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ENSURING AN OPERATIONAL EQUITY-BASED GLOBAL STOCKTAKE UNDER THE PARIS AGREEMENT

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SOUTH CENTRE

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* The authors participated in the intergovernmental negotiations in relation to the Global Stocktake at the 24th session of the United Nations Framework Convention on Climate Change Conference of the Parties in Katowice, Poland. However, this research paper is written in the personal capacity of the authors and does not necessarily represent the views of their respective institutions or governments.

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ABSTRACT

One of the key provisions of the Paris Agreement that was adopted in December 2015 at the 21st session of the Conference of the Parties to the United Nations Framework Convention on Climate Change is Article 14 on the global stocktake (GST). The GST is intended to be the mechanism by which the Convention Parties that are Parties to the Paris Agreement would be able to periodically take stock of the implementation of the Paris Agreement and to assess collective progress towards achieving the purpose of the Agreement and its long-term goals. This research paper discusses how equity as a principle and a concept played a key role in shaping the modalities for the GST, and looks in detail at the operational modalities for the GST that were agreed upon in Katowice in December 2018 in relation to how equity should be considered and made operational.

L'une des dispositions clés de l'Accord de Paris adopté en décembre 2015 à la 21^e session de la Conférence des Parties à la Convention-cadre des Nations Unies sur les changements climatiques figure dans l'article 14, qui prévoit la mise en place d'un bilan mondial quinquennal. Ce mécanisme a pour objectif de permettre aux Parties à la Convention qui sont Parties à l'Accord de Paris de pouvoir faire le point périodiquement sur la mise en œuvre de l'Accord de Paris et d'évaluer les progrès collectifs accomplis dans la réalisation des buts de l'Accord et de ses objectifs à long terme. Ce document de recherche aborde le rôle clé joué par le principe et le concept d'équité dans l'élaboration des règles d'application de l'Accord concernant le bilan quinquennal et examine en détail les modalités opérationnelles le concernant, qui ont été convenues à Katowice en décembre 2018, et de quelle manière le principe d'équité doit être envisagé et mis en œuvre.

Una de las disposiciones clave del Acuerdo de París que se adoptó en diciembre de 2015 en el 21^o período de sesiones de la Conferencia de las Partes en la Convención Marco de las Naciones Unidas sobre el Cambio Climático es el Artículo 14 sobre el Balance Mundial (GST, por sus siglas en inglés Global Stocktake). Se pretende que el GST sea el mecanismo mediante el cual las Partes en la Convención que son Partes en el Acuerdo de París puedan examinar periódicamente la aplicación del Acuerdo de París y evaluar los progresos colectivos hacia la concreción del objetivo del Acuerdo y sus objetivos a largo plazo. En este documento de investigación se analiza cómo la equidad como principio y concepto desempeñó un papel clave en la configuración de las modalidades para el GST, y se examinan en detalle las modalidades operativas para el GST que se acordaron en Katowice en diciembre de 2018 en relación con la forma en que la equidad debe considerarse y ponerse en funcionamiento.

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I. INTRODUCTION

One of the key provisions of the Paris Agreement (PA) that was adopted in December 2015 at the 21st session of the Conference of the Parties (COP) to the United Nations Framework Convention on Climate Change (UNFCCC or the Convention) is Article 14 on the global stocktake (GST). The GST is intended to be the mechanism by which the Convention Parties that are Parties to the Paris Agreement would be able to periodically take stock of the implementation of the Paris Agreement and to assess collective progress towards achieving the purpose of the Agreement and its long-term goals. It is supposed to be conducted, according to the Paris Agreement, “in a comprehensive and facilitative manner, considering mitigation, adaptation and the means of implementation and support, and in the light of equity and the best available science.” The first GST will take place in 2023 and every five years thereafter. The outcome of the GST is supposed to inform Parties in updating and enhancing, in a nationally determined manner, their actions and support in accordance with the provisions of the Paris Agreement, as well as in enhancing international cooperation for climate action.

