Monday, November 29, 2021

After over two weeks of conferencing, the 26th Conference of the Parties to the United Nations Framework on Climate Change (COP26) concluded with the finalization of the Glasgow Climate Pact (the “Glasgow Pact”) listing the accomplishments of the summit. The Glasgow Pact reaffirms the long-term global goals (including those in the Paris Agreement) to hold the increase in the global average temperature to “well below 2°C” above pre-industrial levels and to pursue efforts to limit temperature increase to 1.5°C above pre-industrial levels. It also states that limiting global warming to 1.5°C requires “rapid, deep, and sustained reductions in global greenhouse gas (GHG) emissions, including reducing global carbon dioxide emissions by 45 per cent by 2030 relative to the 2010 level and to
net zero around mid-century, as well as deep reductions in other greenhouse gases.”

Despite agreement on overarching goals, country-specific commitments and actions will be key to achieving the stated objectives of the Glasgow Pact. A February 2021 United Nations Synthesis Report on Nationally Determined Contributions (NDCs) concluded that the Party commitments to the Paris Agreement are not on track to meet the Paris Agreement goals. Although the Glasgow Pact and the Paris Agreement are not enforceable, they are meaningful in that they guide domestic actions when the country representatives return home.

The release of the Glasgow Pact comes at a time of rapidly increasing energy prices throughout Europe and the US, threatening the speed of economic recovery in many countries. The Energy Information Administration (EIA) now estimates that domestic coal use in electricity generation will rise for the first time since 2014 by 18 percent and that U.S. coal exports will also increase by 29 percent in 2021 to meet a rising global demand. China is also leaning more heavily on coal, reportedly expanding mines to produce 220 million metric tons more of coal per year, a 6-percent increase from last year. Questions over the transitory nature of these energy market fluctuations could significantly affect the ability of countries to meet their emissions reduction commitments that rely upon phasing down the use of coal.

In the Glasgow Pact, signatories commit to accelerating and scaling up the transition to clean energy and adverting the impacts of climate change through adaptation and the financing thereof. Its terms encourage submission of enhanced national adaptation plans and invite the Intergovernmental Panel on Climate Change to the next annual COP27 in November 2022. One of the final provisions agreed upon commits to “accelerating efforts towards the phasedown of unabated coal power and phase-out of inefficient fossil fuel subsidies.”

**National Determined Contributions.** With the 2021 COP26 marking the five-year anniversary of that 2016 Paris Agreement, updated NDCs were largely anticipated. NDCs are the foundation of the Paris Agreement and reflect efforts by each country to reduce national GHG emissions to meet the goals of the Paris Agreement. NDCs are supposed to be submitted every five years and, over time, successive NDCs are expected to increase the goals for GHG emission reductions. Countries can submit NDCs at any time. Since 2016, 194 counties have submitted NDCs overall, and 13 of those countries have submitted second NDCs. Months before COP26, in April 2021, President Biden announced the U.S.’s updated NDC, which puts the country on a more urgent schedule to cut GHG emissions from 2005 levels by 50 percent by 2030 —almost double the U.S.’s prior commitment, prompting curiosity as to whether other nations would follow suit.

The U.S. is one of the top five emitters of CO\(_2\) globally, along with the EU, China, India, and Russia, and the UK, according to a 2021 report. The EU, the U.S., and the UK all share the goal to be net zero by 2050, and the UK and the EU had already updated their NDCs in 2020 before the U.S.’s 2021 pronouncement. Coming out of COP26, the UK has maintained its 2020 NDC pledge of reducing its emissions by at least 68 percent by 2030, compared to 1990 levels. The EU has also stood by its 2020 commitment to at least a 55-percent reduction in GHG emissions by 2030 compared to 1990. For net zero goals, China’s NDC commits to carbon neutrality by
2060, whereas India and Russia have reportedly announced goals for carbon neutrality in 2060 and 2070, respectively. India also set a goal of 50 percent renewable energy by 2030.

Other aspects of COP26 are aimed at practical implementation measures to ensure that pronounced NDCs become reality.

