SLAUGHTER AND MAY/

COP28: IMPACTS FOR BUSINESS

GOVERNANCE & SUSTAINABILITY
Part of the Horizon Scanning series

The 28th Conference of the Parties to the UN's Framework Convention on Climate Change (**COP28**) drew to a late close last week following last minute negotiations over the headline text from the negotiations, the Global Stocktake Text (**GST**).

Below, we summarise the international commitments made in the GST, and consider four significant developments for businesses coming out of COP28: the energy transition, climate finance, the just transition, and the role of nature.

Taking stock of the Global Stocktake

Climate action

The final GST calls on countries to contribute to a list of global efforts to address climate change. These include efforts to triple renewables and double energy efficiency measures by 2030; accelerate zero and low-emissions technologies including low carbon hydrogen, nuclear and carbon capture, utilisation and storage (**CCUS**); and tackle methane and road transport emissions.

It also references the phasing down of unabated coal as well as, for the first time, transitioning away from fossil fuels. The commitment to phasing out “inefficient” fossil fuel subsidies, as agreed at COP26, remains unchanged. The role that transitional fuels have to play has also been recognised.

Final agreement on Article 6 of the Paris Agreement - which relates to cooperation on carbon markets and emissions reductions at international level - was again postponed, until next year’s COP29. The delay underlines the opportunity for voluntary carbon markets to take the field in the meantime.

Fair Finance

On the finance front, the GST reiterates the call on developed countries to take the lead in mobilising climate finance. This includes adaptation finance; grant-based, highly concessional finance; and efforts to meet the developed nations’ pledge of $100 billion of climate finance each year up to 2050, to help vulnerable nations.

The role of the private sector is also recognised at high level, with the text emphasising the role of commercial banks, institutional investors and other financial actors alongside governments and central banks, in improving the assessment and management of climate-related financial risks and access to finance.

Taxation is also given as an example of the “new and innovative sources of finance” needed to implement climate action, likely following on from the landmark Nairobi Declaration in September which urged collective global action on international tax cooperation.

Just transitions

The text notes that the just transition of workforces, creation of good jobs, and economic diversification are key to maximising the good and minimising the bad when it comes to addressing climate change. It is also explicitly couched in the language of taking into account different national circumstances and contexts. In other words, there needs to be a range of just transitions, not a singular ‘just transition’.

Nature and biodiversity

The GST underlines the urgent need to address the interlinked climate change and biodiversity loss crises comprehensively and systematically, and encourages the implementation of integrated, multi-sectoral solutions. These include land-use management, sustainable agriculture, resilient food systems, nature-based solutions and ecosystem-based approaches.

Implementation is key

Whilst none of these commitments attach directly to businesses, as COP28 President Dr Al Jaber warned in his closing plenary remarks, the agreement is only as good as its implementation, and that inclusivity is key to real-world delivery. As the world's governments (and NGOs) think about how to spur action to meet the conference's ambition, there is potential for businesses to play an impactful role in addressing climate risks and opportunities.

Meeting climate goals means a fifteenfold increase in private sector funding

COP28 has seen a slew of much needed financing pledges, which should help mobilise some of the financing needed to address climate change. But significant gaps remain, and there is not just a necessity, but an opportunity, for the private sector to fill them.

Bridging the funding gap

The UN-convened Independent High-Level Expert Group on Climate Finance (**IHLEG**) announced at COP28 that a fivefold increase in concessional finance, a threefold increase in multilateral development bank finance, and a fifteenfold increase in private climate finance to emerging markets and developing economies is required by 2030.

Initial estimates from the OECD suggest that the pledge made as far back as 2009 at COP15 to mobilise $100bn annually in climate finance may have actually been met this year. However, governments were divided at COP28 on proposals to ramp up additional efforts to meet the estimated $2.4tr needed by developing countries each year between 2026 and 2030. Likewise, the United Nations Adaptation Gap 2023 report estimates that between $130-410bn a year would be needed to fund climate adaptation alone in developing nations, but only $21.3bn of adaptation funding was available in 2021/2022, according to the Climate Policy Initiative.

Balancing public and private finance

Some of the debate around the GST has focused on the role of the private sector in providing climate finance. According to the International Monetary Fund (**IMF**) and International Energy Agency (**IEA**), private investment will need to increase from 40% of the current funding mix to 80% if climate goals are to be met. This is because growth in public sector funding is expected to be limited whilst the needs of emerging markets and developing economies are expected to be expansive.

