

SUMMARY & ARGUMENTATION PAPER

United Nations Convention on Sustainability of Global Forest, Food Reserves and Renewable Energy (“UNCSGFR”)

I. Introduction

In the fall of 2017, as our team came together to determine how we would begin accomplishing the mission presented by the Stockholm Treaty Lab, we initially felt overwhelmed. After all, numerous thinkers from around the world have attempted to create policies, treaties, and other mechanisms that would encourage the nations of the world to better protect the environment. Even with the brilliance of those minds at work, we, as a global society, have only had conservative gains in conservation efforts. Our Stockholm Treaty Lab Team (“Team”) approached the goal of combating climate change and preserving the environment by narrowing the focus of our submission (the “Convention”) and proposing what we believe to be practical incentives and solutions regarding several topics; food waste, renewable energy and deforestation, that directly impact the environmental health of the planet.

This paper describes our goal with the Convention and define what we would view as success. Then this paper focuses on the methodologies that we used to narrow the scope, the development of policies, the incentives for Signatory States (“States”) and private parties, and dispute resolution. Finally, there is a summary conclusion and acknowledgement section.

One of the primary reasons the Convention is viable, and therefore is likely to be considered and adopted by States, is the Convention’s simple management and organization of climate change improvement proposals. Universal solutions to this complex and multifaceted issue become increasingly complicated as these solutions are applied broadly. Therefore, the Convention identifies three major climate change areas of focus: food waste, renewable energy, and deforestation. This narrowed focused and three-pronged approach allow for country or region-specific customization and will drive wider adoption rates. Instead of relying on the monotonous pattern of voluminous and complicated climate change treaties, our Team recognized an opportunity to draft a treaty that was inspirational and aspirational, while also being concise and clear. Our Convention plainly states the areas targeted by our treaty, specific solutions we proposed to improve those areas, and recommended incentive schemes.

Additionally, in order to draft an instrument that was likely to be accepted and enforced by legal regimes around the world,, we needed to draft a document that acknowledged the broad differences in societies, as well as the fundamental differences in political and legal cultures (e.g. Civil vs. Common Law jurisdictions). Ergo, our team was comprised of professionals with business and legal training from around the world so as to draft a Convention that is respectful

and compliant with those differences. Our goal was to draft a universally applicable treaty that could have a meaningful impact in the fight for climate change.

II. Goals

Our Team's goals are briefly described in the statements below:

Address the man-made impact on the environment by:

- Focusing only on certain strategic issues in climate change and environmental science discussion,
- Complying with previous established and respected aspects of international law and policy regarding climate change (e.g. The Paris Agreement and the Sustainable Development Goals, "SDG"),
- Incentivizing parties in both the private and public sector to financially subsidize or otherwise support the initiatives described in the Convention, and
- Providing a reasonable means of resolving any disputes that may arise.

Keeping these goals in mind, we began our contemplation of possible viable solutions.

III. Methodology

As stated above, our Team wanted to devise a strategy that would have a broad-base of global support. Rather than drafting a treaty that was independent of affiliation with any organization, or that was more regionally focused, we elected to model the Convention after an established global organization with a tradition of international support and participation, i.e. the United Nations ("U.N."). With 193 members nations of the 195 nations that exist on the face of the planet today¹, we believed that the U.N., as an organization, allows for a common ground that would be acceptable by many nations, without an inherent presumption of bias. As a result, our treaty took the form of a U.N. convention.

The methodology for conducting research, analyzing said research, and ultimately drafting the Convention was divided into four parts: i) Scope, ii) Policies, iii) Incentives, and iv) Dispute Resolution.

i) Scope

¹ United Nations Directory of Member States, <http://www.un.org/en/member-states/>, Accessed February 25, 2018.

While initially overwhelming to contemplate how to research the means to combat climate change around the world, our Team identified the most critical climate change issues affecting the majority of the planet: Food Waste, Renewable Energy, and Deforestation. These issues were attractive options because they pose variables that can be directly affected by human activity and are issues that face the greater-global population as a whole. Furthermore, each topic provides opportunities for private investors to help remedy the problem as well as physically see the impact of their investment. The solutions we propose will improve the quality of life for both people and animals for generations to come.

