Baker McKenzie.

Client Alert: Outcomes from Glasgow COP 26

1. Introduction

The Baker McKenzie Global Climate Change practice welcomes the success of the Glasgow climate change conference in raising global ambition, mobilising climate finance and finalising the outstanding elements of the Paris Agreement Rulebook.

The conference, referred to as COP 26, came at a critical moment in time that marked the close of the Kyoto Protocol era and the dawn of the post-2021 Paris Agreement era, and the re-entry of the Unites States into the Paris Agreement. A key focus was on achieving full implementation of the Paris Agreement. John Kerry, the Unites States' Special Presidential Envoy for Climate, aptly reflected "Paris built the arena, and Glasgow started the race. Tonight the starting gun was fired."

COP 26 faced significant logistical hurdles, with many Small Island Developing States and civil society representatives from the global south in particular being unrepresented due to the challenges of international travel due to COVID-19. Despite these challenges, the conference came very close to delivering on all its key goals, which included keeping 1.5°C within reach, getting climate finance flowing, strengthening adaptation action and support and finalising the Paris Agreement Rulebook.

In terms of mitigation ambition, 140 countries committed to halt and reverse forest loss and land degradation by 2030 under the Glasgow Leaders' Declaration on Forests and Land Use, and 100 countries pledged to reduce methane emissions by 30% below 2020 levels by 2030 under the Global Methane Pledge. The United States and China took a significant step forward in their climate cooperation, releasing the U.S.-China Joint Glasgow Declaration on Enhancing Climate Action in the 2020s and catalysing much-needed momentum in the critical second week of the conference. India committed to net zero emissions by 2070, which means that 87% of the world's greenhouse gas emissions are now covered by net zero targets.

During COP 26, new modelling by the International Energy Agency indicated that if the targets made to date are met on time, the rise in global temperatures would be held to 1.8°C by 2100.[1] COP 26 President Alok Sharma acknowledged that "We have kept 1.5°C alive...But I would still say that the pulse of 1.5°C is weak." Nevertheless, this is a landmark achievement, representing the first time that governments have put forward targets that will collectively hold global warming to below 2°C.

In terms of finance, the failure of developed countries to deliver on the promised USD 100 billion in climate finance per year weighed heavily on the negotiations. However, new commitments from the US, Germany and Japan, among others, renewed some level of confidence that developed countries would deliver on their commitment by 2022 or 2023 at the latest. Parties agreed to the establishment of an ad hoc work programme to initiate deliberations on setting a new collective quantified goal, with the new goal to be set by 2024.

The private sector also stepped up, with the Glasgow Financial Alliance for Net Zero (GFANZ) announcing that it represented over USD 130 trillion of private capital from over 450 firms across 45 countries that is committed to transforming the economy to achieve net-zero.

In terms of adaptation, USD 800 million was pledged for adaptation over COP 26. Importantly, USD 232 million was committed to the Adaptation Fund, which represents the highest single mobilisation in the history of the Adaptation Fund. The two-year Glasgow Sharm el-Sheikh Work Programme on the Global Goal on Adaptation was launched, which among other matters aims to enhance the implementation of adaptation actions in developing countries that are particularly vulnerable to climate change. Nevertheless, many developing countries expressed regret over the lack of action and support with respect to loss and damage, and we anticipate this will continue to be a key issue in the negotiations at COP 27 in Egypt.

[1] https://www.iea.org/commentaries/cop26-climate-pledges-could-help-limit-global-warming-to-1-8-c-but-implementing-them-will-be-the-key

The finalisation of the Paris Agreement Rulebook represents a significant achievement. While most elements of the Paris Agreement Rulebook were agreed at COP 24 in Katowice, a number of outstanding items failed to be agreed at COP 24 and again at COP 25 in Madrid. Most significant of these outstanding items was the rules governing the voluntary cooperative approaches under Article 6 of the Paris Agreement (the **"Article 6 Rules"**). We consider that the agreed Article 6 Rules enable countries and the private sector to begin actively engaging with activities under Article 6.2 and 6.4.

