

## **MODEL LAW**

Implementing the Nationally Determined Contributions  
Submitted Under the Paris Agreement Through Domestic Legislation

## **Introduction**

At the Paris climate conference in December 2015, 195 countries adopted a global climate agreement (“Paris Agreement”). Under the Paris Agreement, governments across the world agreed to the long-term goal of maintaining the global average temperature increase at “well below 2°C” in excess of pre-industrial levels.

To reach this goal, the parties to the Paris Agreement (“Parties”) must submit Nationally Determined Contributions (“NDCs”) describing how each nation will reduce greenhouse gas emissions in order to contribute to the global 2°C goal. Before the Paris conference, parties were called upon to submit their “Intended Nationally Determined Contributions” (“INDCs”), which were effectively interim NDCs intended to showcase how emission reductions would be possible. The Paris Agreement contains some guidelines about the information the NDCs should include. Specifically, the NDCs must include the temporal reference point from which countries set their goals, time frames and/or periods for implementation of their target, the scope and coverage of their emission reduction plans, as well as a description of the assumptions and methodological approaches used in their NDCs. Each NDC must be revised every five years “with a view to enhancing its level of ambition.”

Parties who submitted an INDC prior to joining the Paris Agreement may utilize their INDC as their first NDC going forward. Parties may also submit new or revised NDCs. This document refers to all of these NDC instruments collectively as “NDCs.”

## **Nature of the Model Law**

The NDCs by themselves are policy documents without the force of law. The NDCs will hold greater promise of being achieved if they are integrated into each nation’s domestic laws.

This model law is intended to serve as a resource for countries seeking to implement domestic legislation giving effect to their NDCs. Because a model law may be most useful to countries with fewer administrative resources, this template is geared towards that community, although it is not necessarily limited to their use.

The NDCs adopt a variety of approaches, so this model law offers several different sections intended to cover the most common approaches. Most countries’ NDCs include a specific greenhouse gas (GHG) mitigation target of some kind (e.g., quantity-based, intensity-based, variable over time, etc.). Countries may achieve those goals through a variety of measures, including industry-specific emissions reductions, cap and trade, carbon taxes, energy efficiency investments, and more. Some NDCs also include a carbon sink goal, or state their intent to include land and forest sectors in their GHG inventories. The model law does not attempt to provide specific provisions addressing all possible scenarios, and does not prefer one approach over another. It rather simply seeks to enshrine NDCs, whatever their form, as a domestic law commitment in order to increase their chances of being successfully implemented.

The Paris Agreement also requires the Parties to regularly provide a variety of reports: national inventories of anthropogenic GHG emissions and sinks; progress reports on implementing and achieving the NDCs; and, although not mandatory for developing countries, plans for climate

change adaptation. The Agreement also encourages developing country Parties to submit information on the type of external support they need to achieve their goals, and the support they have received. To help satisfy those obligations, the model law includes provisions for reporting and information collection.

The form of national legislation and the terminology used will of course vary according to domestic legal practices, administrative and governmental structures, and other factors. These model provisions are meant to be used as a starting point and adjusted based on each country's particular legal conventions, preferred implementation instrument, and NDC content. The model provisions include "drafting notes" to assist countries in drafting legislation tailored to their needs; these are found in footnotes throughout the document.

### **Future UN Actions**

The Paris Agreement is open for signatures through April 21, 2017. The Agreement will enter into force November 4, 2016, because at least 55 Parties accounting for at least 55 % of total global GHG emissions have deposited their instruments of ratification, acceptance, approval, or accession with the Secretary-General of the United Nations.<sup>1</sup> In 2018, the Parties will participate in a "facilitative dialogue" to assess whether the NDCs in aggregate can achieve the 2°C goal. The Parties' revised NDCs will be due by 2020.

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<sup>1</sup> The current status of ratification is available at [http://unfccc.int/paris\\_agreement/items/9444.php](http://unfccc.int/paris_agreement/items/9444.php).

