

Language on fossil fuels in paragraphs 28 and 29 of Decision 1/CMA.5 (Global Stocktake)

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*This advice is provided in response to **Query 88/23***

Query:

Please review the language on fossil fuels used in paragraphs 28 and 29 of Decision 1/CMA.5 adopted in Dubai in November-December 2023 (the "**Decision**"),¹ particularly:

1. How strong is the language on fossil fuels used in paragraphs 28 and 29 of the Decision compared to "*phase out*" or "*phase down*" language?
2. What is the difference (if any) between the language mentioned above and the language on coal adopted at COP 26 in Glasgow (Decision 1/CP.26, the "**Glasgow Decision**")?²
3. Does the list at paragraph 28 of the Decision (from points (a) and (h)) contain options for the countries to pick?

The text of paragraphs 28 and 29 can be found in the Annex to this advice.

Advice

1. **How strong is the language on fossil fuels used in paragraphs 28 and 29 of the Decision compared to "*phase out*" or "*phase down*" language?**

The terms "*phase out*" and "*phase down*" are not defined in the Paris Agreement, UNFCCC decisions or in other international conventions on similar matters) consulted. According to their vocabulary meaning:

- The term "*phase out*" refers to the process of gradually removing or stopping the use of something.³
- The term "*phase down*" involves gradually reducing the use of something rather than eliminating it entirely.⁴ It emphasizes a controlled reduction without immediate cessation.

¹ <https://unfccc.int/documents/637073>

² <https://unfccc.int/documents/460954>

³ <https://dictionary.cambridge.org/dictionary/english/phase-out>; <https://www.collinsdictionary.com/dictionary/english/phase-out>

⁴ <https://www.collinsdictionary.com/dictionary/english/phase-down>;
<https://www.oxfordlearnersdictionaries.com/definition/english/phase-down>

The term "*phase out*" is therefore stronger than "*phase down*".

We understand, in the context of fossil fuels, it is well-established among the international community⁵ that phasing out implies a deliberate radical reduction in their use until they are completely eliminated. This approach aims for absolute zero annual emissions from fossil fuels.

Whereas phasing down aims to reduce the consumption of fossil fuels while simultaneously building up technologies to replace them.

Based on the above meanings, in our view, the language used in the Decision 1/CMA.5 seems to contain softer language than the "*phase out*" and "*phase down*" wording. States are encouraged to speed up the process towards a low carbon economy, without any explicit commitment to eliminate or radically decrease fossil fuels immediately, except in relation to (i) inefficient fossil fuel subsidies and (ii) non-carbon-dioxide emissions.

Analysing the sub-paragraphs in turn:

a. **Paragraph 28 (b) - Accelerating efforts towards the phase-down of unabated coal power**

Previous drafts of the Decision show that the language was softened in the final text: it started with strong language ("*[a] rapid phase out of unabated coal power (...) and an immediate cessation of the permitting of new unabated coal power generation*"),⁶ moved to a "*phase-down*" approach ("*[r]apidly phasing down unabated coal and limitations on permitting new and unabated coal power generation*"),⁷ and ended with the above sentence.

The word "*phase down*" has been maintained, meaning that the unabated coal power will be gradually reduced. However, the addition of the wording "*accelerating efforts towards*" at the beginning of the sentence has softened the language. Without the addition, it would have likely been interpreted as a willingness to actually decrease the unabated coal power in the near future. While the language "*accelerating efforts towards*" indicates that the "*phase-down*" is the ultimate goal in the future, as per the current wording, States are merely called to speed up their efforts to achieve that goal. The use of unabated coal is still possible.

b. **Paragraph 28 (c) - Accelerating efforts globally towards net zero emission energy systems, utilizing zero- and low-carbon fuels, well before or by around mid-century**

This paragraph contains the same previously discussed idea with respect to accelerating efforts: the ultimate goal being net zero emission energy systems, and while the Decision drives States to speed up their actions towards this goal, both zero and low-carbon fuels will be accepted to achieve this goal.

This paragraph only focuses on an acceleration towards net zero emission, transitioning away from conventional fuels but it does not address the transition between low-carbon to zero carbon fuels. We however understand that following this language low-carbon fuels may still be legitimately around post 2050.

