

**Workshop on Legislative drafting, International
Environment law, Negotiation and Harmonization of
Climate and Environmental Law**



April 2026

SECTION A: Summary Profile

Title	Report on ‘Legislative drafting, International Environment law, Negotiation and Harmonization of Climate and Environmental Law’
Organizer/ Institution	Officer of the Attorney General, Bhutan
Venue	Four Boutique Hotel, Punakha
Period	April 20 - 24, 2026
Objectives and Expected Outcomes	<p>Objectives:</p> <ol style="list-style-type: none">1. To enhance understanding of the harmonization of climate and environmental laws across international and domestic frameworks, particularly in relation to climate governance and carbon markets.2. To develop participants’ capacity to analyze legal principles and strengthen practical skills in applying them within international environmental law and negotiation contexts. <p>Expected outcomes:</p> <ol style="list-style-type: none">1. Comprehensive understanding of how climate and environmental laws can be aligned across jurisdictions to support effective global climate action.1. Developed the ability to critically analyze legal frameworks and apply international environmental law principles and negotiation strategies in practical scenarios to help in Harmonization of climate laws.
Submission	April 27, 2026

SECTION B: Background

I. Introduction

The training on ‘Legislative drafting, International Environment law, Negotiation and Harmonization of Climate and Environmental Law’ was organized at the Four Boutique hotel from April 20-24, 2025. The training was organized by Office of the Attorney General (OAG) with the support from RSPN through the GCF readiness grant ‘Strengthening Capacities and Enhancing Climate Data and Services in Bhutan to Scale Up Climate Financing from Multiple Sources’. The training targeted to gain advanced insights into the intersection of public international law, domestic environmental regulations, and the rapidly evolving global carbon markets. For a law student, this workshop provided critical exposure to the practical realities of treaty negotiation, the operationalization of the Paris Agreement, and the private law challenges surrounding environmental assets. The workshop’s primary objectives were to clarify the legal nature of Verified Carbon Credits (VCCs), review foundational principles of International Environmental Law (IEL), and develop practical skills in bilateral and multilateral climate negotiations.

II. Objectives and Outcomes

The training aimed to enhance understanding of the harmonization of climate and environmental laws across international and domestic legal frameworks, particularly in the context of climate governance and carbon markets. It also sought to develop participants' capacity to analyze key legal principles and strengthen practical skills in applying them within international environmental law and negotiation settings.

III. Rationale and Description of Day-wise Program

Day 1: Translating Policy into Legislation and Legislative Drafting

Facilitators: Lim Toh Han and Tay Li Hang (Attorney-General's Chambers, Singapore)

Main Topics: This session provided a comprehensive overview of the Singapore law-making process, legislative architecture, and the technical mechanics of drafting domestic laws and penal provisions. It explored how to translate policy intent into effective, enforceable statutory language while adhering to constitutional parameters.

Key Legal Frameworks, Principles, or Doctrines:

- **Hierarchy of Legislation:** Explored the relationship between the Constitution (the supreme law), Acts of Parliament (primary legislation), and Subsidiary Legislation (delegated powers for operational details).
- **The 7 C's of Legislative Drafting:** Legislation must be Capable of enforcement, Clear, Comprehensible, Concise, Complete, Consistent, and Certain.
- **Statutory Interpretation:** Drafters must anticipate purposive interpretation by the courts. Key doctrines discussed included the presumption of consistent expression, the presumption against tautology, and the *expressio unius est exclusio alterius* rule (expressing one thing implies the exclusion of others).
- **Drafting Penal Provisions:** Analyzed the core elements required to criminalize conduct: the prohibited act/omission (*actus reus*), the mental element (*mens rea*), and the punishment. The session covered strict liability offences, statutory presumptions (shifting the burden of proof), continuing offences, and stepped-up punishments for repeat offenders.
- **Treaty Implementation (Monist vs. Dualist):** Highlighted that Singapore operates on a dualist system, meaning international treaties do not automatically become domestic law and require an "act of transformation." Methods of implementation include giving direct effect to a treaty (via schedules), independent enactment of treaty provisions, or empowering the Executive to enact subsidiary legislation.