# Act Number XX of 201X

## Climate Change Mitigation and Adaptation Act

**An Act to implement [COUNTRY NAME]’s Nationally Determined Contribution to the 2015 Paris Agreement under the United Nations Framework Convention on Climate Change, with a view to combatting climate change by ensuring that global temperatures do not rise by more than 2 Degrees Celsius above pre-industrial levels.**

### PART 1 General

1. This Act may be cited as the Climate Change Mitigation and Adaptation Act.

2. *Definitions.* As used in this Act, the following terms shall have the following meanings:

“Carbon sinks”: A natural or artificial reservoir that accumulates and stores some carbon-containing chemical compound for an indefinite period.

“Greenhouse gases”: Any gas that absorbs infrared radiation and radiates heat in all directions, including carbon dioxide, methane, nitrous oxide, ozone, and any fluorocarbons.

“Internationally Transferred Mitigation Outcomes”: Market-based systems for reducing greenhouse gas emissions.

“Management Authority”: A national administrative body designated as having primary responsibility for the implementation of this Act.

“Minister”: The senior most official of the Management Authority.

“Nationally Determined Contribution”: [NAME OF COUNTRY]’s plan for contributing to global efforts to combat climate change, as submitted to the Secretariat on [DATE].

“Paris Agreement”: Paris Agreement adopted by Decision 1/CP.21 of the Conference of the Parties to the United Nations Framework Convention on Climate Change on its twenty-first session, held in Paris from 30 November to 13 December 2015 (FCCC/CP/2015/10/Add.1).

“Person”: An individual, group of individuals, corporation, association, trust, or estate.

“Secretariat”: United Nations Framework Convention on Climate Change Secretariat.

3. Statements included in the most recent Nationally Determined Contribution will serve as a source of interpretation of the provisions of this Act.

4. Nothing in this Act shall restrict the authority of subordinate levels of government to require more stringent greenhouse gas reductions or additional adaptation activities.

This Act shall be effective as of the date of enactment.

## **PART 2 Authorities**

1. The [NAME OF MINISTRY] is designated as the Climate Change Mitigation and Adaptation Management Authority for [NAME OF COUNTRY].<sup>2</sup>
2. The specific duties of the Management Authority shall include, but are not limited to the following:
  - (a) Coordinating the research, completion, and submittal of the reports listed in Part 3;
  - (b) Communicating with the Secretariat and other countries on scientific, administrative, enforcement, and other issues related to implementation of the Paris Agreement;
  - (c) Coordinating the national implementation and enforcement of this Act, and cooperating with other relevant authorities in this regard;
  - (d) Representing [NAME OF COUNTRY] at national and international meetings related to the Paris Agreement;
  - (e) Providing training, education, and information related to the Paris Agreement;
  - (f) Advising the Minister on action to be taken for the implementation and enforcement of the Paris Agreement;
  - (g) Intervening in litigation before a court in any matter under this Act.
3. The Minister shall issue such orders, protocols, and regulations as necessary to enable implementation of the provisions of this Act.
4. The Managing Authority is authorized to gather information from the private and public entities to comply with its obligations under this Act, and to verify information in its possession through any reasonable means.
5. It shall be the duty of all private entities and public authorities to cooperate fully with the Management Authority in satisfying the provisions of this Act.

## **PART 3**

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<sup>2</sup> **Drafting Note:** More than one Management Authority may be designated, in which case a lead Management Authority should be identified.

## **Reporting**

1. The Managing Authority shall annually calculate anthropogenic GHG emissions and carbon sinks, and prepare a report on the calculations to the Secretariat. The Managing Authority shall promulgate regulations to implement this requirement, which shall ensure that the emissions from all sectors of the economy are accurately captured and reported.
2. The Managing Authority shall annually prepare a report to the Secretariat describing the progress made towards implementing the Nationally Determined Contribution.
3. The Managing Authority shall annually prepare an Adaptation Communication to the Secretariat describing [NAME OF COUNTRY]'s adaptation priorities, implementation and support needs, plans, and actions.<sup>3</sup>
4. The Managing Authority shall annually prepare a report to the Secretariat describing the financial, technology transfer, and capacity-building support that [NAME OF COUNTRY] has received in the preceding year, and the support of that nature that will be needed in the future.
5. The Managing Authority may exercise its discretion in combining any of the required reports, as long as sufficient information about each issue is contained in the combined report.
6. The Managing Authority may also follow an alternative reporting schedule, whether by agreement with other Parties or independently, provided that the alternative reporting schedule does not require reporting less frequently than provided in ¶ 1–4 of this Part.

