

## Paris Climate Changes Agreement 2015 Operational Requirements and Legal Restrictions of Joining Iran

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### Abstract

Today, climate change is taking place as an irrefutable reality of international community. This phenomenon is one of the most important challenges of the contemporary age. In fact, the negative effects of climate change and its harmful effects to the human health and environment itself, conducted international community to accept some international treaties such as the Convention on Climate Change 1992, the Kyoto Protocol 1997 and the Paris Conference 2015. The Paris agreements on the climate change is an agreement within the United Nations Framework Convention on Climate Change (UNFCCC) which dealing with greenhouse gas and oblige the parties to take account of the magnitude and consequences of global warming Reducing GHG emissions for the first time. The goal of this agreement is to change the economy based on global fossil fuels over the next few decades and decrease the global warming track. The Islamic Republic of Iran also declared its agreement at the time of the initial approval of the Paris Agreement, but the process of formal accession to this agreement entails ratification by the Islamic Consultative Assembly, the general of which was passed by the Islamic Consultative Assembly and then presented to the Council. The Guardian is currently being re-examined in the Islamic Consultative Assembly to resolve the ambiguities and defects of the Guardian Council. This has led to disagreement between the proponents and the opponents of Iran's accession to the Paris Agreement. In this paper, while reviewing the legal process for the formation of the Paris Agreement, the views of the advocates and opponents of Iran's accession to the agreement were examined from the perspective of Iranian fundamental rules and regulations. According to this research, ratification and implementation of the Paris agreement could increase the country's ability to adapt new rules and regulations in order to reduce consequences of global warming Reducing GHG emissions.

**Keywords:** Environmental law, climate change, Paris agreement, Iranian fundamental rules and regulations, International Environmental law

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### INTRODUCTION

Climate changes have been occurred affected by inflow and outflow energies of the earth atmosphere balance collapse resulted from greenhouse gasses issuance. This has mal effects and consequences on several natural sections together with human health and activities. Applying fossil fuels such as oil and gas has been recognized as the main reason of the earth warming up and greenhouse gassed spreading out. The scientists have warned that if the warming procedure of the earth continued in the same manner, the earth planet will be confronted highly climate embarrassment and a lot of herbaceous and brutal kinds will be extinguished (The Environment Organization Portal)

The greenhouse gasses mean the gasses which attract and reflect the infrared rays. These gasses have been created by natural and manmade procedures. One of the main greenhouse gasses is the water steam and the others are: Carbon Dioxide, Nitrogen Oxide, Ozone and Carbon Chloro-Fluorides (Khalili 2004, Takzare et al. 2018).

Climate change, at this moment, is one the most important global challenges which its main consequences are: increasing temperature, melting polar ices, arising free world waters, and changing in climate thresholds (Iran Islamic Parliament Research Center, 1392 2004).

Based on the item 2 of the article 1 of the United Nations Structural Convention due to climate changes, “The change in climate means the change in weather which directly or indirectly is resulted of human activities that cause some changes in the global atmosphere. These changes are differed to the natural changes in the climate which have been seen in similar time periods (The United Nations Convention on Climate Change 1992).

Climate changes and their negative effects and consequences have made the global society to oblige all countries to accept responsibilities and do some activities to decrease the warming up process of the earth and its consequences in the framework of global obligations such as: “The Climates Changes Convention”, Kyoto Protocol and Paris Conference (COP21).

So, the Climate Changes Convention has been considered as a joint target but different obligation for several countries.

The article 4 of this convention, which relates to the obligations, is declared that all obligators to the convention have the same joint target with distinguished responsibilities (<http://unfccc.int/2860.php>).

All countries participated in the Climate Changes Convention which have been held in Paris in the late November till the mid December 2015 attending 195 countries, have agreed to control the temperature increase in the earth beginning form 2020 to 2050 to be less than 2 centigrade degrees. After this conference and assuming the final agreement to change the economic system based in fossil fuels and to lower the warm up trend of the earth, all the world’s countries obliged to decrease polluting gasses. Based on this, the rich countries should help the developing countries from the year 2020 up to 100 billion Dollars per year in this concern (<http://unfccc.int/2860.php>).