Additionally, our Convention provides alternatives that allow States to utilize their comparative strengths and mend their comparative weaknesses in each of these categories. Each State, regardless of developmental status, has resources, services, products, or other valuable offerings to exchange. Our Convention recognizes these potential collaboration tactics and encourages States to be creative in deploying possible solutions within each topic.

Food Waste. According to the U.N. Food and Agricultural Organization, CO2 emissions from global food waste, if observed as an individual nation, would be the third highest producer of CO2 on the planet behind the United States and China.² Further, the fact that just one quarter of all wasted food could feed the 795 million undernourished people around the world is an untenable reality. Therefore, food waste, which encompasses substantial issues regarding climate change as well as the critical issue of global hunger was chosen as the first key pillar in our Convention.

Renewable Energy. Apart from being one of the U.N. SDG, renewable energy is a cornerstone in the global climate change discussion. Non-Renewable Energy is responsible for nearly 60% of total greenhouse gas emissions.³ That fact is especially concerning when considering that one in five people across the planet do not have access to renewable energy.⁴ Such a predominant contributor to greenhouse emissions warranted renewable energy as our second key Convention pillar.

Deforestation. As with the two previous topics, one of the primary motivating factors in choosing to address deforestation was deforestation's effect on greenhouse gases. Between 12% and 17% of global greenhouse gas emissions arise from deforestation practices. The loss of forests also is directly correlated with oxygen and breathable air available on the planet.

² Food and Agriculture Organization of the United Nations, SAVE FOOD: Global Initiative on Food Loss and Waste Reduction, Accessed February 14, 2018. Food and Agriculture Organization of the United Nations, SAVE FOOD: Global Initiative on Food Loss and Waste Reduction. (<http://www.fao.org/save-food/resources/keyfindings/en/>)

³ AFFORDABLE AND CLEAN ENERGY: WHY IT MATTERS, http://www.un.org/sustainabledevelopment/wp-content/uploads/2016/08/7_Why-it-Matters_Goal-7_CleanEnergy_2p.pdf, Accessed November 21, 2017.

⁴ United Nations Sustainable Development Goals; 17 Goals to Transform Our World. www.un.org/sustainabledevelopment/energy/, Accessed February 25, 2018.

Furthermore, approximately 1.4 billion people are dependent on forests for their homes, or other forest goods for survival. Therefore, our team chose deforestation as an imperative issue to address in our Convention.

Although not all-inclusive, providing solutions to the issues raised above creates a combination of alternatives that, if successful, could provide major victories in the fight against climate change.

ii) Policies

We address our suggestions for each of the several topics below:

1. Reduction of Food Waste.

In order to achieve the maximum reduction in food waste, the quantity of food produced must be as equivalent as possible to the quantity of food consumed. Food is created at multiple points along the production, transport, distribution, and consumption chain, and should be addressed along the entirety of the process. The food production, transport, distribution, and consumption process involves the interaction of multiple individuals, businesses, and industries whose interests differ from one another, solidifying the importance of creating an individualized and flexible paradigm with which to address the food waste problem. To that end, our proposed agreement aims to stimulate the research and development of more efficient food collection, packaging, storage, and transport methods areas by streamlining the visa application process for scientists in these areas, as well as by re-evaluating tariffs and taxation. By simultaneously increasing the ease of transferable knowledge and reducing financial barriers, progress can be accelerated.

As mentioned in our proposed agreement, the promotion of a feedback loop from food manufacturers back to the food producers could provide a use for inedible excess food and food scraps, helping to tighten one area of the chain.

In addition, perfectly edible food is “lost” closer to the consumer end of the chain through distributional decisions and a lack of knowledge. While some programs exist to reroute “ugly” or less-sellable produce, these tend to be on a smaller scale and highly localized. Decreasing liability for food distribution centers such as supermarkets and restaurants while simultaneously providing tax incentives for donations and/or punitive provisions can incentivize them to dispose of excess or non-aesthetic food in a more productive manner. Furthermore, increasing consumer knowledge, by standardizing expiration date labeling and through general informational campaigns, can decrease the quantity of consumable food thrown out on an individual level.