Baker McKenzie's Global Climate Change practice expects 2022 to bring both scaled up developments and new challenges in the global response to climate change.

First, expectations are growing that countries' and organisations' net zero commitments must be science-based accompanied by detailed,ambitious and achievable roadmaps to achieve these commitments (as well as legislation and policy measures, in the case of domestic governments). The onus is now on national governments and the private sector to keep 1.5°C alive, alongside mitigation and adaptation actions that promote sustainable development, human rights and biodiversity and avoid negative social, environmental and economic consequences.

Second, unprecedented levels of public and private climate finance present opportunities for organisations that are aligned with net zero. Nevertheless, climate finance levels are not yet sufficient to achieve the rate and scale of decarbonisation required and it is essential that trillions of dollars in climate finance are mobilised per year over the next decade. In particular, climate finance flows to developing countries are critical to ensuring that developing countries can pursue ambitious mitigation and adaptation actions. We also consider that there remains an urgent need to scale up adaptation finance, and to develop innovative financing solutions, to ensure that vulnerable countries and sectors of economies receive the necessary support. This topic will likely be discussed again in COP27.

Third, agreement on the Article 6 Rules present new opportunities for countries and organisations to engage in international carbon markets. The Article 6.2 Rules also provide much needed clarity to voluntary carbon markets and ICAO's Carbon Offsetting and Reduction Scheme for International Aviation (**CORSIA**), enabling these schemes to self-regulate to ensure alignment with the Article 6.2 Rules (where necessary). We anticipate a growth in bilateral and multilateral transactions under Article 6.2, and look forward to the operationalisation of the Article 6.4 mechanism, on the basis that this will provide countries and organisations with additional flexibility in meeting emissions reductions targets.

Fourth, we consider that key mitigation solutions to watch include nature-based solutions, hydrogen, and carbon capture, utilisation and storage (CCUS) as well as direct air capture and other storage technologies. We anticipate continued growth in renewable energy in emerging markets. We are also closely monitoring solutions to decarbonising heavy industry, including technologies that enable carbon neutral steel, aluminum and cement production. This was balanced by stronger signals regarding the transition away from fossil fuels, with the cover decision urging Parties to accelerate efforts towards the phasedown of unabated coal power and phase-out of inefficient fossil fuel subsidies.

Below, we address the key outcomes of COP 26, including the formal negotiations and key policies, targets and actions plans launched by countries and investors at COP 26. We assess the implications for the private sector in the context of the broader trends and expectations from climate action in 2022.

[2] https://www.ipcc.ch/report/sixth-assessment-report-working-group-i/

2. Ambition

A key goal of the UK COP Presidency was to secure a step change in emissions reductions, including through net-zero targets aligned with nationally determined contributions (NDCs) that keep 1.5°C of warming within reach and policies such as phasing out coal power.

This was against the backdrop of a number of sobering climate science reports released in 2021. The latest IPCC Report indicated[2] that the Earth is likely to reach 1.5c of warming in the early 2030s. The World Meteorological Organization's State of the Climate 2020 report indicated that global mean surface temperature was 1.2 ± 0.1°C warmer than the pre-industrial baseline (1850-1900).[3] The UNEP Emissions Gap Report 2021[4] indicated that new and updated NDCs put the world on track to 2.7°C warming this century, however if net zero pledges were fully implemented the predicted warming would drop to 2.2°C.

At COP 26, Parties adopted the Glasgow Climate Pact[5], which represents one of the strongest "cover decisions" in the history of the UN climate negotiations. The Pact comprises the decisions of the three governing bodies for the UNFCCC, Kyoto Protocol and Paris Agreement respectively (1/CP.26 , 1/CMP.16 and 1/CMA.3). Key elements include:

- A strong emphasis on "science and urgency", with statements relating to the importance of the best available science, "alarm and utmost concern" that around 1.1°C of warming has already occurred and that carbon budgets consistent with achieving the Paris Agreement temperature goal are small and being rapidly depleted. The Pact recognised that limiting global warming to 1.5 °C requires rapid, deep and sustained reductions in global greenhouse gas emissions, and accelerated action "in this critical decade".