The Islamic Republic of Iran has announced its acceptance in the time of preliminary agreement enactment and finally has signed it at 22<sup>nd</sup> April 2016 (1395/02/23) at the same time of 170 other countries signing. However, the official joining of Iran to the mentioned agreement which includes the enactment in the Islamic Republic of Iran Parliament has been finally occurred at November 14, 2016, which the agreement

has been enacted generally in the open public arena of the Parliament and after being propounded in the Guardian Council, it has been referred to the parliament to solve the ambitions and problems and it is now under reconsideration there.

Therefore, the Islamic Republic of Iran, based on the Intended Nationally Determined Contributions (INDC)<sup>1</sup> and standing on the interior potentials, should decrease the greenhouse gasses spreading out up to 4% less than the existing conditions according to the basic scenario (BAU)<sup>2</sup> till the year 2030 (The final year of the 8<sup>th</sup> development program, 1409), and in the case of fully solving the sanctions and technical and financial aids, this contributions is increasable to 12% (Ahadi 2017).

Hence, Islamic Republic of Iran incorporation to Paris agreement generally and Iran’s obligation to decrease greenhouse gasses spreading out, specifically, has become a subject to be discussed in scientific, legal and sometimes political associations.

In this concern, each of the incorporated agreeable or non-agreeable ones has their own reasons or documents which resulted in several discussions were partly contradicted. So, in this essay, we investigate the agreed and opposite viewpoints due to Islamic Republic of Iran joining to the convention from the legal approach and general governmental policies. To do so, concerning this research subject, we should have knowledge about the background of Paris changing climate agreement, and what are the advantages and disadvantages of Iran joining to this agreement. Also, we should know the place of this agreement in accordance with the upper hand documents and our interior laws.

## DISCUSSIONS

### Formation and Obligations of Paris 2015 Agreement

From the legal viewpoint, the year 1988 has been the milestone of creating the climate change regime. Till then, the climate changes has been declared by non-governmental activates and scientists. But at that year, this subject has been made as an inter-governmental category. The years 1988 to 1990 were a passing period and a combination of governmental and nongovernmental activities that have formed “The Intergovernmental Panel on Climate Change (IPCC)<sup>3</sup>” by The International Meteorology Organization and the United Nations Environment Program (UNEP)<sup>4</sup>.

<sup>1</sup> INDC: Intended Nationally Determined Contributions

<sup>2</sup> Business-as-Usual Scenario(BAU)

<sup>3</sup> IPCC: Intergovernmental Panel on Climate Change

<sup>4</sup> UNEP :United Nations Environment Programme

The Intergovernmental Panel on Climate Change (IPCC) has presented its first evaluation report in 1990. IPCC has been obliged to evaluate the existing scientific situation due to climate system and climate change, its environmental, economic and social effects and the possible strategies to reduce their mal effects.

The second climate change global conference has been held in 1990, emphasizing on the necessity of creating a legal framework for this phenomenon. This important conference has been held by: The world Meteorological Organization (WMO)<sup>5</sup>, The United Nations Environment Program (UNEP) and the other international organizations.

This conference has raised the negotiations and discussions of the ministers of 137 countries besides the European Community. The final manifest which has been prepared after much bargains, did not include any international specific target to reduce the issuance of greenhouse gasses.

However, it supported some principles which have been declared in the climate change convention.

Climate Changes Convention, has been held in 1992 in Rio, was based on the aim of making fixed the greenhouse gases have been produced by industrial activities, at a level to reduce their effects on human and the earth natural life. The convention enactment have signed and operated by 154 countries together with the European Association.

This convention used to hold two sessions per year. The most important meeting of this convention is "The Yearly Conference of the Parties" (COP)<sup>6</sup> which is holding on December every year. The other pillars yearly sessions, which are scientific, technical and operational sections, are holding two times per year at June and December (at the same time of COP) (Pour Asghar Sangachin et al. 2004).

The first conference of parties (COP), the highest conference organ, was held from March 28 till April 7 of 1995 in Berlin (Germany). The parties have made 21 decisions in this conference which "Berlin agreement for new negotiation course due to convention empowerment" was one of them.

The second conference has been held in The United Nation's Base in Geneva at 1996. The agenda of this session has been investigating the most important constituent elements of the final protocol. Based on

several countries suggestion, the necessary background of preparing the protocol text has been prepared.