This research paper discusses how equity as a principle and a concept played a key role in shaping the modalities for the GST, and looks in detail at the operational modalities for the GST that were agreed upon in Katowice in December 2018 in relation to how equity should be considered and made operational.

Following this introductory Section I, Sections II and III of the paper discuss how equity is reflected in the UNFCCC and its Paris Agreement both conceptually and textually. Section IV then looks at how equity can be understood and reflected in operational terms in the GST process, identifying what these elements could be and situating equity directly in terms of the GST operational modalities text. Section V is the concluding section.

II. EQUITY AS A FUNDAMENTAL PRINCIPLE IN THE UNFCCC AND ITS PARIS AGREEMENT

For developing countries, the concept of equity – or the idea of fairness - is a foundational concept that underlies the framing and operationalization of the Paris Agreement under the Convention.¹ This is a key concept because equity is the basis for the entire normative design of the Convention (as the framework instrument) and its related legal instruments – i.e. the Kyoto Protocol and the Paris Agreement – which in turn are anchored on reflecting the principle of common but differentiated responsibilities (CBDR)².

For example, in the Convention, Arts. 4.1, 4.8, 4.9, 4.10, 5, 6, and 12.1 are common obligations applicable to all Parties, while Arts. 4.2, 4.3, 4.4, 4.5, 12.2 and 12.3 are differentiated obligations that apply only to developed country Parties. Additionally, the Kyoto Protocol that was adopted in 1997 provided further detail to flesh out Art. 4.2(a) and (b) of the Convention in terms of the quantitative economy-wide emission reduction targets that developed countries which are Parties to the Kyoto Protocol were supposed to achieve. However, the implementation of these common and differentiated obligations is designed to feed into strengthening the ability of Parties to implement the Convention and hence address climate change through the achievement of the objective of the Convention under its Article 2. Note that Art. 4.7 of the Convention stresses that “The extent to which developing country Parties will effectively implement their commitments under the Convention will depend on the effective implementation by developed country Parties of their commitments under the Convention related to financial resources and transfer of technology and will take fully into account that economic and social development and poverty eradication are the first and overriding priorities of the developing country Parties.”

