A low carbon society through international law

Opening statement at seminar arranged by Arbitration Institute of the Stockholm Chamber of Commerce, 16 May 2019

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Friends, colleagues.

It is a pleasure to be here this afternoon to say a few words at the opening of this seminar.

'Climate change is the defining issue of our time – and we are at a defining moment'. I start with this quote from the UN Secretary General, who speaks plainly and forcefully about what he calls a direct existential threat.

We live in a society influenced by the Age of Enlightenment and its philosophers. That science guides our actions in making rational decisions.

In October last year, the InterGovernmental Panel on Climate Change, which brings together the collective and latest scientific knowledge, presented its report.

It had a stark message: limiting global temperature rise to 1.5 degrees will require rapid, far-reaching and unprecedented changes in all aspects of society, especially on how we manage land, energy, buildings, transport and cities.

The truth is gradually sinking in. Climate change is not an abstract threat – but a reality of today.

Action to combat climate change is gearing up.

However, climate change is running faster than we are.

We must bend the emission curve downwards now. We must reduce emissions by almost half within 10-12 years. We must reach net zero emissions by mid-century. That is in a period of a generation.

This is what science tells us if we are to limit warming to 1,5 degree.

The challenges in transforming our societies to become carbon neutral are formidable. They should not be underestimated.

Though failure to act will have devastating consequences and may lead to irreversible climate disruption. You do not negotiate with nature.

The tools are within our reach. Renewable energy is often available at a lower cost than coal and oil. There is no law of nature saying we must build our energy systems on fossil fuel – that is increasingly a fossil idea.

There is great demand globally for investment in infrastructure in the coming decades. Some 90 trillion USD is expected to be invested by 2030.

These investment decisions will determine whether we get locked in with wasteful and inefficient use of resources.

Or whether we find decide to develop our societies in a way which can be sustained over time.

The reports– from OECD, World Bank and others - all make a strong case that the growth story of this century can be built on climate smart solutions in terms of energy supply, transport, urban planning and agriculture.

Finance is available but what remains is to make them flow consistent with a pathway towards low emissions.

Money is still pouring into coal, oil and gas at a pace that undermines our efforts to tackle climate change

When will green financing become the default mode – and brown financing the dirty exception?

In industry we see new technology emerging. The prospects to replace coke with hydrogen in the processing of steel would be of a truly transformative nature.

New business models are designed to ensure that the cost of eliminating carbon emissions is absorbed throughout the value chains.

Capturing the emissions in producing cement may be costly but the final knock on effect for the buyer of an apartment is more marginal.

Investments are required to electrify roads for heavy transport but collaboration between power utilities, engineering, transport and retail companies united in going carbon neutral, could show the way.

What is called for is determination and action – from political leaders, business leaders, investors, and backed by public opinion.

The Climate Law instructs the Government to present a Climate Action Plan for every new mandate period and to report annually back to Riksdagen/Parliament.

This sets in motion a systematic and coherent approach. The agreed goal is to have net zero emissions by the latest 2045.

Swedish business and industries are responding to the call for action. Thirteen industry associations, ranging from mining, steel, cement, retail, transport, have produced their own roadmaps towards fossil free competitiveness.

Moving towards climate friendly solutions is to remain competitive as structural changes to the economy will be inevitable.

Public-private partnership to achieve carbon neutral societies brings its own particular strength. When business asks for green policies, the political sphere can more easily respond with setting the goals, the standards and the legal framework.

In January, the Nordic Government adopted a Declaration on Carbon Neutrality.

The Nordic Confederations of Business and Industries have called for an ambitious and market based climate policy for Europe that will deliver on the Paris Agreement.

The EU is now discussing a Longterm Strategy for Climate based on a Commission proposal to achieve net zero emissions by mid -century. With such a goal in place, we can start counting backwards, identifying the more immediate steps to be taken.

The UN Secretary General will in September host a Climate Summit. His aim is to demonstrate a leap in collective national political ambition and that transformative actions within the real economy is possible.

Nine different tracks of area have been identified around which countries are expected to rally support, such as energy, finance, nature based solutions.

Together with India, Sweden is asked to take a lead role when it comes to Industry Transformation.

Putting a price on carbon is a powerful tool to reduce emissions. You need not be a Nobel Prize winner to understand the role of prices in a market economy. But it is helps to have a Nobel Economist Laureate making a strong case for using carbon pricing.

With the reform of the EU Emission Trading Schemes last year, not least thanks to Swedish efforts, the price on carbon emissions is now making an impact on European industries decisions.

A global carbon price is still not on the radar screen. But other countries are introducing their own carbon tax or trading scheme. As different carbon price schemes fall into place, the picture of the jigsaw will emerge, and with the missing spots to be addressed.

We now see political initiatives to link the normative climate framework – the Paris Agreement – with existing trade regimes.

Some argue for differentiated trade rules dependent on whether you are dealing with a country which is party to the Paris Agreement or not.

There is also debate ongoing that by introducing a carbon border adjustment price, you would level the playing field between industries operating within a trading emission scheme and those outside such scheme or not subject to other forms of carbon pricing.

This may be an attractive idea but may in practice be difficult to put in place. How do you measure the carbon content of a product assembled through a worldwide supply chain? And how to you ensure that such initiatives do not play into the hands of those calling for protectionism.

The legal regime guiding trade and investment is another area. Foreign direct investments have long been seen to advance the development of a country. A broader debate is underway on how to define, and seek, quality investment.

Focus has over time been on the protection of investors. In recent years a growing number of agreements have also included in their preambles references to sustainable development. Some international investment agreements have opted for specific provisions.

The challenge remains on how to operationalize this objective, to give the 'sustainability dimension' some teeth.

The co called Salini criteria are at times used to define 'investment' for the application of international investment agreement.

One of its criteria is 'economic development', and provided the acceptance of the Salini criteria, could be a matter for tribunals' discretion.

Incorporating binding references to corporate social responsibility, such as the OECD Guidelines for Multinational Enterprises, in international investment agreements is another way forward.

The Canada EU Trade agreement – CETA – in its preamble does encourage enterprises to respect internationally recognized CSR standards.

Aligning the international investment regime with the need for climate action is paramount in making the shift to a low carbon economy.

This leads me to the story of the Stockholm Treaty Lab, and your crowd sourcing initiative to design a policy oriented treaty, which encourages and protects cross-border investments in climate change adaptation and mitigation.

The point of departure is that international investment plays a crucial role in achieving the goals of the Paris Agreement, and investment treaties ought to reflect the obligations that follow from that climate agreement.

Could the strong elements in international investment agreements – state accountability and effective enforcement mechanism- be drawn upon in the design of treaties which aim for investing in climate action and for the attainment of the Paris Agreement goals?

This is a most relevant question in a field where so much is to be gained for any progress made. I leave it to this seminar to discuss the issue more in depth. But credit should go to the Arbitration Institute for stimulating this important debate and work.

Finally. What we know for sure is that climate has moved to the core of our society and economy affecting our future lives in terms of consumption, jobs, wellbeing and security.

And wherever climate knocks on the door, making its case, there is bound to be contention and controversy. Closing the door is seldom the best option. Instead issues will have to be addressed, reconciled and resolved.

Climate changes call for transforming our societies. The threat comes with inaction. Climate action on the other hand opens the prospects to build a better society which can be sustained over time.

Thank you.