

Going Green: COP28 Achieves Historic Global Stocktake Agreement on Fossil Fuels

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Background

The 28th United Nations Climate Change conference (“COP28”)—the first “global stocktake” following the conclusion of the Paris Agreement five years ago—concluded on December 13, 2023 with almost 200 countries signing a landmark global stocktake agreement (“GST Agreement”) that, according to the UN Climate Change Executive Secretary, could mark the “beginning of the end” of the fossil fuel era.¹ The agreement was reached in the early hours as discussions continued beyond the last scheduled day of the summit.

Last year, UN Secretary-General António Guterres remarked that “COP27 concludes with much homework and little time”.² While the GST Agreement represents definitive progress, some commentators have criticized it for not providing for a “phase out” of fossil fuels (which they believe is necessary to achieve the 1.5C target under the Paris Agreement).

Another focus of the summit was operationalizing the loss and damage fund, which was set up following COP27 and aims to support those countries that are most vulnerable to climate change. Together with other global efforts to progress climate adaptation and secure transition financing, commentators have referred to the operationalization of the loss and damage fund to observe that “COP28 is the most important COP since the Paris Agreement”.³

¹ United Nations Framework Convention on Climate Change, ““We didn’t turn the page on the fossil fuel era, but this outcome is the beginning of the end”: UN Climate Change Executive Secretary at COP28 Closing”, December 13, 2023, <https://unfccc.int/news/we-didn-t-turn-the-page-on-the-fossil-fuel-era-but-this-outcome-is-the-beginning-of-the-end-un>.

² United Nations, “António Guterres (Secretary-General) on the Closing of COP27”, November 19, 2022, <https://webtv.un.org/en/asset/k12/k12p31t118#:~:text=Our%20planet%20is%20still%20in,entire%20Africa%20country%20to%20desert>.

³ Carbon Brief, “COP28: Key outcomes agreed at the UN climate talks in Dubai”, December 13, 2023, <https://www.carbonbrief.org/cop28-key-outcomes-agreed-at-the-un-climate-talks-in-dubai/>.

Global Stocktake

Article 14 of the Paris Agreement provides that a global stocktake should be conducted once every five years, being a comprehensive review of collective progress towards the implementation of the Paris Agreement and achievement of its long-term goals. The review shall consider “mitigation, adaptation and the means of implementation and support” for climate transition, with the dual aims of allowing countries to update their nationally determined contributions (“NDCs”) and enhancing “international cooperation for climate action”.⁴ COP28 provided the forum for the first global stocktake, following the conclusion of the Paris Agreement five years ago.

The GST Agreement which, as noted above, has been identified as the most notable outcome of COP28, calls on countries to contribute to the global tripling of renewable energy capacity and doubling the rate of energy efficiency improvements by 2030 (though specific numerical targets that had appeared in earlier drafts were removed from the final text). The GST Agreement repeats wording from COP26 on phasing down unabated coal power, but does not define what “unabated” means.

The GST Agreement encourages countries to submit their next NDCs next climate pledges “at least 9-12 months in advance” of COP30, to be held in Brazil in late 2025.⁵ The climate pledges should include “economy-wide emission reduction targets, covering all greenhouse gases, sectors and categories and aligned with limiting global warming to 1.5C”. This would represent a significant expansion of current NDCs, which typically only cover CO2 emissions and do not set emissions reduction targets. However, beyond acknowledging the need for “accelerating action in this critical decade”, the GST Agreement does not include any short-term targets, requiring only net-zero emissions by 2050.

In its closing statement, the Alliance of Small Island States expressed concern that the GST Agreement does not commit countries to phase out fossil fuels, and referred to a “litany of loopholes” which ultimately did not provide the necessary support for developing countries that are disproportionately affected by climate change.⁶

In addition, concerns were raised that there was little in the way of climate finance pledged to support developing countries in their transition away from fossil fuels. Before the summit, the International Energy Agency had promoted compliance

⁴ United Nations Framework Convention on Climate Change, “The Paris Agreement”, 2016, https://unfccc.int/sites/default/files/english_paris_agreement.pdf.

⁵ United Nations Framework Convention on Climate Change, “First global stocktake under the Paris Agreement”, December 11, 2023, https://unfccc.int/sites/default/files/resource/GST_2.pdf.