The third conference has been held in Kyoto (Japan) at December 1997. In this conference, attending about 10,000 of the agents, observers and journalists, the obligators of The United Nations Climate Changes Convention have enacted a new protocol to reduce greenhouse gases named: "Kyoto Protocol".

The 21st conference of The United Nations changing climate convention members (COP21) and the 11th meeting of Kyoto Protocol (CMP-11) titled Paris Climate Conference has been started at November 30, 2015. In this meeting, the United Nations climate agreement has been enacted after two weeks of negotiations between 195 countries agents.

Based on this important document which is replaced "Kyoto Protocol", all the world's countries have been obligated to reduce polluting gasses for the first time. The main target of this climate agreement is to change fossil fuels based economies in coming decades and slower the warming trend of the earth.

This global document named "Paris Agreement" is following to limit the earth's warming temperature to maximum 2 centigrade degrees comparing with the pre-industrial period till the year 2100. The agreement's final text contained the rich and developed countries financial aid to the developing countries to create the necessary changes in order to reduce polluting gasses production. This agreement has been enforceable officially from November 4th 2016 by the beginning of the 22nd changing climate convention conference in Morocco.

In Paris conference, the attending countries constituted a new regime for climate changes. Based on this, energy optimization and economization, besides utilizing revivable energies will be concerned. Also, the economic and security consequences of non-operating the obligations will be observed. Iran is in ten first producers list of greenhouse gases. Therefore, Iran obliged to reduce its greenhouse gasses volume to a great extent till 2020 (The Environment Organization Portal).

The main elements of Paris agreement in order to manage and control the countries activities are:

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<sup>5</sup> WMO: World Meteorological Organization

<sup>6</sup> Conference of party

- Reduce rapidly the gasses spreading out based on reaching the optimum temperature target
- Create a transparent system based on the global market
- Adapting and empowerment of the activities and endeavors to modify the climate change effects
- Supporting and providing financial and technical resources for developing countries to create a clean and flexible future

### **Islamic Republic of Iran and Paris Agreement 2015**

In order to Islamic Republic of Iran joining to Paris Agreement, the Foreign Minister, Mr. Zarif, on behalf of the Board of Ministers and the country, has attended in the last April 2016 in the signing ceremony and announced the country willingness to attach the agreement and accepted it by his signature. After then, following the president's legal deputy and the Environment Organization's persuasions and endeavors, the government has enacted an enactment including Paris Agreement concept in the ministers' board and presented it to the parliament.

This enactment has been presented to the parliament's public arena and the members have agreed with it generalities and details in the public session at 14 November 2016 based on 149 agreed, 6 opposite and 8 abstainers out of 206 attendants. This enactment has been sent to the Guardian Council to be checked and confirmed (The Environment Organization Climate Change Office).

The Guardian Council has announced its opinion via the letter no. 95/100/3220 dated 15 December 2016 (24/09/1395):

The Paris Agreement enactment which is enacted at the parliament's session dates 23/08/1395 has been discussed in the Guardian Council's meeting and their opinion has been announced in below:

1. Regarding the items 8 and 9 of article 4 and the item 11 of article 13, the annexes of the agreement should be attached to enable this council to advise their viewpoint.
2. In article 23, as it is not known whether it has any enacted annex or not, it is ambitious. So, it will be announced after clarification (The Guardian Council Website).

The enactment has been rejected to the parliament to be rechecked and disambiguated.

In other words, the Guardian Council has requested the parliament to check the attachments of the agreement. The parliament has also requested the Environment Organization to send the attachments. But, as there is not any enacted attachment for the agreement, so, the Environment Organization has announced that the agreement does not have any attachment, and if any would be created, should be enacted by the parliament.

In Paris Agreement, as the other convention member countries, Islamic Republic of Iran is obligated to determine and present a specific national participation plan in order to reduce the greenhouse gasses spreading out. The mentioned plan should include planned activities based on the country's economic and technical abilities.

Now, as the enactment should be re-discussed and investigated in the parliament, it has caused presenting the agreed and opposite viewpoints of Iran's attaching to the agreement. All the oppositions are regarding the country's obligations. Hereby we are going to review the agreed and non-agreed viewpoints of Iran joining to Paris Agreement.