However, while the global situation indicates that more food is produced in total than is consumed, each sovereign State is in a unique situation and may be suffering from a lack production of food within its boundaries. Providing for the potential of international networks allows for an additional avenue for these same distributional centers to get financial benefits and avoid punitive provisions. Allowing for the potential trade of natural resources for food could encourage more strategically minded Signatories to contribute to their fellow Signatories' well-being. Finally, while certainly idealistic, the potential of the creation of a basic, universal food income as mentioned in our proposed agreement could also address this most fundamental human need.

Additionally, food resources on this planet are not infinite. Our agreement aims to protect biodiversity while exploring all potential avenues of food production by simultaneously providing for the protection of seafood and other wildlife while encouraging the development of novel, lab-grown or synthetic foods.

2. Renewable Energy

One of the hot button topics in environmental protections is renewable energy. To motivate Signatories to buy into a potentially expensive topic, we propose promoting energy security and limiting risk. From a national security standpoint, the promotion of a secure, stable energy grid is of the utmost importance. Therefore our proposed agreement encourages the adaptation of guidelines that facilitate safe.

To further reduce risk, we suggest increasing the diversity of energy sources instead of relying on one. Therefore, we propose strengthening energy security by increasing the utilization of existing and research of new renewable energy sources. To that end, collaborative research and development efforts are more likely to yield economically viable options. In addition to this approach, we propose Signatory evaluate its endogenous development potential. We encourage Signatories to look within their own borders for novel energy sources for the benefit off all parties.

Furthermore, regardless of the number and quantity of energy sources possessed, if these energy sources are not used efficiently, then the maximum potential for use and energy security cannot be realized. Therefore, our proposed agreement encourages research, development and conversion of energy efficient technologies through various financial incentives such as energy-efficient product related tariff reductions and government subsidies. In addition, our agreement acknowledges the importance of finding a "best use" for land that could be used for renewable energy technologies and allows for novel investment agreements.

Finally, returning to the concept of energy security and access, our proposed agreement promotes access to renewable energy for its Signatories' populations by promoting community-based programs and government subsidies. With both a community-based "ground up" approach and an energy security "top down" approach, the Convention increases the likelihood of each Signatory developing a viable renewable energy program.

3. Deforestation

We first encourage States to develop or enhance their domestic deforestation documentation and policy infrastructure. This provision obliges States to provide a means for both informing potentially interested parties of currently existing access to funds. It further encourages States to incentivize private parties with funds (as available) or through other investment mechanisms. This suggestion also encourages parties to comply with existing objectives from the U.N. Food and Agriculture Organization. This segment is essential to informing potential parties of funding opportunities. It further encourages States to lead domestic parties by creating routes to achieve their vision of combating deforestation. Our Team also suggests States and private parties identify and pursue avenues of integration to collaborate on reducing deforestation and finding means to create lands for new forests.

To this end, our Team realized that some States may have a desire to affect positive change on the deforestation efforts, but may not have the land to do so. Therefore, on the occasion that such States have excess resources, financially, human-power, or otherwise, those States should provide those resources to States with underutilized land to achieve the overall goal of replenishing the world's forest populations. We deemed these States that are capable of additional forest cultivation "High Interest Regions."

Our final proposals with regard to deforestation related to two economic considerations, decreasing poverty in forest communities and increased import tariffs. As mentioned above, billions of the world's population are sustained from the existence and preservation of forests. The decreasing poverty among forest communities provision obliges States to support and bolster those communities. This is an important inclusion in the face fighting global poverty, and reducing deforestation.