- Emphasis on the urgent need for Parties to increase their efforts to reduce emissions through accelerated action and implementation of domestic mitigation measures. Parties that are yet to communicate an updated NDC were urged to do so before COP 27. Parties were requested to revisit and strengthen their 2030 targets to align with the Paris Agreement temperature goal.

- Unprecedented political focus on the phase-down of coal, including text urging Parties to accelerate efforts towards the phasedown of unabated coal power and phase-out of inefficient fossil fue subsidies.

- Establishing an annual high-level ministerial roundtable on pre-2030 ambition, as well as welcoming the start of the Global Stocktake, the latter of which is the Paris Agreement's dynamic system for increasing climate ambition over time. The global stocktake has three stages which will occur over the next two years: (1) information collection and preparation; (2) technical assessment; and (3) consideration of outputs. Parties will collectively take stock and look back at what has been achieved so far and what must still be done to achieve the purpose of the Paris Agreement and its long-term goals in the areas of mitigation, adaptation and means of implementation and support.

During COP 26, new modelling by the International Energy Agency indicates that if the targets made to date are met on time, the rise in global temperatures would be held to 1.8°C by 2100. COP 26 President Alok Sharma acknowledged that "We have kept 1.5°C alive…But I would still say that the pulse of 1.5°C is weak." This was primarily a result of the following pledges:

- The Glasgow Leaders' Declaration on Forests and Land Use: 140 countries committed to halt and reverse forest loss and land degradation by 2030. This is supported by a global roadmap to make 90% of forest commodity supply chains sustainable.

- Global Methane Pledge: 100 signatory countries together pledged to reduce methane emissions by 30% below 2020 levels by 2030.

- Powering Past Coal Alliance: 28 new members to the Alliance were announced at COP 26, which brings the total membership to 165 countries, cities, regions and businesses. In a similar vein, under the Global Coal to Clean Power Transition Statement a coalition of 190 has agreed to both phase out coal power and end support for new coal power plants, adding to commitments by China, Japan, Korea and the G20 commitments to end overseas finance for coal generation by the end of 2021.

- International Aviation Climate Ambition Coalition COP 26 Declaration: 20 countries signed the Declaration promising to do more to limit emissions from the aviation sector, including through promotion sustainable aviation fuels and innovation in low-carbon technologies.

- COP26 declaration on accelerating the transition to 100% zero emission cars and vans: this declaration committing to 100% zero-emission vehicle sales by 2040 was signed by thirty-three countries and many more cities and subnational governments.

- U.S.-China Joint Glasgow Declaration on Enhancing Climate Action in the 2020s: this represents a pledge of stronger cooperation between the two countries, and may prove significant in terms of the ability for developed and developing countries to reach agreement on key issues from COP 26. The Declaration sets out intended areas of cooperation between the US and China with respect to controlling reducing methane emissions and reducing CO_2 emissions.

Other key areas of cooperation include regulatory frameworks and environmental standards related to reducing emissions of greenhouse gases in the 2020s, maximizing the societal benefits of the clean energy transition, developing policies to encourage decarbonization and electrification of end-use sectors, the circular economy, and deployment and application of technologies such as carbon capture utilisation and storage (CCUS) and direct air capture. Both countries committed to work collaboratively to eliminate global illegal deforestation "through effectively enforcing their respective laws on banning illegal imports".