### **Investigate the Agreed and Opposite reasons of Iran Joining to Paris Agreement 2015**

The agreed ones with joining Iran to climate change obligations, in general, and Paris Agreement in special, believe that in accordance with globalization process, the environment has been under consideration as a global problem, because the earth is the joint heritage of human beings in which, not only the humans, but also all living creatures have the living right and should be able to utilize godsend blesses. The reality is, as the environment consisting parts are so integrated, dynamic and moveable which we could not imagine to make any border between them, therefore, the political bordering is not applicable to it at all. This dynamism and interpenetration of the environment parts caused any disturbance at any part in any geographical environs, will affect all other parts and regions all over the world. For the same reason, numerous problems and difficulties of the global society have ultra national nature, so, solving them requires cooperation and participation of all countries of the world. Hence, climate change follows the same rule and it is one of the most important problems and difficulties which the global society in general, and Iran in specific, are confronted with that may cause destroying effects and

consequences to the country. Therefore, we should try all our best to solve this issue (Pour Asghar Sangachin et al. 2004).

The agreed ones with Iran joining to Paris Agreement believe that our country has confronted a lot of damages due to environmental negligence in previous years. Also, this country needs a comprehensive plan to confront the pollution crisis and other environmental difficulties. It should be told that joining the international institutions will help us to solve many existing environment problems. In the sixth development program, Iran has directly sets solving environment difficulties as its priority. For the same reason, utilizing the international scientific achievements and attracting the international environment organizations and institutions' financial support will make our way to achieve national targets much smoother (Pour Asghar Sangachin et al. 2004).

The agreed ones believe that the climate change problem, fundamentally relates to the reality, which all outstanding climatology scientists state that the earth climate is changing as a result of human activities, and the existing evidences show its continuity in the future.

The dominant majority of the scientists who are investigating the climate changes believe that the consequences of this phenomenon will cause a lot of damages to the human society (Common and Staggel 2010).

But, the opposites of joining Iran to international obligations, generally, and Paris Agreement, specifically, adducing some researches, do not believe the climate changes as a result of human activities and carbon mono-oxide production. So, they think it is not necessary for the Islamic Republic of Iran to join Paris Agreement.

The opposite ones state that based on the studies of Ohio and Washington universities, 95% of the existing hothouse gasses in the atmosphere are water steam and only its 4% is carbon dioxide. The human made carbon dioxide ratio is 5%, so, human share in producing this gas out of hothouse gasses is only 0.2%. It should be said in this due that Fredric Seats, the United States National Sciences Academy's previous chairman, has provided a scroll to collect signatures to prove ineffectiveness of carbon dioxide in the earth heat which 13,487 specialists and climatology scientists has confirmed it by their signature. The opposite ones have presented this essay in Paris Puzzle bulletin extracted from Dr. Seats and have related the signers' names in

the site: [www.petitionproject.or](http://www.petitionproject.or) (Paris Puzzle Bulletin, Tehran, Aban 1396 2017).

The opposites of Iran joining to Paris Agreement, mentioning The United States extraction from Paris Agreement and not enacting Tokyo Protocol in this country's senate are reasoned that: The United States extraction for Kyoto protocol, the lack of compelling obligations for China and some other developing countries, scientific uncertainty due to the relation between the global heat and human interfere in the climate, especially the role of carbon dioxide in the world's heat increase and some other reasons caused the United States Senate not to enact the Kyoto protocol as one of the most important environmental global obligations (Mohammadi 2015).

### **The Agreed and Non-Agreed of Islamic Republic of Iran Joining Paris Agreement Viewpoints Adaption with Macro Strategies and Upper Hand Documents**

**From the opposites' viewpoint**, joining Iran to Paris Agreement is in contradiction with Islamic Republic of Iran macro strategies notified by The Higher Supreme Leader. For example, in the article 13 of general resistance economy strategies, maintaining and developing oil and gas production capacities, and in article 14, emphasizing on production increase and determine suitable ways to develop oil and gas exploration and increasing production capacity, and in the articles 1, 2 &3 of general oil and gas strategies in general system strategies in view course is increasing protected production capacity (Ayar Online News-Analysis Website).

So, it seems that Paris Agreement acceptance which limits developing and utilizing oil and gas production capacity will be in contradiction with general country's strategies and certain constitution principals.