The term "by around" may however give a bit of leeway on the 2050 deadline and the States would feel entitled to push their actions towards the goal for several years after 2050.

c. **Paragraph 28 (d) - Transitioning away from fossil fuels in energy systems, in a just, orderly and equitable manner, accelerating action in this critical decade, so as to achieve net zero by 2050 in keeping with the science**

Previous versions of the Decision show that the language has been softened and that the word "*transitioning away*" has been added in replacement of the word "*reduction*",⁸ which itself replaced

⁵ <https://dgap.org/en/research/glossary/climate-foreign-policy/phase-down-and-phase-out-fossil-fuels>; <https://www.theguardian.com/environment/2023/dec/09/phase-out-down-fossil-fuels-cop28>; <https://www.dw.com/en/a-fossil-fuel-phaseout-or-phasedown-does-it-matter/a-67641456>

⁶ "A rapid phase out of unabated coal power this decade and an immediate cessation of the permitting of new unabated coal power generation, recognizing that the IPCC suggests a pathway involving a reduction of unabated coal use by 75 per cent from 2019 levels by 2030" (https://unfccc.int/sites/default/files/resource/GST_1_0.pdf)

⁷ https://unfccc.int/sites/default/files/resource/GST_2.pdf

⁸ Paragraph 39 I "*Reducing both consumption and production of fossil fuels, in a just, orderly and equitable manner so as to achieve net zero by, before, or around 2050 in keeping with the science*" (https://unfccc.int/sites/default/files/resource/GST_2.pdf)

the strongest word "*phase out*" contained in one of the very first versions of the Decision.⁹

- The wording "[*t*]ransitioning away from fossil fuels" is not defined in any international documents reviewed (either in UNFCCC's documents nor in other relevant international agreements) or national legislation of the countries.

Per the Cambridge dictionary, the word "transition" is defined as the process or a period of changing from one state or condition to another.¹⁰

IPCC, 2022 and 2023: Annex I: Glossary confirms that definition: "[*t*]he process of changing from one state or condition to another in a given period of time. Transition can be in individuals, firms, cities, regions and nations, and can be based on incremental or transformative change."¹¹

Based on the general meaning of the word "*transition*", it can be said that "*transitioning away*" means the process of moving away from something. In the context of the Decision, "[*t*]ransitioning away from fossil fuels" indicates the process of shifting from fossil fuels to renewable energy and the period of such change ("by 2050"). It does not seem to convey the meaning of any specific decline or reduction in use (let alone its elimination), indicating only a process of moving away from fossil fuels. Although other interpretations could be plausible, it is our understanding that therefore, transitioning away is less rigid than a "*phasing down*" approach, which primary focus is to reduce fossil fuels.

This interpretation is coupled with factual evidence that it was agreed as an alternative to the previous language that carried stronger implications –phasing out/phasing down- and as an alternative to no language at all, as those previous suggestions were taken off the table during the GST negotiations. That being said, there is no information about the motivations and plausible interpretations behind that choice of language, as the insertion of 'transitioning away' in this sentence was not publicly negotiated. Therefore, it remains to be seen how the parties will concretely apply this paragraph.

- In the same paragraph, the sentence continues by saying that such transition shall be carried out in a "*just, orderly and equitable manner*".

The IPCC recently defined "*just transitions*" as a set of principles and practices in which no one should be "*left behind in the transition from a high-carbon to a low-carbon economy*". Such set of principles and practices includes respecting groups impacted (e.g. local communities), promoting fairness in energy access, creating decent jobs and respecting fundamental labour principles and rights, and addressing past injustices. Just transitions involve proactive measures by governments and agencies to minimize negative impacts while maximizing benefits for affected individuals and communities.¹²

In light of the above definition, paragraph 28 (d) of the Decision, acknowledges the importance of transitioning away from fossil fuels observing certain principles and practices, while the achievement of net zero in 2050 remains the goal for all the Parties.

⁹ Paragraph 36 (c) "*Option 1: A phase out of fossil fuels in line with best available science; Option 2: Phasing out of fossil fuels in line with best available science, the IPCC's 1.5 pathways and the principles and provisions of the Paris Agreement;*" (https://unfccc.int/sites/default/files/resource/GST_1_0.pdf)

¹⁰ <https://dictionary.cambridge.org/dictionary/english/transition>;

<https://www.collinsdictionary.com/dictionary/english/transition>;

¹¹ https://www.ipcc.ch/report/ar6/wg3/downloads/report/IPCC_AR6_WGIII_Annex-I.pdf;

https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC_AR6_SYR_AnnexesIndex.pdf.