## **PART 4 Mitigation**

1. [NAME OF COUNTRY] shall, at a minimum, achieve the emissions targets listed in Schedule 1 to this Act.
2. Schedule 1 shall be considered automatically amended upon submission of a revised Nationally Determined Contribution to the Secretariat. The amendments shall be published in the [NAME OF PREFERRED PUBLICATION OR PREFERRED MODE OF PUBLICATION] as soon as possible after their submission to the Secretariat. The official website of the Convention is the official reference for the Schedule.
3. Within [XX] days of the effective date of this Act, the Managing Authority shall promulgate regulations ensuring that [NAME OF COUNTRY] will achieve the emissions in Schedule 1 as expeditiously as practicable. Consistent with Article 6 of the Paris Agreement, these regulations may include Internationally Transferred Mitigation Outcomes.

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<sup>3</sup> **Drafting Note:** The Paris Agreement says that the Adaptation Communication requirement should be implemented “as appropriate” and “without creating any additional burden for developing country Parties.”

**PART 5**  
**Adaptation**

1. [NAME OF COUNTRY] shall conduct the adaptation measures listed in Schedule 1 to this Act.
2. Within [XX] days of the effective date of this Act, the Managing Authority shall promulgate regulations ensuring that [NAME OF COUNTRY] will complete the adaptation measures listed in Schedule 1 as expeditiously as practicable.

**PART 6**  
**Management and Oversight**

1. The Managing Authority shall develop and propose an annual budget sufficient to satisfy the obligations set out in this Act.
2. Within two years of the effective date of this Act, and every two years thereafter, the Managing Authority shall submit a report to the [LEGISLATIVE BODY] describing [NAME OF COUNTRY]'s compliance with this Act, and providing recommendations for any changes to this Act that the Managing Authority has determined will further the goals of the Paris Agreement. Upon receipt of such report(s), the [LEGISLATIVE BODY] shall take such action as may be appropriate in response to recommended changes to this Act.

**PART 7**

**Accountability and Enforcement**

1. Any person may commence a civil action on his or her own behalf against the Managing Authority where there is an alleged failure of the Managing Authority to perform any act or duty under this Act that is not discretionary.
2. Any person may commence a civil action on his or her own behalf against the Managing Authority to challenge a regulation or other implementing decision by the Managing Authority as unlawful or without scientific basis.
3. Any person may commence a civil action on his or her own behalf against any person who is alleged to be in violation of this Act, or any related regulation.<sup>4</sup>
4. It shall be a civil offense to obstruct or otherwise hinder an officer of the Managing Authority in the performance of his or her duties or to fail to comply with a duly issued request for information.
5. It shall be a civil offense for any person to fail to comply with any regulations promulgated under the authority of this Act.

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<sup>4</sup> **Drafting Note:** A provision of this kind would allow anyone, including citizens, to be part of the enforcement system. While a citizen suit provision can be an important feature for ensuring accountability, local law and custom will determine whether it should be included in the Act.

6. A person who is found to have committed a civil violation of this Act shall be liable for a penalty not exceeding [AMOUNT] per day per violation and shall be subject to corrective order.
7. It shall be a criminal offense for any person to make or attempt to make either oral or written false or misleading statements in, or in connection with, any reporting or other activities conducted pursuant to this Act.
8. It shall be a criminal offense for any person to commit any willful violation of this Act.
9. A person who is found to have committed a criminal violation of this Act may be subject to a fine not exceeding [AMOUNT], or a term of imprisonment not to exceed [XX amount of time].
10. In determining the amount of any penalty to be assessed under this Act, the Managing Authority or the court, as appropriate, shall take into consideration the economic benefit of noncompliance, the seriousness and duration of the violation, the violator's prior compliance history, and such other factors as justice may require.

#### **SCHEDULE 1**

[Schedule 1 shall provide the most recent version of the NDC.]