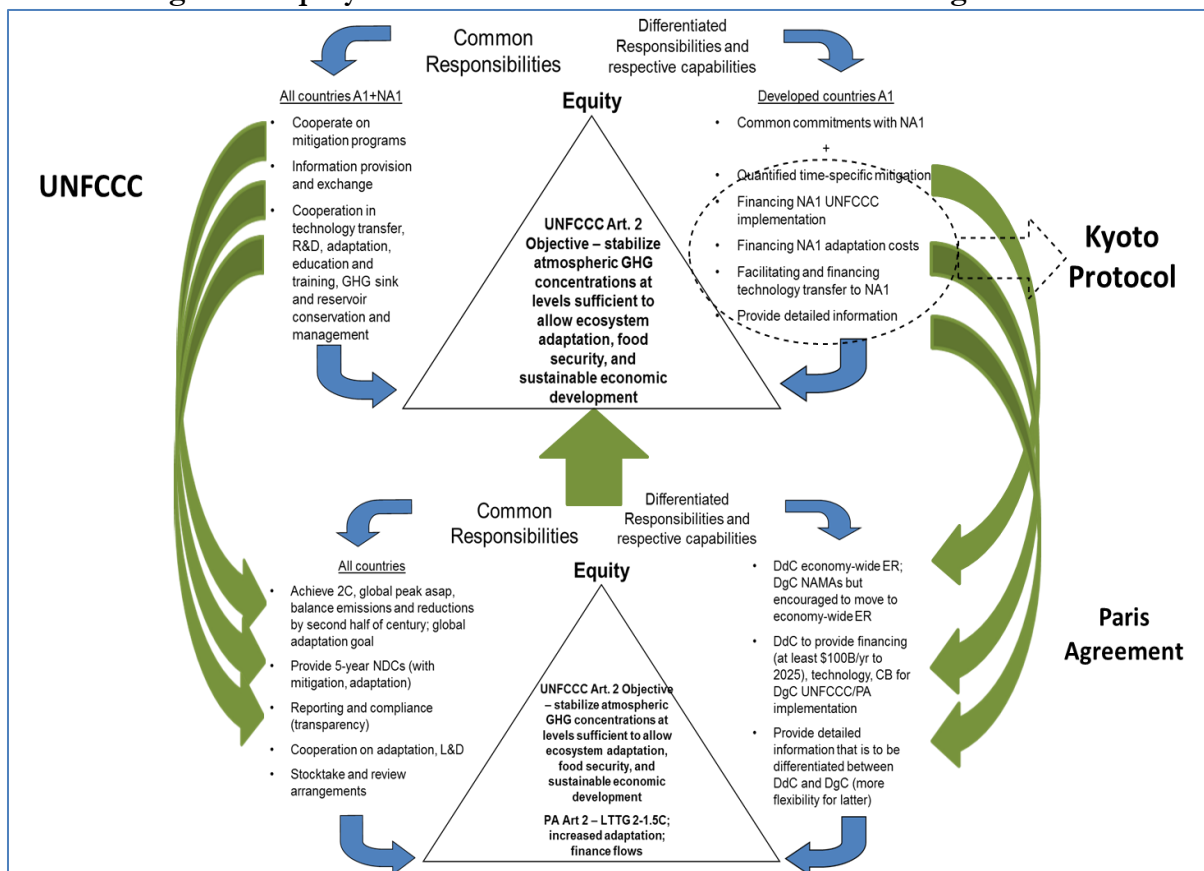
The Paris Agreement also adopts a differentiation-based approach to the structure of its obligations, building on that of the Convention but with some significant differences. There is a set of common obligations applicable to all Parties – e.g. Arts. 2.2, 3, 4.1, 4.2, 4.3, 4.8, 4.9,

¹ See e.g. Group of 77 (G77) Chair (South Africa), G77 and China Opening Statement at ADP 2-9, 1 June 2015, p. 2 (download from UNFCCC Submission Portal at <https://www4.unfccc.int/sites/submissionsstaging/Pages/Home.aspx>); G77, China calls on developed countries to help tackle climate issues (7 December 2015), at http://www.bjreview.com.cn/Latest_Headlines/201512/t20151208_800044347.html; Chee Yoke Ling and Meena Raman, G77 frustrated at refusal of developed countries to negotiate key issues (TWN Paris News Updates 9, 4 December 2017), at <https://twnetwork.org/climate-change/g77-frustrated-refusal-developed-countries-negotiate-key-issues>; G77 Chair (Ecuador), G77 and China Opening Statement at APA 1.4, 7 November 2017, at <http://www.g77.org/statement/getstatement.php?id=171107>; G77 Chair (Ecuador), G77 and China Closing Statement at APA 1.4, 17 November 2017, at <http://www.g77.org/statement/getstatement.php?id=171117>; Third World Network (TWN), Addressing ‘equity’ in the global stocktake under the Paris Agreement (TWN Bonn News Updates 12, 14 November 2017), at <https://twnetwork.org/climate-change/addressing-%E2%80%98equity%E2%80%99-global-stocktake-under-paris-agreement>; see also, for background, Martin Khor, The Equitable Sharing of Atmospheric Space and Development: Some Critical Aspects (South Centre Research Paper 33, November 2010), at https://www.southcentre.int/wp-content/uploads/2013/05/RP33_Equitable-Sharing-of-Atmospheric-and-Development-Space_EN.pdf; Meena Raman, Preventing the Undermining of Equity in the Implementation of the Paris Agreement (TWN Briefing Paper), at https://www.twon.my/title2/briefing_papers/nontwn/briefingpapermeenaramanfinal.pdf.