⁶ Alliance of Small Island States, “COP28 Closing Plenary: AOSIS Statement on GST Decision”, December 13, 2023, <https://www.aosis.org/cop28-closing-plenary-aosis-statement-on-gst-decision/>.

with five pillars in order to regain momentum in the path to 1.5C.⁷ The GST Agreement made progress with four of these five, namely tripling renewables, doubling efficiency, tackling methane and a decline in the use of fossil fuels. The provision of finance for developing countries was the noticeable omission.

The Global Carbon Project estimates the remaining carbon budget to limit global warming to 1.5C (i.e., the amount of CO₂ that can still be emitted for a 50% chance of staying below 1.5C) to be 380 billion tonnes, which at current emission rates would be depleted in nine years.⁸ At that rate, most of the budget will have been expended by the next global stocktake in 2028.⁹

Loss and Damage

At COP15, in 2009, developed countries committed to a goal of mobilizing \$100 billion a year by 2020 to help developing countries adapt to climate change and reduce their greenhouse gas emissions. However, it took until 2022, at COP27, for countries to conclude an agreement to establish a loss and damage fund.

Since COP27, a transitional committee has been tasked with overseeing the fund's early development and certifying key details such as its location and contributing countries. In its final pre-summit meeting, the committee agreed that the fund would be housed at the World Bank for at least the next four years, and that no developed nation (or any other nation) would be required to contribute to it.¹⁰ The decision to house the fund at the World Bank has been criticized by developing countries, who argue that the World Bank's framework of issuing loans rather than grants is not appropriate for debt-burdened countries in the Global South. A coalition of US NGOs wrote an open letter to US climate representatives denouncing the decision, noting that the World Bank's bureaucratic framework "makes it unaccountable to communities in the Global South".¹¹

⁷ International Energy Agency, "World Energy Outlook 2023", October 2023, <https://www.iea.org/reports/world-energy-outlook-2023>.

⁸ Carbon Brief, "Guest post: What the tiny remaining 1.5C carbon budget means for climate policy", November 11, 2022, <https://www.carbonbrief.org/guest-post-what-the-tiny-remaining-1-5c-carbon-budget-means-for-climate-policy/#:~:text=The%20GCP's%20estimates%20put%20the,blown%20in%20just%20nine%20years>.

⁹ Earth System Science Data, "Global Carbon Budget 2022", November 11, 2022, <https://essd.copernicus.org/articles/14/4811/2022/>.

¹⁰ United Nations Framework Convention on Climate Change, "operationalization of the new funding arrangements for responding to loss and damage and the fund established in paragraph 3 of decisions 2/CP.27 and 2/CMA.4, November 28, 2023, https://unfccc.int/sites/default/files/resource/cp2023_09_cma2023_09.pdf.

¹¹ Coalition of US NGOs, "Final NGO letter on TC5", November 2023, <https://www.actionaidusa.org/wp-content/uploads/2023/11/FINAL-NGO-letter-on-TC5.pdf>.

Nevertheless, the United Arab Emirates, the host country of COP28, pledged an initial \$100 million to the fund, with contributions from the EU (\$245.39 million, of which \$100 million was from Germany), the UK (\$51 million), the U.S. (\$17.5 million, still contingent on Congress approval) and Japan (\$10 million) following shortly after.¹² By the end of the summit, the total figure had reached approximately \$770 million, less than 0.2% of the \$400 billion a year which it is estimated developing countries need to address loss and damage.¹³

Another significant development on loss and damage was the decision to select the UN Office for Disaster Risk Reduction and the UN Office for Project Services as the hosts of the secretariat of the Santiago Network. The network, agreed in principle in 2019, helps vulnerable developing countries by connecting them with technical expertise related to the impacts of loss and damage.¹⁴

Adaptation

At COP26, developed countries committed to double adaptation finance by 2025 (compared to 2019 levels), to approximately \$40 billion. However, the UN Environment Programme estimates that the adaptation finance gap is now between \$194 billion and \$366 billion per year, up to 18 times higher than the level of finance currently provided by developed countries.¹⁵

However, another important development at COP28 was the establishment of a framework to guide efforts to protect people and ecosystems from climate change. This represented significant progress towards the global goal on adaptation (“GGA”). As part of the framework negotiations, countries discussed which themes should be covered by the GGA, reaching agreement on water, food, health, ecosystems, infrastructure, poverty eradication and cultural heritage.¹⁶

¹² Reuters, “COP28 kicks off with climate disaster fund victory”, November 30, 2023, <https://www.reuters.com/business/environment/cop28-summit-opens-with-hopes-early-deal-climate-damage-fund-2023-11-30/>.

