

Katowice Climate Package: Operationalising the Climate Change Regime in the Paris Agreement

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SYNOPSIS

At the closing of the recent Katowice Climate Change Conference (COP24) held from 2–14 December 2018, 192 countries adopted the Katowice Climate Package, which seeks to operationalise the climate change regime in the Paris Agreement. Countries delivered a set of rules for all countries, but with allowances for those that lack capacity to meet their obligations. This policy brief details the key outcomes of COP24 and outlines the remaining work to be undertaken.

KEY POINTS

- Hard-fought negotiations over three years under the Paris Agreement Work Programme (PAWP) concluded on 15 December 2018 and culminated in a 133-page Katowice Climate Package, setting the framework for a fully operational Paris Agreement.
- Key outcomes include NDC guidance and accounting rules, an Enhanced Transparency Framework, the establishment of a Katowice Committee of Experts on the Impacts of Implementation of Response Measures, as well as clarity on an expert-based and facilitative committee to facilitate the implementation of, and promote compliance with, the provisions of the Paris Agreement.
- Although countries completed work on several PAWP issues in Katowice, key items were pushed to future sessions to be developed, elaborated and adopted. Thus, while the existing Katowice Climate Package is a good start, it falls short of a full package of rules to operationalise the Paris Agreement.

INTRODUCTION

From 2–14 December 2018, countries met in Katowice, Poland at the 24th Conference of the Parties (COP24) to the United Nations Framework Convention on Climate Change (UNFCCC) to conclude negotiations on a crucial rulebook on how countries should implement the Paris Agreement. Negotiators began work immediately on a 307–page PAWP compilation document from the September 2018 Bangkok Climate Conference in order to deliver a comprehensive, ambitious and balanced outcome.

In Week 2 of COP24, the Polish COP President Michał Kurtyka took over the process after technical work of the PAWP were completed and efforts were exhausted by negotiators to arrive at compromise language and landing zones in Week 1. The goal was to seek

solutions to persistently difficult issues, such as finance and the application of flexibility to Nationally Determined Contribution (NDC) guidance and transparency.

Close to 11pm on 15 December, after a whole night of closed-door negotiations, the COP finally adopted a single set of outcomes. The three-year process under the Ad hoc Working Group on the Paris Agreement (APA) completed work on several of the PAWP issues, but crucial issues such as common time frames for NDCs, a new target for climate finance and Article 6 market and non-market approaches for international cooperation were pushed to following sessions. Although the 133-page rulebook text provides flexibility for countries that lack the capacity to meet their obligations, it notably uses twice as much legally-binding language (“shall”) than the looser “should”.

ANALYSIS

NDC Guidance and Accounting Rules

This issue is crucial in operationalising the Paris Agreement as it applies to all 181 first NDCs submitted. Notably, one country — the Marshall Islands — has already submitted its second NDC. The outcomes at Katowice recognise the different starting points, capacities and national circumstances of countries, and highlight the importance of capacity-building support for developing countries for the preparation and communication of their NDCs.

Countries have been divided on whether to apply differentiation and flexibility to NDC guidance but in the end, it was agreed that all countries shall provide the information necessary in order to facilitate clarity, transparency and understanding (ICTU) of each other's targets. On the question of when, countries are strongly encouraged to provide this information when communicating their NDC or NDC update by 2020. This includes quantifiable information on reference indicators, methodologies, assumptions, approaches, time frames, scope and coverage, etc. However, since NDCs are nationally determined and each existing NDC is different, compromise language was introduced to allow ICTU to be applied only if it is applicable to the country's NDC. For instance, where a country's NDC covers a limited number of sectors, they need only to submit relevant information. Countries also decided to initiate a review of the ICTU in 2024 for consideration and adoption by 2026 to allow for experiences to further shape ICTU in the NDC guidance.