**Carbon Markets.** Progress has been made on setting standards, incentives, and rules for carbon markets. Carbon markets are tools – regulatory and voluntary – that aim to cost-effectively reduce the emission of CO\(_2\) and other GHGs. Rules for such markets are intended to give confidence and otherwise help guide investments in new technologies. As we previously wrote, COP26 would focus on a framework or “Paris Rulebook” pursuant to Article 6 of the Paris Agreement in order to answer some key questions associated with carbon market operations, such as whether Kyoto-based credits could be relied on to meet Paris-based NDCs (i.e., double counting rules). The Article 6 deal struck at COP26 is said to help avoid double counting of emissions reductions. Specifically, the deal allows for the use of clean development mechanisms (or CDMs) from the Kyoto Protocol that were registered on or after January 1, 2013, yet it limits both (1) the amount of such credits that can be carried over into the Paris credit system and (2) the use of such credits to the first (or first updated) cycle of NDCs, to avoid an overwhelming market supply. The deal also restricts claims of emissions reductions to those backed by “corresponding adjustments” made at the point of authorization of an offset. Corresponding adjustments are adjustments made by the host country to its own inventory to account for the credit transfers.

**Adaptation.** The Paris Agreement included a goal to increase adaptation efforts (e.g., global resilience and reduce vulnerability to climate-related impacts). At COP26, over 100 organizations joined together to launch the Adaptation Research Alliance aimed at effective adaption to reduce the risks posed by climate change, particularly for those most vulnerable. The conversation on adaptation often focuses on what developed countries should be doing to assist with adaptation efforts in developing countries. As a first step, the Alliance set out guidelines to help “stimulate systemic change.” The impact principles underscore need-based research, concepts such as “learning-while-doing” to enable adaptation action to be evidence-based and increasingly effective.

**Finance.** Related to mitigation and adaptation is financing, namely who is going to pay for the efforts necessary to meet the goals of the Paris Agreement. The Paris Agreement commits developed countries to contributing $100 billion per year from 2020 to 2025 – from public and private sources – to assist developing countries with mitigation and adaptation. Developed countries have thus far failed to meet this goal. At COP26, developed countries nonetheless remained committed to the $100 billion goal. Thus, the Glasgow Pact references Canada- and Germany-led efforts on the development of a Climate Finance Delivery Plan that seek to provide clarity on when and how developed countries will meet the goal.

Relatedly, COP26 leaders pledged to halt and reverse forest loss and land degradation by 2030. According to the UK, the pledge includes almost $19.2 billion of public and private funds. The 141 signatory countries cover approximately
91 percent of the world’s forests, close to 14.25M square miles.

**Methane.** Beyond CO₂, methane, which is said to be much more potent from a global warming potential perspective, was a focus in the run-up to COP26. Ahead of COP26, the U.S. launched the global methane pledge that seeks to reduce methane emissions, by at least 30 percent by 2030. The U.S. used the COP26 stage to issue its domestic policy and action proposal that would lead to achieving this goal. While many other countries supported the pledge, China, India, and Russia have yet to sign on.

**Coal.** The UK, the host of COP26, sought commitments from developed countries to cease using coal as an energy source by 2030 and for all nations to phase it out by 2040. As a result of COP26, 46 countries signed onto a Global Coal to Clean Energy Transition Statement, committing to transition away from unabated coal power generation by about 2030 for “major economies” and a global transition by roughly 2040. Additional entities, such as states, energy companies, and other organizations also signed the agreement. “Unabated coal power generation” refers to the use of coal power that is not mitigated with technologies to reduce CO₂ emissions, such as Carbon Capture Utilization and Storage (or CCUS). The transition statement focuses on scaling up technologies, policies, and deployment of cleaner power generation and concomitantly ceasing new permitting and construction of new unabated coal-fired power generation projects. In their statement, the signatories recognized the economic concerns associated with decarbonization through a more rapid phase-out of coal—a principal concern of union officials, workers, communities, and governments in coal-dependent countries, such as South Africa.

Viewed as a potential model for phase-outs, under the South Africa Coal Deal struck at COP26 with wealthier nations, South Africa—said to be the 12th largest global CO₂ emitter—will receive $8.5 billion in aid from France, Germany, the EU, the U.S., and the UK. The deal to phase out coal prompted immediate concerns over the fate of the country’s economy, workforce, and communities sustained by its mining and power industries, which provide 80 percent of power to the country.

Since returning from COP26, governments around the world face the task of planning a sure path to achieving their commitments. Questions surround how domestic and international policies and rules will evolve to implement COP26 agreements, including verification methods and metrics for involved public and private institutions.

Copyright © 2021, Hunton Andrews Kurth LLP. All Rights Reserved.

Source URL: https://www.natlawreview.com/article/results-cop26