- President Biden announced The Long-term Strategy of the United States: Pathways to Net-Zero Greenhouse Gas Emissions by 2050, which represents the country's first long-term strategy to achieve net zero emissions by 2050.
- Prime Minister Modi announced India's five new mitigation targets, which include achieving net zero emissions by 2070, as well as other targets relating to renewable energy and reducing carbon intensity. Brazil anticipated its goal to achieve net zero emissions by 2050 instead of 2060.
- A key initiative promoted by the UK Presidency was the UN-backed Race to Zero, which is an umbrella campaign for coordinating and codifying net zero commitments made by non-state actors under a range of existing initiatives and networks such as C40s Deadline 2020 and The Climate Pledge. The Race to Zero has collectively mobilised non-state actors to cover nearly 25% of global CO^2 emissions and over 50% of GDP.

Considerable disappointment has been expressed that COP 26 did not put the world on track to limit warming to 1.5°C. Nevertheless, we consider that COP 26 has been one of the most successful in the history of the multinational climate negotiations in raising collective ambition and represented a significant achievement within the constraints of the multilateral process.

COP 26 has set the tone for the "critical decade" of climate actions, and the onus now falls squarely with national government and the private sector to deliver on their targets and regularly revisiting and ratcheting up ambition.

[3] https://public.wmo.int/en/our-mandate/climate/wmo-statement-state-of-global-climate

[4] https://www.unep.org/resources/emissions-gap-report-2021

[5] https://unfccc.int/sites/default/files/resource/cma3_auv_2_cover%20decision.pdf

[6] https://www.iea.org/commentaries/cop26-climate-pledges-could-help-limit-global-warming-to-1-8-c-but-implementing-them-will-be-the-key

3. Finance

Another key goal of the UK COP Presidency was to encourage the flow of public and private climate finance, and in particular to encourage developed countries to make good on their commitment to provide $100 billion per year in climate finance by 2020.

This was in the context of deep frustration from developing countries that developed countries had not made good on their $100 billion per year commitment. The achievement (and subsequent surpassing) of this goal is critical to repairing trust between developed and developing countries and ensuring that developing countries can deliver on their NDCs, because the $100 billion per year commitment was a key part of developing countries agreeing to emissions reduction and limitation targets under the Paris Agreement. There was also disappointment from developing countries over insufficient finance for adaptation and loss and damage and growing calls for a new climate finance goal.

Prior to COP26, the UK Presidency released the "Climate Finance Delivery Plan"[7], which expressed confidence that developed countries would meet this commitment $100 billion per year in climate finance in 2023. In the opening days of COP 26, climate finance commitments were potentially sufficient to put developed countries on track to meet this commitments by 2022. Significant milestones and commitments include:

- USD 800 million was pledged for adaptation over COP 26. This includes USD 232 million that was committed to the **Adaptation Fund**, which represents the highest single mobilisation in the Fund's history.
- President Biden announced that the Unites States' intended to quadruple climate finance by 2024, and made the first ever US contribution to the Adaptation Fund.
- Chancellor Merkel committed Germany to increasing its climate finance to EUR 6 billion per year by 2025.
- Prime Minister Kishida announced that Japan would make an additional climate finance contribution of up to USD 10 billion in the next five years, with a particular focus on supporting zero-emissions thermal power using ammonia and hydrogen, forest conservation and disaster risk reduction.

The private sector also stepped up, with the Glasgow Financial Alliance for Net Zero (GFANZ) announcing that it represented over USD 130 trillion of private capital from over 450 firms across 45 countries that is committed to transforming the economy to achieve net-zero.

In the formal negotiations, finance was a key theme across many streams and delivered a number of significant outcomes:

