Fiscal measures in climate negotiations and potential entry points for discussions

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This advice is provided in response to ***Query 52/23***

Query:
Are fiscal measures debated/negotiated under the finance track of the climate negotiations? If so, could you summarise this? If not, could you suggest potential entry points? (we are aware of their potential inclusion as cooperative approach under the NMA framework, but we are interested here about the potential that fiscal measures could have to raise climate finance, e.g. wealth tax or corporate profit tax)

Advice:

Fiscal measures as potential *sources* of climate finance are debated within the climate finance framework (broadly intended), but they seem to be hardly negotiated as specific items requiring some form of output.

As a summary, developed states have no collective or specific obligation to source climate finance from specific fiscal or tax measures, including corporate taxation. However, within the ramification of the climate finance framework, and based on an initial analysis of COP 27/CMA 4 decisions and related instruments, there appears to us to be areas for discussion and potential negotiations The author is available to follow-up with a more specific analysis of one or more avenues.

1. *Loss & Damage new financial arrangements*

The proposed draft decision recommended by the Transitional Committee's last report leaves open the possibility to further negotiate and debate new fiscal initiatives of any kind (national, sub-national, domestic, transnational) to support L&D finance.

2. *The workplan of the Standing Committee on Finance*

The Standing Committee on Finance has competence to assist countries in the "mobilization of financial resources". [1] From its latest report, the current workplan of the Committee on 'financing just transitions' could be an entry point to discuss fiscal measures. Also, there is currently a review

[1] Dec. 1/CP.16, para 112.

Of the functions of the Committee under the SBI, this could also be an opportunity to extend or specify the functions and competence of this advisory body in mobilizing finance via fiscal measures.

3. *Sharm El-Sheik dialogue on the scope of Article 2(1)(c) of the Paris Agreement and its complementarity with Article 9 of the Paris Agreement*

The Sharm el-Sheikh dialogue, initiated by the CMA 4, held two workshops in 2023 which opened discussions on the role of fiscal measures like subsidies and taxation in supporting the objectives of Articles 2(1)(c) and 9. The workshops underscored taxation as a policy lever to redirect finance towards climate goals. The Standing Committee on Finance was highlighted for its role in these discussions, suggesting the continuation of this dialogue with a focus on fiscal measures and taxation by developed countries to support the implementation of NDCs and National Adaptation Plans. As an entry point, it is worth considering exploring policy approaches relevant to Article 2(1)(c), including fiscal measures, and suggesting explicit recommendations on fiscal measures could be incorporated into the CMA's decision on the dialogue.

The table below offers a more complete summary of the documents considered and related findings. As a follow up, the author is available to look further into one or more of these avenues and extend the research to previous documents and instruments.

END

<u>Related existing LRI materials that could be of interest</u>

- Advice in response to "*Does the mandate of other international fora, in particular the WTO, limit the competence of the UNFCCC to review and possibly decide on measures for the introducing of a global levy on carbon majors to pay for loss and damage from climate change? If so, to what extent?*"
  https://legalresponse.org/legaladvice/levy-on-carbon-majors-to-pay-for-loss-and-damage/
- Briefing paper "*International Air Passenger Adaptation Levy under international law*".
  https://legalresponse.org/legaladvice/international-air-passenger-adaptation-levy-under-international-law/

Document	Theme	Reference to fiscal measures in the context of climate finance	Comment / Entry point
Decision 2/CP.27	Loss and damage	In para 5(d) the CMA agrees that the recommendations to operationalize the funding arrangements and the fund must consider, *inter alia*, "(d) Ensuring coordination and complementarity with existing funding arrangements"	**Entry point**: The Transitional Committee for the new Fund and funding arrangements of the Loss and Damage (LD) framework has considered the matter of fiscal measures and support, as sources and means of loss and damage finance,[1] but it has not concluded its work with an explicit recommendation on them. The proposed draft decision by the Transitional Committee opens up the space to include discussions on how to create and catalyse 'new funding arrangements' for loss and damage.[2] This could include the questions of *sourcing* finance via specific fiscal measures and taxes from developed countries. The discussion of taxes or levies to finance loss and damage has been around for some time. To name just one of the latest ones, see the ecbi Policy Brief on "L&D Pilot Funding Arrangements: The Need to Pilot Innovative Funding Sources and Response Tools", November 2023.
Decision 13/CP.27	Long-term climate finance	No reference	