¹³ The Loss and Damage Collaboration & Unitarian Universalist Service Committee, “Standing in Solidarity with those on the Frontlines of the Climate Crisis: A Loss and Damage Package for COP28”, November 20, 2023, https://assets-global.website-files.com/605869242b205050a0579e87/655b50e163c953059360564d_L%26DC_L%26D_Package_for_COP28_20112023_1227.pdf.

¹⁴ United Nations Framework Convention on Climate Change, “COP28 Agreement Signals “Beginning of the End” of the Fossil Fuel Era”, December 13, 2023, <https://unfccc.int/news/cop28-agreement-signals-beginning-of-the-end-of-the-fossil-fuel-era>.

¹⁵ UN Environment Programme, “Adaptation Gap Report 2023: Underfinanced. Underprepared. Inadequate investment and planning on climate adaptation leaves world exposed”, November 2023, https://wedocs.unep.org/bitstream/handle/20.500.11822/43796/adaptation_gap_report_2023.pdf?sequence=1&isAllowed=y.

¹⁶ Carbon Brief, “COP28: Key outcomes agreed at the UN climate talks in Dubai”, December 13, 2023, <https://www.carbonbrief.org/cop28-key-outcomes-agreed-at-the-un-climate-talks-in-dubai/>.

The draft text of the GGA was not released until several days into the summit, primarily due to certain G77 countries requesting language acknowledging “common but differentiated responsibilities and respective capabilities” regarding adaptation.¹⁷ The final text reiterated the “longstanding call for developed countries to double adaptation finance” but did not provide a “clear roadmap to deliver it”.¹⁸ Discussions on the governance required to monitor adaptation progress were also deferred to 2030, as developed nations called for more time to implement national adaptation plans (“NAPs”).

Private Finance

As financing needs outpace committed public funding, attention has increasingly shifted to the importance of private finance in efforts to achieve climate goals. The GST Agreement “recognizes the role of the private sector [...] to reach the necessary scale of investments to achieve a global transition towards low GHG emissions and climate resilient development”. To that end, significant private finance initiatives agreed at COP28 include:

- **ALTÉRRRA:** The UAE announced a \$30 billion climate fund, named ALTÉRRRA, which will allocate \$25 billion to climate investments with the “greatest potential to accelerate the transition to a net-zero and climate resilient economy” and \$5 billion to incentivize investment flows into the Global South.¹⁹ ALTÉRRRA, in collaboration with Brookfield, BlackRock and TPG as inaugural launch partners, has committed \$6.5 billion to climate-dedicated funds for global investments, including in the Global South. The CEOs of both Brookfield and BlackRock attended the summit, alongside leaders of other major corporations and energy companies, including ExxonMobil, Microsoft, EY and Lloyd’s of London.
- **Global Decarbonization Accelerator:** The International Energy Agency (“IEA”) has estimated that pledges made by approximately 118 countries under the Global Renewables and Energy Efficiency Pledge, as well as those made by 50 fossil fuel companies under the Oil & Gas Decarbonization Charter, will close one-third of the emissions gap between the current trajectory and that needed to limit global warming to 1.5C by 2030. These pledges form part of the Global

¹⁷ Climate Home News, “COP28 bulletin: Adaptation stalemate jeopardizes COP28 outcome”, December 10, 2023, <https://www.climatechangenews.com/2023/12/10/cop28-bulletin-adaptation-stalemate-jeopardises-cop28-outcome/?lid=z71pbnstkw46>.

¹⁸ WWF, “COP28: WWF responds to new Global Goal on Adaptation draft text”, December 10, 2023, https://wwf.panda.org/wwf_news/?10374941/COP28-WWF-responds-to-new-Global-Goal-on-Adaptation-draft-text.

¹⁹ COP28: UAE, “Press Release: UAE commits US\$30 billion in catalytic capital to launch landmark climate-focused investment vehicle at COP28”, December 1, 2023, https://assets.website-files.com/65674d3ca7adc861e13b7a92/6569a84d66880e76db4aa1de_231201_climate%20finance%20Fund_PRL_%20Release.pdf.