¹² "**Just transitions** A set of principles, processes and practices that aim to ensure that no people, workers, places, sectors, countries or regions are left behind in the transition from a high-carbon to a low-carbon economy. It stresses the need for targeted and proactive measures from governments, agencies, and authorities to ensure that any negative social, environmental or economic impacts of economy-wide transitions are minimised, whilst benefits are maximised for those disproportionately affected. Key principles of just transitions include: respect and dignity for vulnerable groups; fairness in energy access and use, social dialogue and democratic consultation with relevant stakeholders; the creation of decent jobs; social protection; and rights at work. Just transitions could include fairness in energy, land use and climate planning and decision-making processes; economic diversification based on low-carbon investments; realistic training/retraining programmes that lead to decent work; gender-specific policies that promote equitable outcomes; the fostering of international cooperation and coordinated multilateral actions; and the eradication of poverty. Lastly, just transitions may embody the redressing of past harms and perceived injustices" IPCC, 2022 and 2023: Annex I: Glossary https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC_AR6_SYR_AnnexesIndex.pdf and https://www.ipcc.ch/report/ar6/wg3/downloads/report/IPCC_AR6_WGIII_Annex-I.pdf

- While the ultimate goal is to achieve net zero in 2050 as indicated in paragraph 28 (d), if States are only called to speed up the process in that respect ("accelerating action"), they can still use fossil fuels as a means of getting there.
- Finally, the achievement of net zero in 2050 will be adapted in light of the science ("*keeping with science*"), meaning that this goal might change if the science changes. There is no indication on what the term "*science*" refers to. It is interesting to note that the wording "*in keeping with science*" has been preferred to "*in line with best available science*" (present in a previous version¹³) and is also used in article 4 of the Paris Agreement ("*in accordance with best available science*"). Therefore, one may argue that "*in keeping with science*" should not be interpreted in the same manner. The language "*keeping with science*" might be interpreted as being broader than "*best available science*". The term "*science*" could include a wider range of concepts, approaches, techniques, standards, etc. than in "*best available science*", which seems to be narrower as it contains the idea that the science shall be optimal, accessible and ready for use. It might therefore be easier to change the goal of net zero in 2050 and it seems to leave the door open for future challenge as long as there are diverging scientific views.

d. **Paragraph 28 (f) - Accelerating the substantial reduction of non-carbon-dioxide emissions globally, in particular methane emissions by 2030**

States are called to substantially decrease any non-carbon-dioxide emissions. The sentence indicates a specific date by which such reduction shall take place. However:

- There is no indication of what "*substantial reduction*" means. A previous version of the Decision was more specific in that respect, by providing a percentage figure and setting different deadlines.¹⁴ Such approach has not been retained in the final Decision and a "*substantial reduction*" may give rise to different interpretations.
- There might also be different interpretations of whether the deadline of 2030 refers to the reduction of (i) all non-carbon-dioxide emissions or (ii) only methane. In a previous version "2030" was placed at the beginning of the sentence;¹⁵ in this last version, it is less straightforward.¹⁶

e. **Paragraph 28 (h) - Phasing out inefficient fossil fuel subsidies that do not address energy poverty or just transitions, as soon as possible**

As in COP 26 decision, States agree that inefficient fossil fuel subsidies shall be eliminated as soon as possible. However, there is no common definition of what an "inefficient fossil fuel subsidy" is, nor a specific deadline by when this phase out ought to be achieved. Given the wording of the Decision, Parties might have decided to interpret inefficient fossil fuels as those that do not address energy poverty or just transition. However, the risk from this uncertainty could be a continuation of the status quo on these subsidies by governments.

Other definitions of the relevant terms may give the States some guidelines in the absence of a clear definition:

- article 1 of the World Trade Organization (the "WTO") Agreement on Subsidies and Countervailing Measures provides a definition of "**subsidy**" which is a "*financial contribution by a government or any public body*" or "*any form of income or price support*" that confers a "benefit" to the recipient. Such financial contribution could be a (i) direct transfer of funds; (ii) government revenue (e.g. fiscal incentive); (iii) goods or services; (iv) payments to a funding mechanism.
- This definition seems to be commonly used when discussing fossil fuel subsidies, however it is *not* the only one in the international community: the International Monetary Fund ("IMF")

¹³ Paragraph 36 (c) in https://unfccc.int/sites/default/files/resource/GST_1_0.pdf