Although the GST does not explicitly call on the private sector to provide funding, it “recognizes the role of the private sector […] to reach the scale of investments required to achieve a global transition towards low greenhouse gas emissions”.

Diverse and innovative financial mechanisms needed

Although there is private capital for climate-related investments available, the platforms and products required to leverage this capital are often lacking.

There is a role for multi-lateral financial institutions in facilitating this. Ghana’s President Nana Akufo-Addo (who also serves as Chair of V20 group of climate vulnerable nations) recognised this, stressing the role of the private sector in funding the transition, with multilateral financial institutions more appropriately acting as bridges. For example, the World Bank has dedicated $40bn a year to climate-related projects by 2025 which can be leveraged through a range of products including debt, insurance and guarantee.

The need for diversification and innovation in finance solutions was also recognised in the UAE Declaration on a Global Climate Finance Framework, supported by major economies like the US, UK, Germany and France. Financing measures it proposed with relevance to the private sector include:

(A) Incorporating climate resilience into financing with the use of specialised debt clauses (allowing borrowers to delay repayments if they are affected by a natural disaster), consideration of debt-for-climate swaps (debt relief in return for government commitments to invest in climate mitigation, adaptation, or nature), and sustainability linked bonds; and

(B) Dedicated financing instruments to encourage mainstream institutional investors to finance large scale clean infrastructure and drive private entrepreneurship to scale up clean business models and the transfer and deployment of climate technology. This could include the use of ‘catalytic’ finance to reduce cost of capital.

The UAE Declaration has also emphasised the need to ensure equal, inclusive access to affordable climate finance, including in the Global South, developing and vulnerable countries.

Recognising that climate-smart growth nonetheless “may not always offer returns compatible with

private sector models", the UAE Declaration acknowledged the need for a broad range of financing options and diverse funding sources, including hybrid capital, policy-based guarantees, emissions pricing and taxation mechanisms.

An opportunity for private finance

As Dr Al Jaber put it, financing the net zero transition "can no longer be seen as a burden, it should be seen as a new economic programme." Maria Mendiluce, CEO at the We Mean Business Coalition has characterised the net zero transition as the "biggest transformation in economic history", and corporates who identify and direct finance to the right avenues may be in a good position to maximise business opportunities and mitigate risks, reaping sizable returns from their investment.

At the same time, even where the finance is available, BCG's Amine Benayad has noted that having sufficient data to direct it to the right projects is a large hurdle in and of itself. We expect to see more regulation across the globe in green taxonomies and restrictions on labelling of 'green' projects, along the lines of the EU's Taxonomy Regulation and Green Claims Directive which will assist the private sector to assess the quality of the opportunities.

The just transition: companies can play a critical role through good transition planning, innovation, and investment

A central theme of COP28 has been the need for a 'just transition' towards a net-zero economy, an area where business has a critical role to play.

What is a just transition?

Whilst there is no single agreed definition, a just transition broadly seeks to ensure that climate goals are met in a way that is fair and inclusive for the whole of society, including all communities, workers and social groups.

Whilst a green energy transition is seen as key to achieving the Paris Agreement 2015 targets, there is growing acknowledgement that, given the current centrality of fossil fuels to the global economy and their deep entrenchment across sectors, a poorly managed transition could have significant adverse consequences, including increasing social inequality and reducing the competitiveness of businesses, markets and sectors.

COP28 - a new focus

COP28 saw the first annual high-level ministerial roundtable of a new work programme on just transition (which had been agreed at COP27), which aims to assess, create and expand pathways to achieve the Paris Agreement goals in a way that is just for all.

The roundtable focused on sketching out the work programme's remit and direction. Participants emphasised the need for a holistic, inclusive and practical approach, addressing financial and economic aspects of a just transition, including the importance of innovation to drive economic benefits and job creation through green investments. Finance and investment discussions focused on transforming financial systems and promoting dedicated "substantial" investment from both the public and private sector, integrating just transition into policies and supporting diverse national pathways and inclusive policies that uphold human rights.

The deliberations have proceeded on the basis of draft conclusions setting out the work programme's terms of reference. The conclusions recognise that just transitions are "for all countries" whilst acknowledging the particular needs of countries in the Global South and the importance of the "urgent delivery" of tools to facilitate just transition pathways, including capacity-building, climate finance, and technology development and transfer. The work programme will aim to inform the second Global Stocktake in 2028 and take stock of its own progress at the 2026 COP summit.