Important Examples and Case Studies:

- Roslan bin Bakar v Attorney-General [2022] and Nagaenthran a/l K Dharmalingam [2022] were cited to affirm Singapore's dualist stance, showing that treaty provisions cannot override domestic legislation without specific parliamentary enactment.
- Chief Assessor v Van Ommeren Terminal (S) Pte Ltd [1993] was used to illustrate exhaustive definitions (the use of the word "means" vs. "includes").

Policy or Legislative Challenges:

- Unintended Consequences: Bad or inadequate drafting leads to loopholes, increased compliance costs, and a loss of public confidence in the law.
- Legislative Necessity: Lawmakers were urged to regulate only when necessary. Before drafting new laws, policymakers must explore alternatives such as stepping up enforcement of existing laws, public educational campaigns, changing physical designs, or relying on industry self-regulation (e.g., Codes of Practice).

Practical Exercises:

- Redrafting Exercise: Participants engaged in a hands-on exercise to redraft a complex, archaic penal provision containing a "proviso" into a modernized, clear, and logically sequenced legislative sentence divided into distinct subsections.

Day 2: Singapore's Approach to Carbon Markets and Verified Carbon Credits (VCCs)

Facilitators: Serene Ang (Ministry of Trade and Industry), Lincoln Ang (National Environment Agency), and Wan Wai Yee (Attorney-General's Chambers)

Main Topics: This session covered the operationalization of international carbon trading under Article 6 of the Paris Agreement, Singapore's domestic carbon pricing strategies, and the complex private law challenges surrounding the legal nature of Verified Carbon Credits (VCCs).

Key Legal Frameworks, Principles, or Doctrines:

- Singapore's International Carbon Credit (ICC) Framework: Allows carbon tax-liable companies to offset up to 5% of their taxable emissions using eligible ICCs. To ensure environmental integrity, credits must meet seven principles: Additional, Real, Quantified & Verified, Permanent, No Net Harm, Do Not Cause Leakage, and Are Not Double-Counted.
- Article 6 Implementation Agreements (IAs): Explored the legally binding, government-to-government (G2G) frameworks required to authorize carbon mitigation activities. These IAs ensure "Corresponding Adjustments" are made to prevent

double-counting of emissions reductions between the host country and Singapore. IAs also mandate a 5% Share of Proceeds (SOP) for adaptation and a 2% cancellation for Overall Mitigation in Global Emissions (OMGE).

- **Private Law Characterization of VCCs:** Analyzed the ambiguity of VCCs in private law. Depending on the jurisdiction, VCCs might be classified as intangible property, a bundle of contractual rights, or digital assets. The session heavily focused on the draft UNIDROIT Principles on the Legal Nature of VCCs, which seek to establish harmonization regarding the creation of VCCs (*lex registri*), transfer rules (*nemo dat* and innocent acquisition), and insolvency protections for VCCs held by registries or custodians.

Important Examples and Case Studies:

- **Armstrong DLW GmbH v. Winnington Network Ltd [2012]:** A UK High Court case ruling that an EU Emission Allowance (EUA) constitutes intangible property, contrasted with California statutes that explicitly deny property rights to emission allowances.
- **Singapore's Bilateral Partnerships:** Case studies of Singapore's signed Implementation Agreements with nations such as Papua New Guinea, Bhutan, Chile, and Rwanda.

Policy or Legislative Challenges:

- **Cross-Border Legal Complexity:** A single carbon credit transaction might involve the laws of five different jurisdictions (project location, standard setter, registry, custodian, and investor). This fragmentation creates severe legal uncertainty, particularly in cases of cross-border insolvency or contractual disputes.
- **Greenwashing and Trust:** The Voluntary Carbon Market (VCM) has faced severe criticism over exaggerated environmental claims. Policymakers are challenged to implement strict verification methodologies and utilize technologies like the blockchain-based Climate Action Data Trust to ensure market transparency and prevent double-counting.
- **Harmonization Conflicts:** Tensions exist between aligning private commercial law instruments (like the UNIDROIT Principles) with overarching public international law treaties (like the UNFCCC), particularly regarding whether an unlawful underlying mitigation project should revoke the proprietary rights of an innocent VCC purchaser.