¹⁴ Paragraph 39 : "*Also calls upon Parties to take further actions to reduce by 2030 non-carbon dioxide greenhouse gas emissions, in order to reduce methane emissions globally by at least 30 per cent by 2030 and 40 per cent by 2035, reduce N2O emissions globally by at least 13 per cent by 2030 and 18 per cent by 2035, and reduce F-gases emissions globally by at least 81 per cent by 2035*" https://unfccc.int/sites/default/files/resource/GST_1_0.pdf

¹⁵ "(...) *to reduce by 2030 non-carbon dioxide greenhouse gas emissions (...)*" https://unfccc.int/sites/default/files/resource/GST_1_0.pdf

¹⁶ In Glasgow Decision, it is clear that 2030 is the deadline for the reduction of all non-carbon dioxide greenhouse gas emissions https://unfccc.int/sites/default/files/resource/cop26_auv_2f_cover_decision.pdf

has a wider definition of subsidy when it refers to fossil fuel, for instance by including implicit subsidies (formerly post-tax).¹⁷

- According to the International Institute for Sustainable Development (the "IISD", an independent think tank organisation), researchers refer to "**fossil fuel**" subsidies when referring to subsidies to (i) primary fossil fuel commodities (e.g. crude oil, natural gas, coal, peat); (ii) secondary refined or processed products (e.g. diesel fuel, gasoline, kerosene, coal, peat briquettes); (iii) electricity and heat generated by fossil fuel.¹⁸
- Canada first committed to phasing out inefficient fossil fuel subsidies in 2009 with its G20 peers and in 2022 Canada presented four criteria to assess **the efficiency** of a fossil fuel subsidy (considering the lack of clear definition). An efficient fossil fuel subsidy shall (i) be in alignment with climate commitments; (i) support a low-carbon economy; (iii) be consistent with a just transition and (iv) be the best way to achieve the overall policy goal.¹⁹

Finally, we note that if fossil fuel subsidies addressed energy poverty or just transitions then the requirement to phase out does not apply anymore.

f. **Paragraph 29 - Recognizes that transitional fuels can play a role in facilitating the energy transition while ensuring energy security**

The Decision acknowledges that transitional fuels are expected to play a role in the ongoing transition process from traditional fossil fuels to renewable energy sources, offering an immediate alternative. Traditional fuels refer to the conventional energy sources that have been widely used for various purposes. These fuels are typically derived from fossil-based systems, and include petroleum, propane and natural gas. Whereas transitional fuels are fuels providing some health benefits even if they do not meet the recommended levels but are less polluting (e.g. biodiesel, bioalcohol, chemically stored electricity, hydrogen, non-fossil methane, non-fossil natural gas, vegetable oil and other biomass sources).

However, transitional fuels still include fossil fuels. The wording of the Decision indicates that their use is intended to be limited to the energy transition, so it is a temporary solution, to support energy security, but no specific time limit is set to clearly identify the overall timeline or ultimate end of such transition. This paragraph in the Decision may encourage investments in transitional fuels, allowing a transition away from conventional fuels, but also arguably delaying the full transition to cleaner energy sources. That being said, it is important to note that transitional fuels should by design offer a less carbon-intensive alternative to conventional fossil fuels allowing for emission reductions in existing systems, while from an energy security perspective enabling a stable and reliable energy supply for a particular country or region.

2. **What is the difference (if any) between the language mentioned above and the language on coal adopted in the Glasgow Decision?**

At COP 26 in Glasgow, countries were considering the use of words "*phase out*" in relation to coal, which was replaced by the words "*phase down*" in the end.²⁰

Paragraph 20 of the Glasgow Decision reads as follows:²¹

"Calls upon Parties to accelerate the development, deployment and dissemination of technologies, and the adoption of policies, to transition towards low-emission energy systems, including by rapidly scaling up the deployment of clean power generation and energy efficiency measures, including accelerating efforts towards the phasedown of unabated coal power and phase-out of inefficient fossil fuel subsidies, while providing targeted support to the poorest and most vulnerable in line with national circumstances and recognizing the need for support towards a just transition"

¹⁷ <https://www.imf.org/en/Topics/climate-change/energy-subsidies>.

¹⁸ <https://www.iisd.org/system/files/2022-08/background-note-fossil-fuel-subsidy-reform.pdf> p. 2.

¹⁹ <https://www.iisd.org/system/files/2022-07/inefficient-fossil-fuel-subsidies-canada-en.pdf>.