Decarbonization Accelerator, a series of landmark initiatives launched at the summit by Sultan Al-Jaber, the COP28 president. They include agreements by countries (and blocs) such as the U.S., EU and Canada to triple renewable energy capacity and double energy efficiency, with companies such as Saudi Aramco, BP, Shell and ExxonMobil also agreeing to a methane reduction plan. The signatories of the Oil & Gas Decarbonization Charter comprise more than 40 percent of global oil and gas production, each committing to cut methane emissions from their operations to near zero by 2030, and eliminate all greenhouse gas emissions from their operations by 2050.²⁰ Despite this, the IEA's CEO indicated that there is still a "major gap" between dialogue on climate change behavior and the amounts pledged to clean technologies in the signatories' respective investment portfolios.²¹

- **Climate-resilient debt clauses ("CRDCs"):** Major financial institutions and countries also committed to including CRDCs in their lending instruments. CRDCs allow repayments to be paused when countries suffer climate disasters, allowing them more time and flexibility to manage the servicing of their debt obligations. The UK announced its very first CRDC in favor of Senegal, as France, the World Bank, the European Investment Bank and the African Development Bank (among others) made similar pledges.²²
- **COP28 Action Agenda on Regenerative Landscapes:** Signatories of the COP28 Action Agenda on Regenerative Landscapes will collaborate with and support 3.6 million farmers in order to accelerate the transition of over 160 million hectares to regenerative landscapes. They will help facilitate government policies, support research and development and advance education in this space, with an initial investment of \$2.2 billion.²³ Rob Cameron, Global Head of Public Affairs and ESG Engagement at Nestlé, cited long-term contracting, pilot farm schemes, corporate loans and novel insurance products as ways to de-risk and encourage farmers and producers to move towards more sustainable agricultural practices, even if they are less profitable in the short term.²⁴

²⁰ McKinsey, "COP28: World Climate Action Summit Day 2", December 2, 2023, <https://www.mckinsey.com/capabilities/sustainability/our-insights/sustainability-blog/cop28-world-climate-action-summit-day-2>.

²¹ The Financial Times, "COP28 fossil fuel pledges will not limit global warming to 1.5C, says IEA", December 10, 2023, <https://www.ft.com/content/08e08334-f637-4a4f-8374-3f6c24ba7dd2>.

²² COP28: UAE, "COP28 Finance Day unlocks innovative financial mechanisms to support vulnerable countries fight climate change", December 4, 2023, [https://www.cop28.com/en/news/2023/12/COP28-Finance-Day-unlocks-innovative-financial-mechanisms#:~:text=COP28%20Finance%20Day%20unlocked%20significant,\(CRDCs\)%20in%20their%20lending](https://www.cop28.com/en/news/2023/12/COP28-Finance-Day-unlocks-innovative-financial-mechanisms#:~:text=COP28%20Finance%20Day%20unlocked%20significant,(CRDCs)%20in%20their%20lending).

²³ World Business Council for Sustainable Development, "COP28 Action Agenda on Regenerative Landscapes launched in Dubai", December 4, 2023, <https://www.wbcsd.org/Pathways/Food-Agriculture/News/COP28-Action-Agenda-on-Regenerative-Landscapes-launched-in-Dubai>.

²⁴ Nestlé, "Addressing food and agriculture to fight climate change", December 8, 2023, <https://www.nestle.com/media/news/climate-food-regenerative-agriculture-cop28>.

Miscellaneous

Other significant developments at COP28 included:

- **Nuclear energy:** The Sapporo 5 (U.S., UK, Canada, Japan and France) announced \$4.2 billion in government-led investments to support the increased deployment of zero-carbon and resilient sources of nuclear energy. The investments will help enhance uranium enrichment and conversion capacity over the next three years, while establishing a uranium supply protected from potential geopolitical vulnerability, an issue which dominated the discourse at COP27.²⁵
- **Gender equality:** On Gender Day at COP28, an open letter—initiated by CARE International and signed by entities such as Oxfam, ActionAid UK and the Fawcett Society (in addition to several high-profile individuals)—cites a new report which details the barriers hindering women’s rights organizations from addressing climate change. These organizations received less than 0.2% of bilateral UK climate finance in 2022, a number which has become further scrutinized after it was revealed that only 15 of the 133 world leaders attending COP28 were women. Helen Pankhurst, Senior Adviser on Gender Equality for CARE International, highlighted that climate change has a disproportionate impact on women and girls, and thus their voices should be amplified when the responses to climate change are discussed and agreed.²⁶
- **Biodiversity:** COP28 and the 15th Conference of the Parties under the Convention on Biological Diversity Presidencies released the COP28 Joint Statement on Climate, Nature, and People, which reaffirmed commitments to the Paris Agreement and the Kunming-Montreal Global Biodiversity Framework.²⁷ Specifically, the statement announced five common objectives: (1) developing stronger synergies, integration, and alignment in climate and biodiversity planning, such as NDCs, NAPs, and the forthcoming revised National Biodiversity Strategies and Action Plans; (2) scaling financial investment for climate and nature; (3) ensuring equitable and effective representation of indigenous peoples, local communities, and other vulnerable communities; (4) encouraging a “whole-of-society” approach to climate and