² The principle of CBDR is explicitly referred to in the 6th preamble paragraph, Art. 3.1 and Art. 4.1 chapeau of the Convention, and is reflected in the design of the operational provisions of the Convention. For a copy of the Convention, see https://unfccc.int/files/essential_background/background_publications_htmlpdf/application/pdf/conveng.pdf.

4.13, 4.15, 13.7, while there is also a set of differentiated obligations applicable only to developed country Parties – i.e. Arts. 4.5, 9.1, 9.5, 9.7, 10.6, 13.9, 13.14., and 13.15. Additionally, under Art. 4.4, the Paris Agreement clearly differentiates between developed and developing country Parties with respect to their emission reduction actions, as “developed country Parties should continue taking the lead in undertaking economy-wide absolute emission reduction targets” while “developing country Parties should continue enhancing their mitigation efforts” and simply being “encouraged to move over time towards economy-wide emission reduction or limitation targets in the light of different national circumstances.” As with the Convention, these sets of common and differentiated obligations under the Paris Agreement are based on equity and the principle of common but differentiated responsibility (CBDR) (see Figure 1).

Figure 1: Equity and CBDR in the UNFCCC and its Paris Agreement



Source: Vicente Paolo Yu

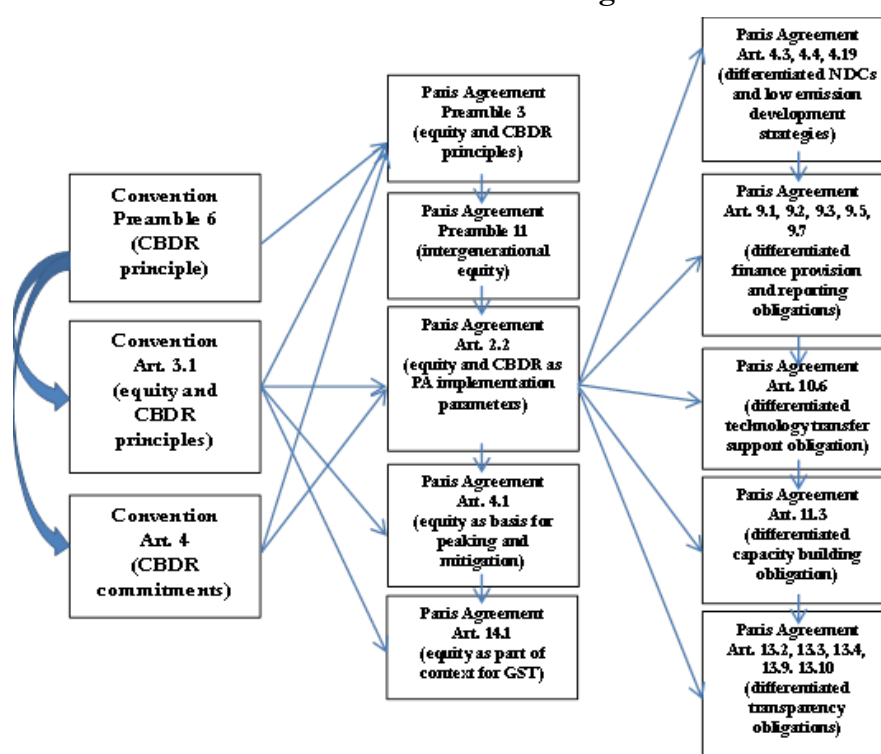
Acronyms: A1 – Parties listed in Annex 1 of the UNFCCC; NA1 – Parties not listed in Annex 1 of the UNFCCC; R&D – research and development; GHG – greenhouse gases; DdC – Developed Countries; DgC – Developing Countries; ER – emissions reductions; CB – capacity building; L&D – loss and damage; NDC – nationally-determined contributions; NAMAs – nationally appropriate mitigation actions; LTTG – long term temperature goal

CBDR is a core principle in the Convention and its Paris Agreement. What is common and what is differentiated are both clearly marked out in both treaty instruments. Both the Convention and its Paris Agreement seek to reflect equity in that both instruments provide for a set of common obligations that all Parties are expected to comply with, and a set of differentiated obligations that are applicable to different sets of Parties.