Impact of the Implementation of Response Measures

In line with the concept of just transition, countries in Katowice decided that the forum for the impact of implementation of response measures, established at COP16 in 2010, will also serve the Paris Agreement. This forum is intended to facilitate assessment and analysis of economic diversification and transformation, just transition of the workforce, the creation of decent work and quality jobs, and to better understand the impacts of climate change response measures on economic development. The forum is to be supported by a Katowice Committee of Experts on the Impacts of Implementation of Response

Measures (KCI). The KCI will be useful to have a complementary peer review process at the UNFCCC, further to the World Trade Organisation and various Free Trade Agreements, to ensure that trading economies like Singapore are not too adversely impacted by response measures.

Enhanced Transparency Framework

Countries managed to agree on the date of the final submission of biennial reports for developed countries and biennial update reports for developing countries by 2022 and 2024 respectively. The outcomes decided that biennial transparency reports (BTR) — common to all countries — will replace the differentiated reports and that countries henceforth will be subject to common modalities, procedures and guidelines (MPGs) under an Enhanced Transparency Framework. From 2024, countries shall submit their first biennial transparency report and national inventory report. They will subsequently participate in a technical expert review (TER) and a facilitative, multilateral consideration of progress (FMCP). These processes will be reviewed by 2028 on the basis of countries' experiences gained by participation.

Importantly, each country shall, from their 2024 BTR, apply the 2006 IPCC Guidelines. Under existing Measurement, Reporting and Verification (MRV) arrangements, developing countries are required to use, at a minimum, the Revised 1996 IPCC Guidelines. From 2024, if a country is unable to adopt a higher tier method for a particular key category owing to lack of resources, they may use a tier 1 approach but will need to clearly document why this was so. Currently too, only developing countries that have submitted Biennial Update Reports (BURs) are scheduled to participate in the Technical Analysis (TA) and Facilitative Sharing of Views (FSV) processes under the International Consultation and Analysis (ICA). The ETF would allow countries that did not submit their BTRs within a year of the due date to participate in an FMCP. Further work is to be undertaken by the Subsidiary Body for Scientific and Technological Advice (SBSTA) to develop common reporting tables for electronic reporting, outcomes of the biennial transparency report, narrative inventory document and technical expert report, as well as a training programme for technical experts

who would participate in the TER. Least Developed Countries (LDCs) and Small Island Developing States (SIDs) will continue to only need to submit reports at their own discretion, owing to their special circumstances.

Market and Non-Market Approaches

Discussions under this item turned out to be the deal breaker and in the final hours in Katowice, was responsible for extending the final COP plenary by more than 33 hours after the closing plenary was supposed to take place. Countries finally agreed that the development and elaboration of several elements of the cooperative mechanism would require more time and discussion. They gave themselves a deadline of the next Meeting of the Parties to the Paris Agreement (CMA2) to adopt these rules.

Specifically, in Article 6.4 of the Paris Agreement on a mechanism for allowing private sector parties to generate and sell emission reduction units, a key issue to watch out for is whether projects from the Kyoto Protocol's Clean Development Mechanism (CDM) will be allowed to be carried forward to the Paris Agreement market mechanism; and whether restrictions, if any, will be placed on such projects. The last minute delay in the negotiations was apparently due to some countries proposing to allow developing countries to initially double count emissions reductions, with the caveat that they will compensate for it later through "corresponding adjustments". A further nuance to the discussion on double counting is on emissions reductions occurring outside the scope of countries' NDCs. If countries can issue credits from sectors outside the scope of their NDCs without applying corresponding adjustments, this would diminish incentive to cut down on emissions in sectors covered by their NDCs.

The issue of "overall mitigation in global emissions" (OMGE), introduced in Article 6.4(d) of the Paris Agreement was also debated extensively. OMGE is premised on the objective of generating a net benefit for the climate through carbon markets, which can be achieved if a fixed share of emissions reductions is taken out of circulation and not used. Countries argued for a spectrum of solutions: from preserving status quo of the

Sustainable Development Mechanism (SDM), to voluntary cancellation of credits, to discounted or automatic cancellation of credits. It appears that this issue has still been left for further discussion, although the option for automatic cancellation was dropped for voluntary cancellation in later versions of the draft text. The gap in Article 6 rules is worrying, as it is intended to replace the Kyoto Protocol's CDM for carbon offsets. This failure at COP24 to adopt a set of rules will likely stall plans for countries who plan to use the Article 6 mechanisms toward meeting their NDCs, and the International Civil Aviation Organization (ICAO) in developing rules for the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) for post-2020 aviation emissions.