Day 3: Carbon Markets and Verified Carbon Credits (VCCs)

Facilitators: Wan Wai Yee (AGC), Serene Ang (MTI), and Lincoln Ang (NEA)

Main Topics: The session focused on bridging the global climate financing gap through carbon markets, distinguishing between Compliance Carbon Markets (CCMs) and Voluntary Carbon

Markets (VCMs).

Legal Frameworks and Doctrines: Presenters analyzed the evolution from the Kyoto Protocol's top-down approach (including the Clean Development Mechanism) to the bottom-up, Nationally Determined Contributions (NDCs) model of the Paris Agreement. Extensive focus was placed on Article 6.2 (decentralized bilateral cooperation) and Article 6.4 (centralized UN mechanism). A major private law doctrine discussed was the legal characterization of VCCs. Currently, there is jurisdictional divergence on whether a VCC constitutes intangible property (e.g., UK, Singapore), a bundle of contractual rights, or a digital asset.

Important Examples: The ongoing work by UNIDROIT and UNCITRAL to draft soft-law principles for VCCs was highlighted. Draft UNIDROIT Principles cover VCC creation (*lex registri*), transfer (*nemo dat* rule and innocent acquisition exceptions), and insolvency protections. Singapore's International Carbon Credit (ICC) Framework was presented as a case study, which allows carbon-tax liable companies to offset up to 5% of their emissions using ICCs that meet seven strict environmental integrity criteria.

Policy Challenges: Scaling the VCM is hindered by three challenges: the complexity of cross-border transactions, lack of private law certainty, and issues of greenwashing/trust.

Day 4 (April 23, 2026): International Environmental Law

Facilitator: Ashley Ong (AGC)

Main Topics: This session provided a doctrinal overview of public international law sources (treaties, custom, cases, soft law) and traced the historical development of IEL into the post-modern era (1992 onwards), which emphasizes market-based solutions.

Legal Frameworks and Principles: Several foundational IEL principles were examined:

- **Duty to Prevent Transboundary Harm:** Illustrated through landmark cases including the Trail Smelter Arbitration (1941), Pulp Mills on the River Uruguay (2010), and *Costa Rica v Nicaragua* (2015), which established the customary obligation to conduct Environmental Impact Assessments (EIAs).
 - **Due Diligence:** Analyzed via the 2024 ITLOS Advisory Opinion on climate change.
 - **Common but Differentiated Responsibilities and Respective Capabilities (CBDR-RC):** Contrasted with the common responsibility to protect the environment.
 - **Precautionary Approach:** Highlighted through Principle 15 of the Rio Declaration.
- Important Examples:** The session covered key Multilateral Environmental Agreements

(MEAs), such as the UNFCCC, the UN Convention on the Law of the Sea (UNCLOS), and the Convention on Biological Diversity (CBD).

Day 5 (April 24, 2026): International Negotiations

Facilitator: Ashley Ong (AGC)

Main Topics: The final day shifted to the mechanics and strategies of international treaty negotiations (bilateral, regional, plurilateral, and multilateral).

Legal Frameworks and Principles: The session differentiated between legally binding treaty language (e.g., “shall,” “agree,” “obligations”) and non-legally binding terminology (e.g., “should,” “declare,” “commitments”). Negotiation theory was explored, emphasizing the identification of a Best Alternative to a Negotiated Agreement (BATNA), objective criteria, and “growing the pie” (referencing Prof. Barry Nalebuff’s fairness perspectives).

Practical Exercises:

1. **Bilateral Simulation (‘The Blue River’):** Participants negotiated a transboundary water and pollution dispute between two fictional states, “Northland” (upstream, developing) and “Southland” (downstream, industrialized).
2. **Multilateral Simulation (Plastics Treaty):** A complex negotiation involving diverse fictional actors (Redesia Union, Republic of Orangestan, Federation of Yellowland, Kingdom of Greendia, and Blue Islands) tasked with drafting Article 1 (Objective) and Article 8 (Plastic Waste Management).

IV. Key Legal and Policy Insights

Cross-Cutting Themes: A dominant theme was the necessary harmonization of public international law (treaties, MEAs) with domestic private law. While the Paris Agreement governs the state-to-state transfer of Internationally Transferred Mitigation Outcomes (ITMOs), the actual generation, transfer, and retirement of the underlying VCCs rely heavily on private corporate actors and fragmented domestic property laws.