However, the major difference between the Convention and its Paris Agreement is that the latter has clearly moved away from the dichotomized list-based differentiation among Parties clearly seen in the Convention's architecture – i.e. those developed country Parties listed in Annexes I and II of the Convention and those Parties which are not so listed – towards a different type of differentiation that is predicated on a greater emphasis of different national circumstances of all Parties as the basis for differentiation and is marked by a greater degree of common obligations for all Parties with some additional obligations for developed country Parties and the provision of some flexibility for developing country Parties. That said, it is important to note that as the Paris Agreement is a related legal instrument of the Convention, the Paris Agreement's provisions should be read and implemented consistently with the provisions of the Convention, particularly in instances where the Paris Agreement's provisions refer back to provisions of the Convention.

This reflection of equity in the Convention and its related legal instruments is important to understand because this frames how the Paris Agreement should be implemented in the context of the enhanced implementation of the Convention. This can be clearly seen in the direct textual linkage between the Convention's provisions that refer to equity and CBDR and its Paris Agreement's provisions. (See Figure 2.)

Figure 2:
Mapping Equity and CBDR-Related References
from the Convention to its Paris Agreement



Source: Vicente Paolo Yu

Equity and its operationalization in the various parts of the Paris Agreement's modalities should be seen as the gateway through which greater levels of international cooperation under the Convention and its Paris Agreement may be achieved. This would lead to greater levels of ambition by all Parties with respect to their nationally-determined

contributions, in the light of different national circumstances, with developed countries taking the lead in scaling up their mitigation actions and in providing the means of implementation to developing countries so that the latter can also scale up their own mitigation and adaptation actions as part of their common pursuit of sustainable development and the eradication of poverty.³

References to equity, for many developing countries including, for example, India, suggest that equity “as anchored under the UNFCCC and the PA means the right to development of, and eradication of poverty from, developing countries.”⁴

Hence, the operationalization of equity conceptually in relation to the Convention and its Paris Agreement needs to be understood in the following light:⁵

- First, equity must be the basis for all climate change actions, i.e. mitigation, adaptation, and means of implementation and support in terms of finance, technology development and transfer and capacity building, which are undertaken by Parties under the Convention and its Paris Agreement.
- Second, efforts undertaken by Parties to the Convention and its Paris Agreement aimed at protecting the climate and addressing challenges pertaining to and arising from climate change must be in accordance with the principle of CBDR as embedded and reflected in the Convention and its Paris Agreement.
- Third, the efforts of individual Parties, particularly of developing countries, will depend on their national and respective capabilities (based on a recognition of their underlying development conditions), as may have been supported by developed country Parties through the provision of the means of implementation, consistent with Article 4.7 of the Convention and the various provisions of its Paris Agreement.

³ South Africa in a 2017 submission explained this as follows: “Equity is important in order to reach agreement. Equity is an enabler of ambition. If countries consider the others are also doing their relative fair share, we will be willing to also do more. To all collectively raise the level of ambition, we need to know that others are also doing more. So we need to explain to each other how our efforts are fair – and how together, they will be enough. And as a matter of fairness, those with greater capacity need to assist those with less to bridge the gap and adapt to the rapidly intensifying impacts of climate change.” See South Africa, Input from South Africa: Equity in the GST (11 November 2017), at https://unfccc.int/files/bodies/apa/application/pdf/south_africa_equity_in_the_gst_11_nov_sa.pdf.

⁴ Anushree Tripathi, Matters Relating to the Global Stocktake Referred to in Article 14 of the Paris Agreement (26 July 2018), para. 2.2.