- Under the Glasgow Climate Pact, developed countries were urged to double their collective provision of adaptation finance from 2019 levels by 2025, and it was noted with "deep regret" that the goal of developed country parties to jointly mobilise USD 100 billion per year by 2020 has not yet been met. Similarly, the COP decision relating to long-term finance focussed on the failure to achieve this goal, and the COP 27 Presidency (Egypt) was invited to organize the high-level ministerial dialogue on climate finance in 2022 on the progress and fulfilment of this goal.
- Negotiations continued on establishing the new collective quantified goal on climate finance. The Parties agreed to establish an ad hoc work programme to operate from 2022 to 2024 for the purpose of setting the new goal in 2024, which is to be supported by technical expert dialogues and high-level ministerial dialogues.[8] Some negotiating blocs suggested that the new goal should be between USD 750 billion and 1.3 trillion, however others resisted quantifying the goal at this early stage, and instead agreed that the work programme will take into account quantity, quality, scope and transparency arrangements. The focus of the new long-term goal is to contribute to the Paris Agreement's long-term temperature goal, enhance the ability of countries to adapt to climate change and foster climate resilience and low-emissions development.
- Developed countries are required to submit biennial communications relating to ex ante finance transparency under Article 9.5 of the Paris Agreement. Developed countries have already submitted their first communications, and were requested to submit their second biennial communications before 31 December 2022. [9] The UNFCCC Secretariat was requested to compile and prepare a synthesis report on the biennial communications. The Glasgow Climate Pact also calls upon developed country parties to provide greater clarity in their next biennial communications.
- The issue of defining "climate finance" also cropped up in multiple streams of the negotiations. The Standing Committee on Finance was requested to continue its work on definitions of climate finance and to provide input for further consideration at COP 27.[10]

These formal decisions will guide the approaches countries will take to characterising and reporting on climate finance. Although there is often a disconnect between these multilateral discussions and the private sector delivery of climate finance and investment, the early discussions about the new collective quantified goal on climate finance are clearly looking at how public sector finance can mobilise private investments to achieve the scale needed to deliver on a 1.5 degree goal.

---

[7] https://ukcop26.org/wp-content/uploads/2021/10/Climate-Finance-Delivery-Plan-1.pdf
[8] FCCC/PA/CMA/2021/L.17

4. Cooperative approaches under Article 6 of the Paris Agreement

Article 6 of the Paris Agreement enables Parties to voluntarily cooperate to implement their NDCs) and pursue higher ambition through the use of three cooperative approaches:

Article 6.2 is best described as an accounting framework that applies to country to country transfers of mitigation outcomes. It enables mitigation outcomes generated in Country A to be transferred to County B, and ensures that such mitigation outcomes are only counted towards Country B's NDC. Private sector organisation may be responsible for delivering the underlying mitigation activities or programmes. Article 6.2 transactions are not governed by a centralised UN body, and key details of the transactions (e.g. the methodology for quantifying mitigation outcomes achieved) are decided bilaterally between the countries.

A number of countries have already entered into bilateral arrangements pursuant to Article 6.2 to pilot future international transfers of mitigation outcomes. For example, Switzerland's Klik Foundation has entered into agreements with Peru, Ghana, Morocco and Senegal for the development of mitigation activities or programs in these countries, and the subsequent transfer of the mitigation outcomes generated from these activities to Switzerland. During COP 26, Australia announced that Fiji and PNG were the first and second partners of its Indo-Pacific Carbon Offsetts Scheme (**IPCOS**), which will support the development of a regional carbon market that supports emissions reduction projects.

Article 6.4 sets out principles for the establishment of a centralised UN mechanism which is to be governed by a Supervisory Body. The Article 6.4 mechanism will enable mitigation outcomes to be generated (in a unitised form, knows at Article 6.4 emissions reductions or A6.4ERs) pursuant to methodologies approved by the Supervisory Body, and such mitigation outcomes are to be recorded and tracked by a centralised UN registry.

The aims of the Article 6.4 mechanism include:

- contributing to the mitigation of GHG emissions and supporting sustainable development;
- incentivising and facilitating public and private sector participation;
- contributing to emissions reductions in host Parties that can also be used by another Party to fulfil its NDC; and
- delivering overall mitigation of global emissions.

The **Article 6.8** work programme is to be initiated in 2022 and implemented by the Glasgow Committee on Non-market Approaches. The initial focus areas of the work programme activities include (but are not limited to): (i) adaptation, resilience and sustainability; (ii) mitigation measures to address climate change and contribute to sustainable development; and (iii) development of clean energy sources. The modalities for the work programme may include workshops, submission from Parties and non-parties, technical papers and synthesis reports prepared by the Secretariat, and collaboration with other bodies related to the UNFCCC and the Paris Agreement.