Harmonization Issues: Regulatory overlaps and governance gaps represent severe risks to the carbon market. For instance, there is a potential conflict between the draft UNIDROIT Principles (which treat VCCs under private commercial law) and the UN Framework Convention on Climate Change (UNFCCC) public law framework. Furthermore, differences in how jurisdictions define VCCs legally (e.g., property vs. non-property) create multi-jurisdictional conflicts regarding choice of law, particularly in insolvency and security rights scenarios.

International Law Dimensions: The workshop heavily emphasized Article 6 of the Paris Agreement, which mandates “Corresponding Adjustments” to prevent the double-counting of carbon credits. The integration of customary international law principles, such as due diligence and the precautionary approach, into modern MEAs was also a focal point.

V. Learning Outcomes

Based strictly on the workshop materials, the learning outcomes can be categorized as follows:

1. Knowledge Gained:

- Mastered the distinction between compliance and voluntary carbon markets, and the transition from the Kyoto Protocol’s top-down approach to the Paris Agreement’s bottom-up NDC architecture.
- Acquired deep knowledge of Singapore’s carbon tax mechanisms, specifically the 5% offset limit, the 5% Share of Proceeds (SOP) for adaptation, and the 2% cancellation for Overall Mitigation in Global Emissions (OMGE).
- Gained familiarity with the 7 environmental integrity principles required for carbon credits: Additional, Real, Quantified/Verified, Permanent, No Net Harm, Do Not Cause Leakage, and Are Not Double-Counted.

2. Skills Developed:

- Legal Drafting and Treaty Analysis: Developed the ability to distinguish between binding (“shall”) and non-binding (“endeavor to”) terminology in MEAs.
- Negotiation: Enhanced strategic negotiation skills by practicing BATNA formulation, evaluating opening versus fallback positions, and identifying redlines during the Plastics Treaty and Blue River simulations.

3. Analytical Insights:

- Gained a critical understanding of the legal risks inherent in VCC registries. Registries generally do not guarantee legal title, posing significant risks during corporate insolvencies.
- Recognized the structural tension in international negotiations between developed and developing states, specifically regarding the operationalization of the CBDR-RC doctrine in climate finance and technology transfer.

VI. Relevance to Bhutan

The training holds direct and significant relevance to Bhutan, particularly regarding bilateral climate cooperation. As highlighted in the materials, Bhutan has successfully signed an Implementation Agreement (IA) with Singapore pursuant to Article 6 of the Paris Agreement.

Application of Insights:

The IA establishes a legally binding bilateral framework for Bhutan to authorize mitigation activities and transfer ITMOs to Singapore. The detailed operational steps, from project application to the Joint Committee's review, to the issuance of Letters of Authorization, require Bhutan to maintain robust domestic tracking and registry systems. Furthermore, Bhutan is obligated to apply "Corresponding Adjustments" to its own national inventory when transferring ITMOs to prevent double counting.

Gaps and Opportunities:

The Article 6 framework presents a vital opportunity for Bhutan to unlock capital for domestic mitigation projects (e.g., renewable energy, sustainable agriculture) while achieving sustainable development co-benefits for local communities. However, regarding specific gaps in Bhutan's internal domestic property laws or localized environmental regulations necessary to legally define the nature of VCCs within Bhutanese borders, I cannot confirm this based on the provided materials. Ensuring that Bhutan's domestic private law clearly defines carbon credits, perhaps guided by the emerging UNIDROIT principles, will be crucial to providing legal certainty for project developers and preventing future disputes.

VII. Conclusion

The 'Legislative drafting, International Environment law, Negotiation and Harmonization of Climate and Environmental Law' provided an exceptional, rigorous overview of the current legal architectures governing international climate action. By systematically exploring customary international environmental principles, the procedural mechanics of Paris Agreement Article 6, and the private law complexities of carbon trading, the training successfully highlighted the multifaceted nature of global climate governance. This experience has significantly contributed to my professional development as a legal researcher, equipping me with the analytical tools necessary to advise on treaty negotiations, navigate international carbon markets, and support the harmonization of domestic and international environmental laws.

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Annexure
Photos from the training



