Ambition in a Post-Global Stocktake World
NDCs as *Prescribed Qualified Unilateral Acts* in International Law

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Outline

• How can the output of the GST enhance ambition – is there a legal lever?

• Overview over mandate and process

• Procedural rules on ICTU

• Qualification of NDCs in international law
Article 4.9 Paris Agreement

• On mitigation, Article 4.9 requires that when Parties communicate their NDCs – every five years – they take the outcomes of the stocktake into account.

• This requires the design of the stocktake to result in outcomes that can qualitatively inform the next submission of NDCs, through aligning timeframes and through substantial outcomes.

• How can the consideration of outcomes and outputs be ensured – is there a legal “lever”?

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Three Phases of the GST

1. Information Collection – Decision 19/CMA.1 para.36 lists information types and para.37 lists information sources

2. Technical Assessment – addressed all elements of para.6(b) 19/CMA.1

3. Consideration of Outputs ➔ COP28

Consideration of outputs, focusing on discussing the implications of the findings of the technical assessment with a view to achieving the outcome of the global stocktake of informing Parties in updating and enhancing, in a nationally determined manner, their actions and support...as well as in enhancing international cooperation for climate action.
Technical Assessment Phase

• Co-Chairs Guiding Questions
• Inputs of Parties and NPS
• TD1.1 – 1.3

Mitigation + Adaptation + Means of Implementation

CMA decides that the outputs ...should summarize opportunities and challenges for enhancing action and support in the light of equity and the best available science, as well as lessons learned and good practices...(19/CMA.1)
Qualified Prescribed Unilateral Acts

- NDCs as unilateral acts become \textit{integral} parts of the treaty.
- Only with the \textbf{prescribed unilateral act} can the objective of the treaty be fulfilled.
- The \textbf{qualification element} is added through the global stocktake, the evaluation of all efforts in their cumulative effect.
- Good faith is elevated to “Geltungsgrund” through the treaty context.
- There is an additional duty of due diligence (ICTU), derived from modes of implementation (COP decisions).
Thank you!

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