Finally, with regard to increasing import tariffs, our Team de-incentivized the motivating factors for parties to over utilize products and goods that are derived from forests by increasing the economic burden related to bringing those goods to market. As stated elsewhere, it would be too difficult to account for each nation's specific trade agreements, so instead we grant the autonomy to decide what those increases look like, but we also include compulsory language to ensure compliance.

iii) Incentives

For any agreement of this scope to be successful, Signatories must be able to trust that their counterparts and the Investors are being truthful in their participation, using the advantages they have been given in manner consistent with the auspices under which they were granted said advantage. To that end, our Convention has numerous provisions which support the dual purpose of providing transparency while allowing for the measurement, and potential adaptation, of efficacy. Of course, these provisions become more burdensome to those required to operate under them if they are abused by being enacted too frequently; therefore, the inspection provision is limited in frequency. Investors are granted similar transparency rights towards their investments at a more frequent rate due to the rapidity with which Investors must respond to outside stressors, and the higher volatility that market demand can place on them, in comparison to States. Obviously, this difference is a gross generalization, but our Team encourages Investors to take risks with novel technologies.

An anti-discrimination provision encourages Signatories and Investors who might otherwise avoid agreement due to their particular cultural, economical, or other ideological stance to participate.

Pulling from other successful international trade agreements, our Team decided from a foundational standpoint to incentivize Investors by providing them with various standard guarantees and protections, such as provisions limiting double taxation, providing for fair compensation in the event an Investment is expropriated or destroyed, providing for ease of transfer of funds and of data. Other standard incentives included provisions for better of national treatment, which allows for equal treatment of foreign and local investors, or most favored nation status, which grants the same trade status as that of other “most favored” nations. Finally, additional standard provisions provide for minimum standard treatment, which is the baseline standard for treating foreign Investors and their property, and protection from strife, which acknowledges that the reality Investors and Signatories may need additional protections in the event of war, civil unrest, or other catastrophes.

Protections granted to Signatories must necessarily include the acknowledgment and protection of State sovereignty in order to elicit compliance, therefore our team included flexible provisions allowing for non-compliance with the agreement for reasons of national security, public order, and times of economic hardship, as long as the latter situation are remedied as soon as possibly feasible. The flexibility of this latter provision especially keeps Signatories from abandoning the principles of the agreement when undergoing situations outside of their immediate control.

iv) Dispute Resolution

_____Regarding the proposed dispute resolution method, our Team provided a two-tier solution. In both cases arbitration was the elected dispute resolution mechanism, as a long-standing consensual mechanism with relevant advantages for its users.

Firstly, regarding Investor-State disputes, it became clear that an effective dispute resolution mechanism was necessary, in order to provide Investors with a viable tool they could mobilize. This tool, notwithstanding the prior possible phase of negotiation and consultation, is arbitration. Benefitting from an established legal framework, both by invoking the general consensus around the United Nations Commission on International Trade Law (“UNCITRAL”) Arbitration Rules and the wide acceptance of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958, “NYC”), the proposed system enacts several relevant guarantees for both disputing parties: the established consent to arbitrate, the rules on the composition of the arbitral tribunal, the transparency requirements, the consolidation possibility as well as the application for interim measures, and the provisions regarding the final award.

Secondly, regarding State-State disputes, whenever the interpretation or application of the Convention raises conflicts the same tools are available. Also here, after awarding Signatory States the possibility to diplomatically reach consensus, also arbitration was the elected mechanism available.

Being before a binding instrument that provides for an efficient dispute resolution mechanism to Investors is an essential condition of effecting their prerogatives before host States, and vice-versa, that ultimately also amounts to a condition of the success of the legal instrument we put forth.

IV. Conclusion

Our planet does not have the luxury of time and infinite resources. Indeed, on a daily basis, our planet is affected by man-made problems. Our Convention outlines the tools and resources necessary to remedy these problems. Our Convention takes a step towards a solution by narrowing the scope of suggested actions to combat climate change to several unique yet critical topics. This methodical and specific approach allows States to take actions within its own borders and also to collaborate with other States to achieve the goal of preserving our environment. Equally important and present in our Convention are terms that solicit and incentivize foreign direct private sector investment and cooperation with the World’s

governments. Furthermore, when an inevitable dispute arises, we provide a robust, practical, and comprehensive plan for resolving said dispute with industry-best practices to assure efficient and just resolution for the involved parties.

We are confident that our Convention outlines mechanisms to further the dialogue around climate change; we are equally confident that the world's leaders are capable of taking these ideas and deploying them for the betterment of our world. Why? Because the next generation of planet Earth's inhabitants depend on us to.