A leading role for business in bringing everyone forward

As countries take further steps to enable just transitions at the national level, businesses may start looking now at what this wider focus might mean for them, and how to incorporate just transition thinking into their broader transition plans.

A number of resources are available. In the UK, for example, the Transition Plan Taskforce recently published its voluntary Disclosure Framework, which recommends that objectives be set in a way that "captures opportunities, avoids adverse impacts for stakeholders and society, and safeguards the natural environment." The framework is expected to become mandatory in the UK in due course. The UN's high-level expert group on net zero emissions commitments also includes specific

recommendations relating to people and nature in the just transition, and investing in just transitions.

For financial institutions, the Glasgow Financial Alliance for Net Zero (**GFANZ**) has produced guidance on how to relate transition activities to their human impacts.

Soft law frameworks such as the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct and the UN Guiding Principles on Business and Human Rights, also offer key touchstones on limiting the adverse impacts of business on the community and the environment.

Achieving the structural changes required to transform the global economy in a just way for all will require extensive technology development and investment from across the public and private sectors. For business, this transformation is likely to mean driving innovation to reduce emissions, decarbonising carbon-intensive activities, and investing in things like clean energy whilst reskilling the workforce. However, a just transition also means being committed to consulting stakeholders likely to be affected to understand how changes can be brought in in a fair way to mitigate risks and capture the advantages.

Nature is increasingly an important consideration for businesses tackling emissions

On COP28 Finance Day, GFANZ announced that integrating nature into financial institutions' net zero transition plans would be one of its key aims for 2024. Similarly, in a World Bank Group session on "Defining Pathways for Nature Finance", it was acknowledged that nature-positive financing was lagging behind other well-advanced sustainability initiatives (such as renewable infrastructure, carbon credits/secondary markets and green tech investment), and that it should catch up.

For businesses, the growing acknowledgment of nature as vital to the transition at international level and in the financial field will likely mean a shift in what is expected of them in their corporate transition planning.

In thinking about nature finance, preventative steps are as (if not more) important. The approximately $700bn annual investment gap identified by the Nature Conservancy for reversing natural losses could be narrowed, for example, by reducing the ongoing impact of harmful behaviours on the natural environment as well as by funding new initiatives to replenish what has been lost.

Preventative measures would include spotlighting businesses engaged in harmful behaviours, increased regulation, preventing private and public funding towards activities which are nature-negative/result in biodiversity loss as well as removing tax credits and subsidies which result in counterproductive incentives. A lot of technology and best practice know how already exists, but the key is in encouraging its wide-spread adoption.

On the supply chain side, Rob Cameron, Global Head of Public Affairs and ESG Engagement at Nestlé, gave examples of 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 (but less short-term profitable) agricultural practices.

A lot of the work lies in the de-risking and mitigation (with philanthropic, concession or other credit/guarantee support) to enable an initiative to achieve investment credit. There was also a question as to whether corporates can pool resources to achieve certain initiatives at scale, in a way that is commercially attractive and consistent with competition law.

A final observation was that nature-based solutions may benefit from a degree of rebranding as part of the overall just transition: these would need to be people-centric solutions seen to benefit communities (protecting jobs and upskilling for the future) rather than damaging revenue streams for low-income workers and protecting nature purely for nature's sake.

Moving forward

COP28 does not conclude with the GST alone. The outputs of many of the policies agreed in the GST will be ultimately determined by how they are implemented in practice. This in turn is likely to be heavily impacted by countries' revised climate pledges (or "Nationally Determined Contributions") which are to be published by all COP parties in 2025, which should be accompanied by new or intensified existing measures to prepare and implement them.

Consequently, we expect more clarity on climate policy when countries publish revised climate pledges in 2025, which will fill in the quantifiable targets missing from the GST.

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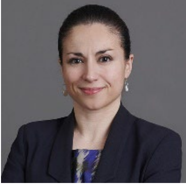

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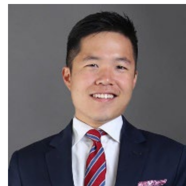
This briefing is part of the Slaughter and May Horizon Scanning series

Click here for more details. Themes include Across Borders, Governance & Sustainability, Digital and Risk & Resilience. Governance & Sustainability explores how the climate crisis is no longer in the future. Businesses are faced now with increasing pressure from investors and new regulations to make a change. This brings even more focus on running a business in a way that responds to the crisis. This series will examine the changes.



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