

Saudi Arabia on Behalf of the Arab Group

Submission on the Sharm El Sheikh Dialogue on Article 2, paragraph 1(c) and its complementarity with Article 9

The Arab Group has contributed constructively and positively to the progress on the Sharm El Sheikh Dialogue in COP28 and welcome the outcome of extending and strengthening the dialogue. We extend our appreciation to Ambassador Tosi for facilitating the first year of the dialogue and to the COP27 Presidency for their report, which we welcome with appreciation.

We recognize that discussions regarding Article 2, paragraph 1(c) and its complementarity with Article 9 have been difficult. We also understand that such difficulties are grounded in the varying interpretations held by Parties and Groups of Article 2, paragraph 1(c) and the manner of its implementation. A key gap that has persisted in previous years is the lack of convergence on a common understanding of the goal, we therefore consider this gap as the priority area which needs to be addressed as the dialogue is strengthened. To generate consensus and buy-in by all Parties, it is paramount that all Parties share a similar understanding of the topic of discussion.

We wish the elected co-chairs of the dialogue the best of luck in their endeavors and remain committed to assisting them in their effort to bridge gaps and facilitate a convergence of views.

How could the Sharm el-Sheikh Dialogue be strengthened in your view?

The dialogue can be strengthened by allotting additional time for discussions between Parties on Article 2, paragraph 1(c) and its complementarity with Article 9. Including on the goal's scope, its implementation and the principles guiding its operationalization. Co-chairs should exert all efforts towards facilitating a healthy discussion between stakeholders on these issues to enhance convergence and consider all views presented during the discussion. The dialogue's first year should focus on generating a convergence of views through open and inclusive discussions. The summaries must be reflective of views presented in the discussion and should be written to identify areas of convergence and divergence. Further time should be provided in subsequent meetings to discuss areas of divergence.

The dialogue will not be successful if co-chairs attempt to progress the discussion towards implementation, when a solid foundation and common understanding is not yet present. Moving towards implementation, in the presence of divergent views, will elevate some interpretations over others and further complicate discussions. We have unfortunately seen attempts to proceed in that manner in previous discussions related to Article 2.1(c), however we are confident that our co-chairs will address this concern.

Attempts to shift the discussion towards implementation in the absence of a common understanding should particularly be avoided if such implementation would be inconsistent with the bottom-up spirit of the Paris Agreement and the provisions and principles of the Convention and its Paris Agreement. In that regard, differentiation between developed and developing countries has been lacking in previous discussions and must be incorporated into future discussions.

It is necessary that the interpretation of any text of the Paris Agreement takes into account the basic principles of equity and common but differentiated responsibility and the necessity of providing the necessary financial flows to all thematic areas including adaptation, loss and damage and build the capabilities of developing countries affected by climate change to increase their ability to confront these impacts. One article of the Paris Agreement should not be interpreted in isolation from the other articles, the general framework and principles of the the Convention and its Paris Agreement.

We emphasize the necessity of not targeting specific sectors in itself in interpreting the Article, and that the general goal should be to provide financial flows to achieve the goals of the Paris Agreement to reduce greenhouse gas emissions.

We believe that a fair, equitable and wise interpretation of provision 2.1(c) must be reached before it can be operated and implemented. Decision-making under the Paris Agreement are based on consensus, and consensus decisions require a common understanding of any article of the Paris Agreement. It is necessary to integrate the spirit of the Paris Agreement and the relationship between climate finance and the needs of developing countries a basis for building bridges between developed and developing countries in common understanding.

Which topics do you see as most relevant and helpful to be discussed in the context of the workshops as part of the dialogue?

In line with our view that a common understanding must be arrived at before proceeding into discussions related to implementation and operationalization, we recommend that the dialogue focus on these priority areas for its first year:

- Interpretation of Article 2.1(c) and its complementarity with Article 9:
 - What does the goal mean? *A common view of what the goal aims to achieve is a pre-requisite for any substantive discussions*
 - What does it aim to achieve in the context of the Convention and its Paris Agreement? *How the goal relates to the Convention and its Paris Agreement is important as it contextualizes the goal within a broader regime to address climate change*