[1] See UNFCCC Secretariat, 'Synthesis report on existing funding arrangements and innovative sources relevant to addressing loss and damage associated with the adverse effects of climate change', TC2/2023/3, 23 May 2023.
[2] Transitional Committee, 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, FCCC/PA/CMA/2023/9.

Decision 14/CP.27	Standing Committee on Finance	No reference	**Entry point:** The Standing Committee on Finance (SCF) has a yearly workplan endorsed by the COP. It also holds a Finance Forum with stakeholders to discuss items of the workplan. Fiscal measures could be suggested as part of the workplan of the SCF for one year. The current workplan concerns 'financing just transitions': this suggests a potential avenue for the SCF to somehow extend its interest in discovering sources of new and additional funding in the context of the USD 100 billion/year 'as a floor' pledge, including transnational fiscal measures. The Subsidiary Body for Implementation is currently working on a second review of the functions of the SCF (Decision 15/CP.27, para 5). This could be also an opportunity to influence the future work of the Committee to consider sourcing finance also via fiscal measures.
Decision 1/CMA.4	Sharm el-Sheikh dialogue on the scope Article 2(1)(c) of the Paris Agreement and its complementarity with Article 9 of the Paris Agreement		**Entry point:** There are ongoing discussions on the relationship between the general provision of Article 2(1)(c) of the Paris Agreement recognising the shift of financial flows consistent with a 1.5°C pathway, and Article 9 on climate finance. CMA 4 launched a 'Sharm el-Sheikh dialogue', consisting of two workshops in 2023. The Report from the workshops (FCCC/PA/CMA/2023/7/Rev.1) presents a potential opening for discussing the role of fiscal measures in sourcing climate finance. During one of the workshops the question of the "role of fiscal incentives and levers, including subsidies and taxation, in supporting progress on Article 2, paragraph 1(c), and its complementarity with Article 9" was addressed (Report, para 15). Almost all participants recognised that taxation is one of the policy levers to redirect finance (Report, para 48). In discussing further work, the dialogue highlighted the role of the SCF and proposed an agenda to continue the dialogue (Report, paras 59-62). In this sense, a potential entry point is to propose the CMA continues the work of the Sharm el Sheikh dialogue with a specific item concerning fiscal measures and taxation from developed countries dedicated to the implementation of NDCs and National Adaptation Plans. To note is that the report already identifies a relevant potential substantive area of work on this matter (see para

			66(d) “Appropriate policy approaches and measures relevant to Article 2, paragraph 1(c)”). This could be made more specific to also include fiscal measures. Also, the explicit mention of fiscal measures in the context of the achievement of Article 2, paragraph 1(c) could be proposed in the Presidency’s recommendations to the CMA. The CMA is then invited to consider these recommendations for its decision on the dialogue (see para 67 of the Report).
Decision 5/CMA.4	New collective quantified goal on climate finance (NCQG)	No reference	**Entry point:** The deliberations on setting the new collective quantified goal (NCQG) on climate finance should conclude in 2024. This negotiation item could be an entry point for discussing fiscal measures and making them formally part of the challenge of sourcing climate finance under the Paris Agreement. The Presidency’s summary report on the 2022 high-level ministerial dialogue on the NCQG (FCCC/PA/CMA/2022/INF.1) reported how several parties in the negotiations already ‘highlighted the need to address issues such as … taxing financial markets’ (para 23). Also “several Parties expressed the view that the new collective quantified goal should be based on all available financial sources and channels” (para 25) this in the context of the “need of mobilizing climate finance from a wide variety of sources, instruments and channels … through a variety of actions” (Paris Agreement, Art. 9(3)).