For each of the three approaches under Article 6, Parties were tasked with reaching agreement on (a) guidance for Article 6.2; (b) rules, modalities and procedures for the Article 6.4 mechanism and (c) a work programme for Article 6.8. We refer to these collectively as the "**Article 6 Rules**".

After failing to agree on the Article 6 Rules at COP 24 in Katowice and COP 25 in Madrid, Parties reached agreement on the Article 6 Rules at COP 26 in Glasgow.[11] We consider that the Article 6.2 and 6.4 Rules establish a rigorous framework for the international transfer of mitigation outcomes under the Paris Agreement. They represent a balanced outcome between a high level of environmental integrity and heightened ambition in the medium to long term, with a pragmatic approach to manage short term transition of projects and programmes of activity under the Clean Development Mechanism (**CDM**) (as well as certified emissions reductions (**CERs**) generated under the CDM).

Under the Article 6 Rules, some issues have been deferred for further consideration in 2022, and the 6.4 mechanism will not be fully operational until the supervisory body is active and has approved methodologies, among other matters. However, we consider the Article 6 Rules sufficiently detailed to enable Parties to actively prepare for participation in Article 6.2 activities (e.g. through entering into bilateral agreements with other countries, and agreements with the private sector for the implementation for Article 6.2 activities), and preparing for engagement with the Article 6.4 mechanism.

The new rules make clear the close relationship between compliance with NDCs and the possibility to participate in the international carbon market. Countries can only take advantage of the international market of carbon credits if they are up to speed with their commitments regarding the NDCs, which will be checked annually.

We also consider that the Article 6.2 Rules provide much-needed certainty to voluntary carbon markets, without being overly prescriptive and falling short of attempting to regulate voluntary markets.

Key elements of the Article 6 Rules include:

- **Corresponding adjustments:** the Article 6 Rules require corresponding adjustments to be applied for international transfers of mitigation outcomes under both Article 6.2 and the 6.4 mechanism, including in circumstances where the mitigation outcomes are generated in sectors outside the scope of the host country's NDC. This ensures that there will be no double-counting of mitigation outcomes, which is critical to the environmental integrity of international transfers of mitigation outcomes. We note that corresponding adjustments are required for mitigation outcomes used for compliance purposes under ICAO's CORSIA, however are not strictly required for transactions on the voluntary market.
- **Transition of CDM activities:** after strong pressure from some countries such as Brazil, projects / programmes registered under the CDM may transition to the Article 6.4 mechanism subject to a number of conditions, for example that theproject participants must make an application to the UNFCCC secretariat and host country for the project / programme to be transitioned by 31 December 2023, and these projects /programmes may continue to apply its current approved CDM methodology until the earlier of the end of its current crediting period or 31 December 2025, following which, it must apply an Article 6.4 approved methodology.

  This provides a level of certainty and continuity to existing CDM projects / programmes, which we consider has benefits in terms of market confidence and the ability of these projects to continue to operate (and generate emissions reductions). We also consider that requiring such projects / programmes to transition to an Article 6.4 approved methodology by the end of 2025 at the latest will ensure that all projects / programmes will meet the more rigorous requirements under Article 6.4 by that date, which again ensures the long-term environmental integrity of the Article 6.4 mechanism.
- **Transition of certified emissions reductions (CERs):** CERs generated under the CDM may be used towards parties' first nationally determined contributions (**NDCs**), provided that the CDM project activity or CDM programme of activities was registered on or after 1 January 2013. Such units must be transferred to the Article 6.4 mechanism registry and identified as pre-2021 emissions reductions. The CDM project / programme host Party shall not be required to apply a corresponding adjustment in respect of the CERs and not be subject to the share of proceeds for adaptation and administrative expenses.