²⁰ German Council on foreign relations. Phase Down and Phase Out of Fossil Fuels. Accessed here: <https://dgap.org/en/research/glossary/climate-foreign-policy/phase-down-and-phase-out-fossil-fuels>

²¹ https://unfccc.int/sites/default/files/resource/cop26_auv_2f_cover_decision.pdf (emphasis added)

The same sentence was adopted in the Decision under paragraph 28 (b): "*Accelerating efforts towards the phase-down of unabated coal power*". There has therefore been no progress between COP 26 and COP 28 with respect to the language on unabated coal power. Any attempt to insert stronger language has therefore failed.

However, on fossil fuels more generally, progress was made at COP 28 in including a new sentence at paragraph 28 (d) ("*transitioning away from fossil fuels (...)*"). Despite its flaws already discussed in the previous section, it can be seen as a progress as the wish to move away from fossil fuels has been put in writing for the very first time. Even if no strong commitment has been taken with respect to the reduction or elimination of fossil fuels,²² the presence of paragraph 28 (d) in the Decision is truly a step forward with respect to negotiations on fossil fuels.

3. Does the list at paragraph 28 of the Decision (from points (a) to (h)) contain options for the countries to pick?

The first sentence in Paragraph 28 of the Decision reads as follows:

"Further recognizes the need for deep, rapid and sustained reductions in greenhouse gas emissions in line with 1.5 °C pathways and calls on Parties to contribute to the following global efforts, in a nationally determined manner, taking into account the Paris Agreement and their different national circumstances, pathways and approaches:"

Nothing in this paragraph indicates that the States can pick-and-choose one or more actions listed afterwards at paragraph 28. This sentence simply means that the States are called to contribute to all the "*following global efforts*" taking into account their national characteristics and the Paris Agreement. There is no indication that the Parties can pick-and-choose between the described actions.

We note that in the previous version, the paragraph read: "*Also recognizes the need for deep, rapid and sustained reductions in GHG emissions and calls upon Parties to take actions that could include, inter alia:"*²³ The wording "*could include*" indicated that the actions described could have been taken or not by the States, thereby making them a list of options to pick-and-choose. However, this language drew swift and near-universal Party and stakeholder criticism,²⁴ and was abandoned in the final version of the Decision. There is therefore very strong evidence that the drafters did not want those actions to be a list of optional actions but rather a list of actions the State shall contribute to.

²² The Guardian. Why is the phase-out of fossil fuels the biggest flashpoint at Cop28? Accessed here: https://www.theguardian.com/environment/2023/dec/09/phase-out-down-fossil-fuels-cop28#:~:text=Broadly%20speaking%2C%20a%20phase%2Dout,by%20how%20much%20or%20when.https://unfccc.int/sites/default/files/resource/GST_2.pdf

²³ https://unfccc.int/sites/default/files/resource/GST_2.pdf

²⁴ Carbon Brief, COP28: Key outcomes agreed at the UN climate talks in Dubai. Accessed here: <https://www.carbonbrief.org/cop28-key-outcomes-agreed-at-the-un-climate-talks-in-dubai/>

Annex

Decision 1/CMA.5

"28. Further recognizes the need for deep, rapid and sustained reductions in greenhouse gas emissions in line with 1.5 °C pathways and calls on Parties to contribute to the following global efforts, in a nationally determined manner, taking into account the Paris Agreement and their different national circumstances, pathways and approaches:

(a) Tripling renewable energy capacity globally and doubling the global average annual rate of energy efficiency improvements by 2030;

(b) Accelerating efforts towards the phase-down of unabated coal power;

(c) Accelerating efforts globally towards net zero emission energy systems, utilizing zero- and low-carbon fuels, well before or by around mid-century;

(d) Transitioning away from fossil fuels in energy systems, in a just, orderly and equitable manner, accelerating action in this critical decade, so as to achieve net zero by 2050 in keeping with the science;

(e) Accelerating zero- and low-emission technologies, including, inter alia, renewables, nuclear, abatement and removal technologies such as carbon capture and utilization and storage, particularly in hard-to-abate sectors, and low-carbon hydrogen production;

(f) Accelerating the substantial reduction of non-carbon-dioxide emissions globally, in particular methane emissions by 2030;

(g) Accelerating the reduction of emissions from road transport on a range of pathways, including through development of infrastructure and rapid deployment of zero and low-emission vehicles;

(h) Phasing out inefficient fossil fuel subsidies that do not address energy poverty or just transitions, as soon as possible;

29. Recognizes that transitional fuels can play a role in facilitating the energy transition while ensuring energy security;"