, biodiversity loss, land degradation, reduced agricultural production, fluctuation on water availability, extreme weather events that damage infrastructure, fluctuation on food and feed availability, increase of risk to disasters and growth in the number of environmental refugees.”²³⁸

Different possible technical actions for the solution of these problems, as well as agents for the solution involving different sectors, are stated by the EPACC.²³⁹ selection and mapping of the areas vulnerable to the effects of climate change, solid information exchange mechanism, early notification system for climatic catastrophes, “institutional capacity building for integrating adaptation to climate change into all development and administration activities”, inclusion climate change and adaptation to it in the educational system and enhancing finance and technology are listed as supportive actions to help implement Ethiopia’s Programme of Adaptation to Climate Change.²⁴⁰

The EPACC states the Environmental Protection Authority (who for all purposes is replaced by the ministry of environment forest and climate change) will organize annual national workshops to evaluate the status of the Programme of Adaptation to Climate Change.²⁴¹ Nation-wide gathered reports will be compiled by the ministry to produce an annual national report on the status of Ethiopia’s Programme of Adaptation to Climate Change.²⁴²

²³⁸ Ibid

²³⁹ Id section 2 and 3

²⁴⁰ Id section 3

²⁴¹ Id section 4

²⁴² Ibid

The Paris Agreement with regards to Adaptation emphasizes on international support for adaptation actions and, an action for adaptation to be participatory, and have a view of integrating adaptation into relevant socioeconomic and environmental policies and actions, where appropriate.²⁴³ The EPACC is considerate of this position taken by The Paris Agreement.

4.6.3 Ethiopia's NAPA

“NAPA is a mechanism within the UNFCCC, designed to help the Least Developed Countries (LDCs) including Ethiopia to identify their priority adaptation needs to climate change and to communicate these needs to the Conference of Parties (COP) of the UNFCCC and other concerned bodies.”²⁴⁴ NAPA document for Ethiopia aims at pinpointing adaptation actions that are vitally critical and top priority to overcome the adverse effects of climate change.²⁴⁵ The need for NAPA considers the fact that LDCs are weak to adapt to climate change on their own and need support in their adaptation efforts.²⁴⁶

Ethiopia's NAPA states “food security through multi-purpose large-scale water development project” in some parts of the country is a Potential Climate Change Adaptation Option.²⁴⁷ The Paris Agreement under article 2(1) b and in its preamble recognizes, the fundamental priority of safeguarding food security, and strongly holds that adaptation should be managed in a manner that doesn't threaten production of food, therefore this option stated in the summery of potential

²⁴³The Paris Agreement article 7(5) and (6)

²⁴⁴The federal democratic republic of Ethiopia ministry of water resources national meteorological agency , climate change national adaptation programme of action of Ethiopia hereinafter Ethiopia's NAPA, June 2007 Addis Ababa Ethiopia, p.17

²⁴⁵ Ibid.

²⁴⁶ Id. P.36

²⁴⁷ Id. P.44

climate change adaptation options under Ethiopia's NAPA is perfectly in line with the policy expectations of The Paris Agreement.

“Development of an Incentive Scheme for Farmers (Hill-farming communities) to reforest Hill areas in the northern parts of Ethiopia”²⁴⁸ is another adaptation option listed under Ethiopia's NAPA document. Article 5(2) of The Paris Agreement encourages parties to take policy approaches and positive incentives for activities relating to reducing emissions from deforestation and forest degradation, and the role of conservation, sustainable management of forests.

Another adaptation option under Ethiopia's NAPA is, “Participatory Approach to Rehabilitate Degraded Hills/Ecosystem in Northern Ethiopia and Public awareness program on climate change in Ethiopia at national as well as regional levels”²⁴⁹. The Paris Agreement in its preamble and 12th article emphasizes the importance of public participation with respect to enhancing actions under the Agreement. Public participation is also given emphasis with regards to enhancing mitigation actions under article 6(4) b and implementation of NDCs under article 6(8)b.

²⁴⁸ Id p.45

²⁴⁹ Ibid

CHAPTER FIVE

CONCLUSION & RECOMMENDATION

5.1 Conclusion

Climate change is posing unavoidable threat to the globe and Ethiopia is no exception. It is a proven fact that Ethiopia's climate has grown to be unpredictable and with threat just like the rest of the world. The Paris Agreement as part of series of international agreements to tackle the adverse effects of climate change has an important role to play in the battle. The proper implementation of the agreement would definitely help Ethiopia's leap towards a climate resilient economy. Legislative and policy actions required from the country, resulting from its commitments under The Paris Agreement, play indispensable role towards the implementation of the agreement.

With regards to the FDRE environment policy, it is neither specific nor exhaustive of climate change issues, especially as it is expected to be in accordance with 2015 Paris agreement.

The legislations mandating the ministry of environment forest and climate change, with issues of climate change and Ethiopia's commitments under the 2015 Paris agreement seem to be comprehensive and attempt to be all issues inclusive. But these legislations only limit themselves to mandating the ministry, and the details of implementation of the agreement doesn't have a strictly coercive legal documents to back them up, as there is no comprehensive climate legislation currently.

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As stated in the INDC document if Ethiopia's contribution is fully implemented, it would reduce per capita emissions to 1.1 tCO₂e by 2030. "For a Least Developed Country, this reduction exceeds expectations for both fairness and ambition while contributing towards the achievement of the objective of the UNFCCC and The Paris Agreement."²⁵⁰

The environmental policy of Ethiopia regarding energy resources, doesn't discourage the use of wood as a source of energy, it rather encourage the planting of trees to satisfy this needs, this seems to be inconsiderate of the carbon released as a result of deforestation.