Climate Finance

Finance negotiations were expected to be contentious in Katowice. Although there was agreement on finance in terms of the *ex-ante* information to be provided by developed countries biennially, the language used is considered to be permissive. While there were expectations for new targets on finance from 2025 onwards to follow from the current target of mobilising USD100 billion per year from 2020 to support developing countries, there was no such outcome in Katowice. Instead, countries only managed to agree on a process for establishing the new targets, and developed countries "should" include an indication of new and additional resources. The lax rules on finance threatens to undermine the collective finance goal of USD100 billion per year by 2020, much of which is needed to help developing countries mitigate carbon emissions and adapt to climate change.

Global Stocktake

The Global Stocktake (GST) under the Paris Agreement has an objective to assess collective action. In Katowice, countries were able to come to consensus about the components of the GST in three areas: (1) Information collection and preparation; (2) Technical assessment to take stock of the implementation of the Paris Agreement and an assessment of collective progress; and (3) Consideration of outputs and implications of findings of the technical assessment. The GST will be conducted by a joint contact group of

the two Subsidiary Bodies of the COP. Countries also agreed on the sources of input and information to the GST. Although there was disagreement in Katowice around whether non-Party stakeholders including the IPCC should participate in the GST, in the end, it was agreed through Decision 1/CP.24 that submissions from non-Party stakeholders and UNFCCC observer organisations would be considered at the collective level among other sources of input.

Facilitation of Implementation and Promotion of Compliance

Under Article 15 of the Paris Agreement, countries agreed to establish a 12 member expert-based and facilitative committee to facilitate implementation of and promote compliance with the provisions of the Paris Agreement. This committee will necessarily operate differently than other compliance committees, such as the one under the Kyoto Protocol, due to the nationally determined nature of NDCs and the emphasis on being facilitative rather than punitive. The committee shall operate in a transparent, non-adversarial and non-punitive manner, and pay particular attention to the respective national capabilities and circumstances of countries. It will not function as an enforcement or dispute settlement mechanism, nor impose penalties or sanctions, but instead be respectful of countries' national sovereignty in implementing their NDCs. In cases of significant and persistent inconsistencies of submissions by countries based on the TERs, the committee may, with the consent of the country concerned, engage in a facilitative consideration of issues as well as in discussions of the committee except during elaboration and adoption of a decision. Any recommendations to the country concerned with regard to their challenges faced in sharing information, accessing finance, technology and capacity-building support will have to be done with the consent of the country concerned. The Katowice Climate Package on this issue applies flexibility with regard to timelines of the procedures as may be needed by countries by paying particular attention to their respective national capabilities and circumstances.

CONCLUSION

The Katowice Climate Package as it currently stands falls short of a full package of rules to

operationalise the Paris Agreement. The remaining issues that did not make it to the Katowice Climate Package include common time frames for NDCs, a new target for climate finance and Article 6 market and non-market approaches for international cooperation. While countries overcame huge divergences and challenges to get to a package, it is not without its flaws. For example, the G77 & China noted after the outcome had been adopted that the outcome was mitigation-centric and seem to ignore the principles enshrined in the Convention. Nevertheless, the outcomes do provide greater clarity on NDC submissions and intensifies biennial reporting requirements for all countries, and therefore must be considered as another step forward in the global climate action.

WHAT TO LOOK OUT FOR

- The 50th meeting of the Subsidiary Bodies (SB50) from 17–27 June 2019 in Bonn, Germany, where pending issues will be discussed.
- UN Secretary-General António Guterres' Climate Summit in September 2019, which aims to mobilise political and economic efforts on climate action ahead of the 2020 deadline for countries to submit their mid-century, long-term low GHG emission development strategies.

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