- How could it be achieved? What are the principles that must guide its achievement? *A common view on how the goal can be achieved will allow for further substantive discussions related to implementation*
- How does it relate to Article 9 of the Paris Agreement? *A key expression of the relationship with Article 9 will be key to contextualizing the goal and ensuring a common view among Parties on the different aspects of the Paris Agreement and the manner of their implementation.*
- What are the differentiated roles between developed and developing countries? *Embedding differentiation between developed and developing countries is key to ensuring the interpretation of Article 2.1(c) is consistent with the Paris Agreement.*
- What are the unintended consequences of different interpretations presented? *Having honest discussions on the consequences of different interpretations is key to ensuring the concerns of all Parties are addressed and to generating buy-in in the process.*
- What are common threads between different interpretations and what are some key divergences? How do the divergences differ? *Having a clear view of divergence areas and exploring those further will allow convergence to occur openly and transparently.*
- *We believe that the upcoming workshops should be within the framework of:*
 1. *Building trust*
 2. *Wisdom, justice and fairness*
 3. *The conceptualization of the provisions of the Paris Agreement within the framework of the agreement. Are they separate or related to each other?*

Substantive views of the Arab Group:

- a. There are multiple conflicting interpretations of Article 2.1c, resulting in difficulties in discussing the Article and its complementarity with Article 9 of the Paris Agreement. For this reason, Parties in COP28 decided to extend the Dialogue for two additional years rather than establishing a work program or any substantive work. These two years must be utilized to arrive at a convergence of views among Parties and an interpretation that is consistent with the principles and provisions of the Convention and its Paris Agreement.
- b. Current interpretations of Article 2.1c run contrary to the Paris Agreement, by focusing on sources rather than emissions, advocating for unagreed MRV approaches that extend beyond the Enhanced Transparency Framework which was carefully negotiated, and promoting top-down policies that are detrimental to developing countries.
- c. Article 2.1c must be seen within the context of sustainable development and efforts to eradicate poverty, Article 2.2 of the Paris Agreement and Article 3 of the Paris Agreement, that outlines the nationally determined nature of the agreement. Discussions must proceed in the context of Article 9 of the Paris Agreement as per the decision from Sharm El Sheikh and Dubai.
- d. Currently, private climate finance is not flowing to developing countries at levels commensurate with their needs. The overwhelming majority of flows are directed to developed countries and the vast majority, upwards of 90 percent, is flowing towards mitigation. Making finance flows consistent requires sending signals to private capital to invest in the needs and priorities of developing countries, including for adaptation.
- e. Current approaches to Article 2.1c have advocated for policies that represent a net loss to developing countries. For example, unilateral trade measures decided in one jurisdiction are set to cost developing countries around USD 6 billion in lost income, while developed countries are set to gain USD 3 billion – widening the gap between North and South. These unilateral measures related to trade, are set to cost the African continent alone around USD 25 billion per year once they have fully been implemented. Climate risk disclosures and integration of climate risk in investment decisions have increased the cost of capital for developing countries by 1.17%, equivalent to around USD 150 billion added cost to an assessed set of developing countries by the end of the decade. 93% of ESG investment assets reside in Europe and North America, with the rest divided among the rest of the world. For this to be rectified several elements must be in place to frame discussions:
 - International cooperation on 2.1c must be facilitative and represent positive collaboration, rather than protectionism and punitive measures.
 - Discussions on 2.1c must be consistent with the Paris Agreement’s bottom-up approach and its principles, namely equity and common but differentiated responsibilities and respective capabilities in light of different national circumstances.
 - We must recognize that each country will pursue a unique pathway and policy-mix that is reflective of its own circumstances. Therefore, whilst a set of policies may work effectively in one country, it may not be applicable in another context. This particularly applies to punitive measures such as taxes, penalties, levies and fees.
- f. Some interpretations of Article 2.1c contradict the provisions and principles of the Paris Agreement:
 - Does not account for differentiation between developed and developing countries.
 - Does not accommodate the balance between mitigation and adaptation.
 - Promotes top-down policies and approaches and one-size-fits-all solutions that are incompatible with the UNFCCC regime and its Paris Agreement.

- Does not truly account for the need for sustainable development and poverty eradication as well as the adverse effects of measures to respond to climate change.
- Promotes policies, approaches and tools that have a negative impact on developing countries i.e., unilateral measures, taxes and other approaches.
- Advocates for measurement, reporting and verification requirements that extend beyond the agreed Enhanced Transparency Framework and are inconsistent with its Modalities, Procedures and Guidelines. International cooperation on 2.1c must be facilitative and represent positive collaboration, rather than protectionism and punitive measures.
- Unfortunately, we have seen some proponents of these top-down interpretations push for their interpretation to form the basis of this discussion. The discussions on consistency of finance flows with the Paris Agreement, as a result, have been inconsistent with the principles and provisions of the Paris Agreement itself.