  In the short term, we consider this will have the effect that countries that use CERs generated pre-2021 towards their NDC will be able to achieve their NDCs with less post-2021 ambition than would have been required if pre-2021 CERs couldn't be used towards NDCs. However, we consider that this relatively short-term compromise in ambition was necessary to achieve agreement to rigorous rules concerning corresponding adjustments, baselines and methodologies, which in the long-term will ensure Article 6 promotes heightened ambition and high levels of environmental integrity. Again, we consider that this will provide a much needed return on investment to CDM projects / programmes that have generated CERs pre-2021.
- **OMGE:** Under Article 6.2, participating Parties and stakeholders are strongly encouraged to cancel ITMOs (that are not counted towards any Party's NDC) for the purpose of delivering OMGE. Under the Article 6.4 mechanism, 2 percent of issued A.64ERs will be transferred to a "cancellation account" in the mechanism's registry, where those A6.4ERs shall be cancelled (and not counted towards any Party's NDC) to ensure OMGE. Parties and other activity participants may also request that additional A6.4ERs are cancelled to ensure additional further OMGE.
- **Share of Proceeds:** Under Article 6.2, parties and stakeholders using cooperative approaches are strongly encouraged to commit to contribute resources for adaptation, in particular through contributions to the Adaptation Fund. Under the Article 6.4 mechanism, when A6.4ERs (i.e. mitigation outcomes equal to 1 tonne of carbon dioxide equivalent) are issued in relation to approved activities, a levy of 5 per cent of such A6.4ERs will be contributed directly to the Adaptation Fund, and a monetary contribution related to the scale of the Article 6.4 activity or to the number of A6.4ERs issued will also be set by the Supervisory Body.

---

[9] FCCC/PA/CMA/2021/L.9

[10] FCCC/CP/2021/L.14

[11] (FCCC/PA/CMA/2021/L.18; FCCC/PA/CMA/2021/L.19; FCCC/PA/CMA/2021/L.20)

5. Finalisation of other elements of Paris Agreement Rulebook

In addition to the Article 6 Rules, two other elements were required to finalise the Paris Agreement Rulebook.

First, to support the implementation of the **Transparency Framework**, the Parties adopted common reporting tables for national inventory reports, common tabular formats for tracking NDC progress and also for reporting on support, and the outlines for the biennial transparency report, national inventory document, and technical expert review report, and the associated training programmes for technical experts.[12] The Transparency Framework is a robust and common system that all Parties must use in accounting for their emissions, with some flexibility afforded to developing country Parties if required;

With regards to timing, the Secretariat was requested to develop a test version of the reporting tools by June 2023, and a final version by June 2024. This will make it possible for Parties to submit their first biennial transparency reports in 2024, which is a critical element in the implementation of the Paris Agreement. Following the development of the test version of the reporting tools, the Secretariat will also organise online and in-person technical training workshops for the purpose of demonstrating the key functions of the tools.

Second, Parties agreed to **common time frames for NDCs**.[13] In 2025, Parties are "encouraged" to communicate a NDC with an end date of 2035, in 2030 a NDC with an end date of 2040, and so forth every five years thereafter. While the decision also acknowledges the nationally determined nature of NDCs, it provides much-need consistency for the purposes of review under the Transparency Framework and regularly ratcheting up ambition through the Global Stocktake.

6. Adaptation

Adaptation was a key priority of the UK Presidency. Unlocking further adaptation action and support is becoming increasingly urgent in the face of many countries already feeling the impacts of around 1.1°C of warming. The release of UNEP's Adaptation Gap Report 2021: The Gathering Storm found that "adaptation costs in developing countries are five to ten times greater than current public adaptation finance flows, and the adaptation finance gap is widening".

Securing increased funding for adaptation was also key to unlocking compromises in other areas of the negotiations, including with respect to the adaptation share of proceeds under the Article 6 Rules.

The Parties launched the two-year Glasgow Sharm el-Sheikh Work Programme on the Global Goal on Adaptation (**GGA**), which is to involve four workshops each year and the Secretariat will prepare an annual report. The Programme aims to review progress made towards achieving the GGA and enhance the implementation of adaptation actions in vulnerable developing countries. Among other inputs, the Programme is required to draw on Indigenous and local knowledge systems..