²⁵ Energy.gov, “At COP28, U.S., Canada, France, Japan and UK Announce Plans to Mobilize \$4.2 Billion for Reliable Global Nuclear Energy Supply Chain”, December 7, 2023, <https://www.energy.gov/articles/cop28-us-canada-france-japan-and-uk-announce-plans-mobilize-42-billion-reliable-global>.

²⁶ CARE International, “COP28: Artists, campaigners and humanitarians call on Rishi Sunak to prioritize woman and girls in climate action”, December 4, 2023, <https://www.careinternational.org.uk/press-office/press-releases/cop28-artists-campaigners-and-humanitarians-call-on-rishi-sunak-to-prioritise-women-and-girls-in-climate-action/#:~:text=The%20open%20letter%2C%20organised%20by,bilateral%20climate%20finance%20in%202022>.

²⁷ Convention on Biological Diversity, “Kunming-Montreal Global Biodiversity Framework”, December 18, 2023, <https://www.cbd.int/gbf/>.

biodiversity plans; and (5) encouraging interoperability across data, methodologies, and voluntary reporting frameworks.²⁸

- **Carbon credits:** As negotiations over a carbon trading mechanism hit an impasse at COP28, some have expressed concerns that a potential framework will allow major polluting countries to purchase carbon credits from those with large carbon sinks, such as Brazil and Indonesia, in order to meet their NDCs. Commentators criticized text published at COP28 on country-to-country emissions trading—covered by Article 6.2 of the Paris Agreement—which stipulated that deals can be agreed on a confidential basis, as a potential “black box”.²⁹

Epilogue

While many viewed the reference to fossil fuels in the GST Agreement as a major achievement, others expressed concern that it did not call for a “phase out” and therefore did not go far enough. Notably, the closing statement of the Arab Energy Conference rebuked calls for a phase out, suggesting that fossil fuels will continue to be “pillars of global energy for many decades to come”.³⁰

Several representatives and stakeholders at the summit acknowledged the growing importance of private finance in achieving a just transition and that hybrid public-private initiatives can provide developing countries with the necessary capital to plug the adaptation gap. More regulation in the form of green taxonomies and green labelling, to supplement the EU’s Taxonomy Regulation and Green Claims Directive, can assist those in the private sector in determining where and how to deploy their funds. For the public sector, progress with the loss and damage fund as well as the carbon trading mechanism provide reason for hope, though both fronts leave open significant questions and will require considerable work and collaboration in the coming years if they are to live up to their promise.

Next year’s “finance” COP will concentrate on establishing the levels of climate finance required to help developing nations recover from climate disasters and achieve a just transition. The amount pledged to the loss and damage fund during COP28 represented a negligible percentage of the amount required by developing nations.

²⁸ COP28: UAE, “COP28 Joint Statement on Climate, Nature and People”, December 2023, <https://www.cop28.com/en/joint-statement-on-climate-nature>.

²⁹ Business Green, “‘The clock is ticking’: COP28 President urges countries to break deadlock as fossil fuels stand-off continues”, December 10, 2023, <https://www.businessgreen.com/news/4154995/clock-ticking-cop28-president-urges-countries-break-deadlock-stand-continues>.

³⁰ Reuters, “As fossil fuel rift delays COP28, Arab energy leaders say oil here to stay”, December 12, 2023, [https://www.reuters.com/business/environment/fossil-fuel-rift-delays-cop28-arab-energy-leaders-say-oil-here-stay-2023-12-12/#:~:text=DOHA%2C%20Dec%2012%20\(Reuters\),in%20pursuit%20of%20a%20deal](https://www.reuters.com/business/environment/fossil-fuel-rift-delays-cop28-arab-energy-leaders-say-oil-here-stay-2023-12-12/#:~:text=DOHA%2C%20Dec%2012%20(Reuters),in%20pursuit%20of%20a%20deal).

COP29 will be held in Baku, Azerbaijan, in November 2024.

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Please do not hesitate to contact us with any questions on how these developments may impact your business.



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