The agreed ones, from the other side, consider Paris Agreement in accordance with general environment strategies. They reason that before the world countries mutual understanding on Paris Agreement, the general strategies of environment have been sentenced by Higher Supreme Leader in November of the same year (2016). We can follow the articles 7, 8 & 9 of this strategy in accordance with the agreement.

In item 7 of general environment strategies, climate change management and confronting environmental threatens have been mentioned which are parts of Paris Agreement targets, especially its item B of article 2. The item 8 of the strategies centralized on green economy

development which is based on: low carbon used industries, applying clean energies, safe organic agricultural products and residual and backwater management by utilizing economic, social, natural and environmental capacities and abilities. This target is followed by Paris Agreement, too. The item 15 of general environmental strategies concentrates on the country's diplomacy empowerment.

In this area, the agreement tries to create and strengthen regional institutions to confront dust and water pollution, developing relations and attracting aimed and effective mutual, multilateral, regional and international participation and cooperation in environment area and also utilizing effectively the international opportunities and reinforcements to move towards low carbon economy and facilitate transferring and developing related technologies and innovations. It seems that trying to join Paris Agreement is one of the fronted opportunities to accomplish general environment strategies items (General Environment Strategies).

The Agreed ones believe that the row 7 of item A of general oil and gas strategies, contained the concept of consumption modification and reducing energy intensiveness which are one of the general Islamic Republic of Iran system strategies dictated by the Higher Supreme Leader at 23 Jan 2001 (03/11/1379) is in accordance with Paris Agreement targets (The Environment Laws & Regulations Booklet).

The agreed ones believe Paris Agreement is in accordance with the general system strategies and reason that based on the twenty years view document (Iran Development 1404), the Islamic Republic of Iran should utilize a favorable environment and this is towards Paris Agreement aims (Perspective Document 1404 of Iran).

In the row 1 of item B of the general strategies due to other energy resources has been mentioned: "Variation should be created in the country's energy resources which must be applied regarding environment problems and also, we must try to increase revival energies share, prioritizing water energies". So, by accomplishment of green economy and applying the existing potentials of Paris Agreement, achieving this target will be more accessible. In row 4 of the above it has been mentioned: "High endeavor is necessary to achieve new energies technology and scientific knowledge and create new power station resources such as wind, sun and burning and earth warming batteries".

This should be done utilizing the progressive countries obligation capacity to transfer technology to the developing countries and also, providing necessary financial resources mentioned in Paris Agreement articles 9 and 10. Hence, it seems this will be useful in this strategy accomplishment (Ayar Online News-Analysis Website).

The low carbon economy national document is in accordance with resisting economy which is one of the sixth development plan supporting documents and has presented to the board of ministers at: 16 May 1995 (26/02/1394) and has enacted based on the letter no. 5069/ 82185 dated: 16 September 1995 (25/06/1394) communicated to the Management and Planning Organization. The majority of low carbon economy national document's macro plan pillars are correspondent to this issue.

The agreed ones believe that regarding the issue that more than 80% of greenhouse gasses spreading out have been produced in energy and fuel section, so, the main part of reducing gasses issuance strategies should be concentrated on modification activities and increasing energy output in burning systems and to avoid inputs and energy resources spoiling in various sections. Also, we can use the country's energy resources sustainable and utilized by collecting accompanied and exhausted gasses, reducing leakage in gas transfer systems and making lower the electricity transfer lines losses. All of above mentioned activities and programs have included in the Higher Supreme Leader communicated strategies due to consumption pattern modification and also resisting economy, especially in protective applying the country's oil and gas resources (Ahadi 2017).

Experts refer to the lack of legal requirements and enforcement of law enforcement as a legal challenge to failing to achieve optimal energy use goals. And believe that there is a lack of robust and up-to-date requirements from other aspects that climate-centered planning and management faces (Nasseri and Ahadi).

#### **Adaptation of Agreed and Opposite ones in Joining Islamic Republic of Iran to Paris Agreement Viewpoints with the Country's Constitution and Ordinary Laws**

The opposite ones consider Paris Agreement in the contrary with Islamic Republic of Iran constitution. They refer to the constitution principles No. 3, 43 & 152 and some other parts such as: item 5 of principle no. 3: "Colonialism full discarding and avoid foreigners influence", item 8 of principle 43: "Foreigners economic domination on the country prevention" and

principle no. 152: "Any dominion and submission contradiction" (Paris Puzzle Bulletin, Tehran, Aban 1396 2017).