⁵ BASIC (Brazil, South Africa, India and China) experts, “Equitable access to sustainable development: Contribution to the body of scientific knowledge” (2011). Available from <http://gdrights.org/wp-content/uploads/2011/12/EASD-final.pdf>.

III. SITUATING EQUITY TEXTUALLY IN THE UNFCCC AND ITS PARIS AGREEMENT

A simple textual analysis of the various Convention and Paris Agreement provisions that make explicit reference to the concept of equity bears out the framing above which developing countries have succeeded in integrating into the Paris Agreement.

Even though not defined in the Convention, equity finds a clear mention in the text of the Convention, wherein under Article 3 thereof, equity has been identified as among the guiding principles for the attainment of the objectives of the Convention. Equity is a concept that has both ethical (i.e. moral fairness) as well as scientific (i.e. identification of relative contributions to emissions) attributes in the context of climate change. It enjoins all parties to protect the climate system on the basis of equity. Reflecting equity was an important consideration for developing countries in pushing for the strengthening of the rules-based regime under the Convention as among the basis for the adoption of COP decision 1/CP.17 on the establishment of the Ad Hoc Working Group on the Durban Platform for Enhanced Action which served as the negotiating body under which the Paris Agreement was negotiated.⁶

Equity is also deeply embedded in the Paris Agreement. First, the Paris Agreement's preamble states that the Parties to the Paris Agreement are "In pursuit of the objective of the Convention⁷, and being guided by its principles, including the principle of equity and common but differentiated responsibilities and respective capabilities, in the light of different national circumstances" (preamble paragraph 3) and are "Emphasizing the intrinsic relationship that climate change actions, responses and impacts have with equitable access to sustainable development and eradication of poverty" (preamble paragraph 8).

Second, to operationally reflect how equity is to guide Parties' actions under the Paris Agreement in order to achieve the objective of the Convention, the Paris Agreement states that:

- "This Agreement will be implemented to reflect equity and the principle of common but differentiated responsibilities and respective capabilities, in the light of different national circumstances" (Art. 2.2);⁸

⁶ See UNFCCC, COP decision 1/CP.17, third preamble, at <https://unfccc.int/sites/default/files/resource/docs/2011/cop17/eng/09a01.pdf>.

⁷ The objective of the Convention is contained in Art. 2 thereof, which states as follows: "The ultimate objective of this Convention and any related legal instruments that the Conference of the Parties may adopt is to achieve, in accordance with the relevant provisions of the Convention, stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner."

⁸ This should be read in the context of Art. 3.1 of the Convention, which states that: "In their actions to achieve the objective of the Convention and to implement its provisions, the Parties shall be guided, inter alia, by the following: 1. The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. Accordingly, the developed country Parties should take the lead in combating climate change and the adverse effects thereof." The reference to "in the light of different national circumstances" contained in Art. 2.2 of the Paris Agreement should also be read in the context of the same language appearing in

- “In order to achieve the long-term temperature goal set out in Article 2,⁹ Parties aim to reach global peaking of greenhouse gas emissions as soon as possible, recognizing that peaking will take longer for developing country Parties, and to undertake rapid reductions thereafter in accordance with best available science, so as to achieve a balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of this century, on the basis of equity¹⁰, and in the context of sustainable development and efforts to eradicate poverty¹¹” (Art. 4.1); and
- “The Conference of the Parties serving as the meeting of the Parties to this Agreement shall periodically take stock of the implementation of this Agreement to assess the collective progress towards achieving the purpose of this Agreement and its long-term goals (referred to as the “global stocktake”). It shall do so in a comprehensive and facilitative manner, considering mitigation, adaptation and the means of

Art. 4, paragraphs 3, 4, and 19 of the Paris Agreement in relation to progressive ambition in Parties’ successive nationally determined contributions, their respective mitigation efforts, and their long-term low greenhouse gas emission strategies.