7. Loss and Damage

Developing countries came to COP 26 with strong demands to operationalise the Santiago Network on loss and damage (established at COP 25 in Madrid), reflect a new loss and damage finance category in reporting tables under the Transparency Framework, and include loss and damage in the post-2025 finance goal.

Developing country Parties generally expressed disappointment at the conclusion of COP 26 that loss and damage finance had not been further progressed, and we anticipate the incoming Egyptian COP Presidency will make this a priority issue. Nevertheless, key outcomes at COP 26 included:

- The Glasgow Climate Pact established the Glasgow Dialogue between parties on loss and damage, which is a two year dialogue commencing in 2022, and also decided that the Santiago Network is to be "provided with funds to support technical assistance for the implementation of relevant approaches to avert, minimize, and address loss and damage associated with the adverse effects of climate change in developing countries."
- The Parties decided that the functions of the Santiago Network are to include:[15]
  - catalysing demand-driven technical assistance of organizations, bodies, networks and experts for the implementation of approaches to averting, minimizing and addressing loss and damage, and thereby facilitating access to action and support;
  - facilitating the consideration of a wide range of relevant topics, as well as the development, provision and dissemination of, and access to, knowledge and information; and
  - facilitating and catalysing collaboration, coordination, coherence and synergies to accelerate action.

Parties have been invited to make submissions for the purpose of further developing the institutional arrangements of the Santiago Network, including in relation to the role of the Executive Committee, structure, operational modalities and the terms of reference of a coordinating body.

- The Executive Committee of the Warsaw International Mechanism for Loss and Damage was invited to continue engaging with the Standing Committee on Finance for the purpose of exploring ways to enhance collaboration with the operating entities of the Financial Mechanism, recognizing that there is an urgent need to scale up action and support for loss and damage.[16]

8. Other matters in the formal negotiations

1.1 Paris Agreement Implementation and Compliance Committee

While this agenda item received very little media attention, we note that the Parties adopted the first rules of procedure[17] for the Paris Agreement's Implementation and Compliance Committee, and encouraged the Committee to commence its substantive work. 12 members were elected to the Committee. This represents an important step in operationalising the Committee, which has the power to initiate consideration of Parties' non-compliance with mandatory reporting requirements.

1.2 Public registries

The Secretariat had previously developed prototypes of the public registry for NDCs, as well as the public registry for adaptation communications. Parties requested that the Secretariat operationalise these registries and finalise their implementation so that they are available for use by 1 June 2022.[18] This is an important step in ensuring the transparency of commitments made under the Paris Agreement.

[12] FCCC/PA/CMA/2021/L.21
[13] FCCC/PA/CMA/2021/L.12
[14] FCCC/PA/CMA/L.14
[15] FCCC/2021/CP/L.15; FCCC/CMA3/2021/L.22
[16] FCCC/2021/CP/L.15; FCCC/CMA3/2021/L.22
[17] FCCC/PA/CMA/2021/L.1
[18] FCCC/PA/CMA/2021/L.4; FCCC/PA/CMA/2021/L.5

Contacts


Andrew Hedges


Graham Stuart


Greg McNab


Renata Amaral


Alexandra Carranza


Sharona Coutts


Kay She

COP26: STEPS to Net Zero

With a long-standing history of participation and involvement at COP events, Baker McKenzie is at the cutting edge of climate change law and climate finance developments. We are currently engaged on multiple levels advising governments, companies and other entities on the implementation of the Paris Agreement, emerging compliance and disclosure regimes and innovative approaches to carbon markets and climate finance transactions. We have advised the governments of Morocco and Fiji on their COP Presidencies, and as part of COP26 are actively involved in Presidency initiatives to build a private sector finance system for net zero and to scale carbon markets including the Taskforce on Scaling Voluntary Carbon Markets.

bakermckenzie.com