The agreed ones refer to the constitution principle no. 50 which states: "In Islamic Republic of Iran, environment protection, which the existing and next generations should have a progressive social life in it, is regarding as a public duty. So, the economic and non-economic activities which are inhered with environment pollution and destruction should be banned." Therefore, producing greenhouse gasses and fossile fuels highly irregular applying are environment pollution proofs (Constitution of the Islamic Republic of Iran).

The agreed ones reason and refer to the board of ministers' enactment in the session dated: 11 November 2015 (20/08/1394) which has been enacted based on the Environment Organization and the national participation program in reducing greenhouse gasses has obliged all operating organization to act towards accomplishment of this program according to their budget. This enactment is exactly in accordance with Paris Agreement targets as below:

- A. Participation in greenhouse gasses spreading out reduction: Based on the national abilities and greenhouse gassed issuance scenarios, Islamic Republic of Iran is willing to participate operating this procedure up to 4% according to the basic scenario (BAU) till 2030.
- B. Participation in conditional issuance reduction: Islamic Republic of Iran is ready to apply its potential abilities to reduce greenhouse gasses issuance up to 8% more than the above figure depending on some conditions as: eliminating unjustified sanctions against this country, financial support, technology transfer, buying carbon licenses, applying bilateral or multilateral supports, clean technologies transfer and empowering the country in this concern. The country regards the above in accordance with Paris Agreement targets (Approval of the National Partnership Action Plan on Greenhouse Gas Emissions).

### CONCLUSION

In this essay, we have discussed about changing climate phenomenon occurrence and its negative effects, while talking on legal composition and enactment procedure of Paris Agreement. Also, we have investigated the necessity or un-necessity of Islamic

Republic of Iran joining to it and its legal enactment procedure in Iran. After then, we have reviewed some agreed and non-agreed ones reasons due to Iran's joining to Paris Agreement and their viewpoints compatibility with macro strategies, upper hand documents, constitution and common laws.

Although the agreed and opposite ones have discussed the problem from many aspects such as: religious, scientific, economic, political, security, international, environmental and operative, but, in this essay, we have neglected other aspects and have mainly discussed about legal issues.

It is obvious that Paris Agreement, such as other international obligations and commitments contains fortes and weaknesses. In this situation, we should utilize its positive points like: Technology transfer and international financial aids towards the country's benefits and applying updates knowledge and technology to renovate our industries.

Now, regardless to correctness or wrongness of agreed and non-agreed of joining Iran to Paris Agreement, it is certain that climate change is an incontrovertible reality and based on the proofs and fulfilled scientific studies, Iran, concerning the ecologic and geographic situation and locating in the world' dried belt, will be more affected comparing other world regions by this phenomenon. The effects and evidences of this situation are going to become more tangible and observable in recently soil dusts, floods, droughts and other consequences which are threatened agricultural, industrial, health and even security sections of the country that we should not pass over and neglect them at all.

Therefore, as it has been mentioned in Paris Agreement text, these endeavors and international obligations global target is: adaptability, increasing compatibility capacity, strengthen flexibility and reduce susceptibility against climate changing.

It seems that Islamic Republic of Iran should have concentrated programs to achieve three guidelines: to reduce greenhouse issuance, to adapt with climate changing phenomenon and reduce and compensate damages. Towards this direction, the environment organization has operated outstanding activities. For example: providing the country's climate change strategic document, national climate change strategic program, low carbon economy document and national greenhouse reduction participation program which have been enacted by the government.

In order to reduce climate change damages on the country's environment and natural resources, and consequently the agricultural, industrial, economic and other sections we should provide and operate the compiled and arranged program to confront climate changing and adaptability with it by severely endeavor and national determination. To accomplish this program successfully, we should collect and integrate the country's laws and regulations, including the upper hand documents and nominative laws to avoid their disharmony and contradiction and also, wrong interpretation or incorrect explanation.

Also, regardless to Islamic Republic of Iran joining or not joining to Paris Agreement, we should prepare a national arranged program based on the country internal laws and regulations including an operative guarantee to reduce the polluting and greenhouse gasses quantity and to be able to adapt with climate change phenomenon applying progressive technologies.

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