⁹ The “long-term temperature goal set out in Article 2” refers to Art. 2.1(a) of the Paris Agreement, which states: “This Agreement, in enhancing the implementation of the Convention, including its objective, aims to strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty, including by: (a) Holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change.” The reference in Art. 2.1(a)’s chapeau about the Paris Agreement “enhancing the implementation of the Convention, including its objective” clearly indicates that the Paris Agreement’s long-term temperature goal is to be achieved through enhanced implementation of the Convention. Such enhanced implementation of the Convention to achieve the long-term temperature goal (and thereby achieve the objective of the Convention under Art. 2 thereof of stabilizing anthropogenic greenhouse gases in the atmosphere) is to be done, as Paris Agreement Art. 4.1 states, by reaching global peaking of emissions as soon as possible so that by the second half of the 21st century, GHG emissions and removals would be balanced (effectively net zero emissions).

¹⁰ This reference to “on the basis of equity” in Art. 4.1 of the Paris Agreement is important because it links the implementation of such Art. 4.1 directly to Art. 2.2 of the Paris Agreement that it “will be implemented to reflect equity and the principle of common but differentiated responsibilities and respective capabilities, in the light of different national circumstances” and to Art. 3.1 of the Convention that Parties’ actions to achieve the objective of the Convention and implement its provisions in order to protect the climate system for present and future generations would be “on the basis of equity” and that, to reflect such equity (and the CBDR principle), “accordingly, the developed country Parties should take the lead in combating climate change and the adverse effects thereof.”

¹¹ The reference to “in the context of sustainable development and efforts to eradicate poverty” in Art. 4.1 of the Convention links it directly to the implementation of:

- Convention Art. 2 (objective of the Convention) which states essentially that stabilization of greenhouse gases should be achieved in a time frame sufficient to, inter alia, “enable economic development to proceed in a sustainable manner”,
- Convention Art. 3.4 which states that “The Parties have a right to, and should, promote sustainable development. Policies and measures to protect the climate system against human-induced change should be appropriate for the specific conditions of each Party and should be integrated with national development programmes, taking into account that economic development is essential for adopting measures to address climate change”, and
- Convention Art. 4.7 which states that “The extent to which developing country Parties will effectively implement their commitments under the Convention will depend on the effective implementation by developed country Parties of their commitments under the Convention related to financial resources and transfer of technology and will take fully into account that economic and social development and poverty eradication are the first and overriding priorities of the developing country Parties.”

implementation and support, and in the light of equity¹² and the best available science” (Art. 14.1).

It is therefore clear that equity is an integral part of the Paris Agreement, with its origins deeply rooted in the UNFCCC. Therefore, addressing the issue of equity is crucial to an agreement as ambitious as the Paris Agreement, which seeks to strengthen the ability of developed and developing countries to work together towards achieving the objective of the UNFCCC and the goals of its Paris Agreement.

Some of the ways in which equity could be considered or looked at in relation to the climate change negotiations, including with respect to the GST, that have been suggested by a number of developing countries (but without necessarily obtaining any multilateral consensus on these) include the following:

- Some Parties have suggested that the Human Development Index (HDI)¹³ could be considered a tool for guiding the outcome of GST and to operationalize equity within it. HDI is a clear measure of development, the potential to mitigate, and the technical and financial capabilities to respond to climate change. This will, *inter alia*, answer questions such as – How countries fare in terms of HDI, how their development trajectory and carbon requirement should meet HDI goals, and examination of carbon space with developing countries in terms of development of HDI. For the preservation of future development opportunities HDI is a composite indicator.
- Other Parties have also suggested that the concept of equitable access to sustainable development – i.e. access to carbon space and time for development to developing countries – could also be considered in the GST. Equity needs to be factored into the fair allocation of the global mitigation burden among countries, taking into account historical responsibility for cumulative historical emissions, the development circumstances of countries, and countries’ ability to pay such that countries that have achieved high development conditions (i.e. the developed countries) would have the greater responsibility for doing more to reduce their emissions by paying and diverting funds towards low carbon emission pathways. The gap between the equitable share of the global carbon budget that is consistent with the agreed temperature goal (i.e. the 1.5 °C and 2 °C long-term temperature goals in the Paris Agreement) that developing countries should have had and the actual smaller share of the remaining carbon space that is made available to them due to the over-consumption by developed countries relative to their fair shares of the global carbon budget, needs to be bridged by developed countries through the provision of appropriate financial support, technology development and transfer to developing countries.