Ethiopia's status with regards to its policy instruments such as the NAMA NAPA and EPACC is exactly like what The Paris Agreement expects country parties to do, setting aside the speculation on their implementation.

5.2 Recommendation

Specific but core areas under The Paris Agreement such as mitigation adaptation and loss and damage, and means of implementation such as finance, technology and capacity building should be effectively addressed by the environmental policy of Ethiopia under review. The policy needs to be further specific and elaborative in issues of climate change.

The Paris Agreement requires parties to prepare climate legislations by the year 2025, this means Ethiopia is left with less than a decade to come up with a comprehensive climate legislation, therefore preparations towards this end must begin.

²⁵⁰ EINDC cited above at note 151 p .7

There seems to be absence of strictly binding climate/climate change legislation in Ethiopia, therefore it needs to promulgate such kinds of legislations if the country aspires to effectively implement The Paris Agreement and become a climate resilient economy.

Ethiopia's environmental policy approach ought to encourage other non-carbon energy resources and highly encourage innovative actions and technology transfers in this regard.

Ethiopia must develop a clear and uniform mechanism for the implementation of its policy and legislative commitments under The Paris Agreement, as Parties must develop a robust mechanism for review of state's commitments to ratchet up ambition and close the gap between the target of 1.5-2 degrees Celsius and existing national commitment.²⁵¹

²⁵¹ Kaya and Desai cited above at note 56, page 1

REFERENCES

Books

1. D. Bodansky, *The Art and Craft of International Environmental Law* , (2010)
2. E. Louka, *International Environmental Law: Fairness, Effectiveness, and World Order*, Cambridge University Press, (2006),
3. J. Ebbesson & P. Okowa (eds.), *Environmental Law and Justice in Context* ,(2009)
4. P. Sands, *Principles of International Environmental Law*, Cambridge university press, (2nd ed.2003),

Articles

1. Ayse Kaya and Anita Desae, “COP21 and The Paris Agreement; change and status quo”, *Global policy*, (August 2016)
2. Bodansky, D., —The Copenhagen Change Conference: A Postmortem, *The American Journal of International Law*, vol 104 (2),(2010)
3. Bodansky, D, the Paris climate change agreement: a new hope, *the American journal of international law*, Vol. 110:269, 2016
4. Burluson, E. (2016) ‘Paris Agreement and Consensus to Address Climate Challenge’, *ASIL Insight*, [online]. Available from: <http://papers.ssrn>

5. Charlotte Streck et al, “The Paris Agreement: A New Beginning”, journal for European environmental & planning law, Vol.13, (2016)
6. Falkner, R. (2016) ‘The Paris Agreement and the New Logic of International Climate Politics’, *International Affairs*, 92 (5)
7. Francesco Sindico, “Paris, Climate Change, and Sustainable Development”, *climate law*, vol. 6,2016
8. Khushal Vibhute, *environmental policy and law of Ethiopia: a policy perspective*
9. M. J. Mace, “Mitigation Commitments Under The Paris Agreement and the Way Forward”, *climate law*, vol. 6 (2016)
10. Maria Ivanova, “Good COP, Bad COP: Climate Reality after Paris”, *Global Policy*, Volume 7 . Issue 3 . University of Durham and John Wiley & Sons, Ltd. September 2016
11. Meinhard Doelle , “The Paris Agreement: Historic Breakthrough or High Stakes Experiment?”, *climate law*, vol.6, 2016,
12. Rajamani, L. , —Ambition and Differentiation in the 2015 Paris Agreement: Interpretive Possibilities and Underlying Politics, *International and Comparative Law Quarterly*, vol. 65 (2), (2016)
13. Savaresi, A. —The Paris Agreement: A New Beginning?, *Journal of Energy & Natural Resources Law*, vol. 1 (11), (2016)

14. Simon Chin-yee, —briefing Africa and the Paris climate change agreement, *African Affairs*, vol.115/459,(2016)
15. Sebastian Oberthür and Ralph Bodle, Legal Form and Nature of the Paris Outcome, *climate law*, vol 6, 2016,

Laws policy instruments and other documents

1. Ban, Ki.-moon, —The Paris Climate Challenge, *Boston Globe*, (25 November 2015),
Opinion
2. Council of Europe parliamentary assembly, *Climate change: a framework for a 2015 global agreement*, (November 2013)
3. UN general assembly Resolution 1655, (2009)
4. www.unep.org/unep/per/for fire/fire.htm.
5. IPCC, *Third Assessment Report: Climate Change 2001* (2001)
6. The ILA Constitution 1873
7. FDRE Environmental Protection Authority ,Ethiopia’s vision for a climate resilient green economy 2010
8. Ethiopia’s Initial Nationally Determined Contribution

9. The constitution of the Federal Democratic Republic of Ethiopia 1995
10. environmental policy of Ethiopia 1996
11. The federal democratic republic of Ethiopia ministry of water resources national meteorological agency , climate change national adaptation programme of action (NAPA) of Ethiopia
12. voluntary nationally appropriate mitigation action plan of Ethiopia to be implemented until 2020(NAMA), 2010
13. The Ethiopian Programme of Adaptation to Climate Change (EPACC),
14. Dr. Tewolde Brehan ,Views of Ethiopian Delegates on the Draft agreement and draft decision on workstreams 1 and 2 of the Ad Hoc Working Group on the Durban Platform for Enhanced Action, unpublished, MFECC
15. Views of the Ethiopian Delegation on the Negotiating Non-paper issued by the ADP Co-Chairs on 5 October 2015,unpublished, MFECC