¹² The reference to “in the light of equity” in Art. 14.1 of the Paris Agreement is also a clear indication that when it comes to the design and implementation of the GST mechanism under the Paris Agreement, the equity-related considerations and provisions in the Paris Agreement and the Convention are relevant and should be reflected in the GST.

¹³ A statistical tool used to measure a country's overall achievement in its social and economic dimensions – based on the health of people, their level of education attainment, and their standard of living. See United Nations Development Programme (UNDP), Human Development Index (HDI), at <http://hdr.undp.org/en/content/human-development-index-hdi>. The United Nations (UN)’s Human Development Report since 1990 has been based on the use of the HDI. More recently, UNDP has developed the Global Multidimensional Poverty Index (MPI) as a possible replacement for the HDI as an indicator. See e.g. UNDP, The 2018 Global Multidimensional Poverty Index (MPI), at <http://hdr.undp.org/en/2018-MPI>.

This jumps off from a recognition that developed countries are generally now in the post-industrial stage and share common developmental characteristics, such as that their emission trajectories have generally plateaued or peaked¹⁴; their domestic economies are dominated by non-energy intensive industry and services; most of their emissions come from consumption activities such as building and transportation; most of their infrastructure has been already built up and the pace of their “decarbonization” is constrained by the pace of the low-carbon retrofitting of these infrastructures, given technical and social inertia in systems transformation. But the picture is different for most developing countries that are still in or have not even started the process of industrialization and urbanization; their future needs for infrastructure investment will remain high, with heavy industries dominating domestic economy still for some time; the rate of urbanization is dynamic together with rapidly increasing demand for modern transportation in replacement of animal- and human-powered transport modes; the need for more energy will come from the necessity of fulfilling the basic needs of a large part (often dominant) of the population (food, clean water, light, health services, telecommunication and transport). The challenge for developing countries therefore is not the low-carbon retrofitting of existing infrastructure and productive capital but the rapid deployment of low-carbon infrastructure and productive capital so as to avoid a carbon-intensive development pathway.

- For other Parties, the idea of highlighting the historical responsibility of developed countries for global warming arising from their historical GHG emissions as part of the equity discussion in the GST was particularly attractive. Historical responsibility was seen as central to the equity debate. Countries’ shares of historical global emissions were seen as one of the essential parameters in the various equity-related proposals that were made in the climate change negotiations as the jumping off point for various conceptual attempts to distribute the mitigation effort among countries in an equitable manner. In the context of the implementation of the various mechanisms which have been put in place in the Paris Agreement to enhance the climate change actions of countries and the provision for a collective assessment of progress under GST, these mechanisms should at least recognize and reflect the historical responsibility for global warming of developed countries, and that the application of equity would then mean that their mitigation efforts need to be more ambitious and their actions to provide support to developing countries be enhanced. As can be seen in Figures 3 and 4 below, greenhouse gas emissions per capita tend to increase as countries’ per capita gross domestic product (GDP) increases as a result of industrialization and development, before plateauing or reducing after having reached a certain GDP and development threshold (which can vary among countries). This translates to significant differences in the cumulative share of a country in terms of global emissions, depending on when the country started its development process, as can be seen in Figure 5 below comparing China and the United States.

¹⁴ See e.g. Katie Lebing, Mengpin Ge, and Johannes Friedrich, 5 Charts Show How Global Emissions Have Changed Since 1850, Chart 5: GHG emission peak dates (WRI Blog, 2 April 2018), at <https://www.wri.org/blog/2018/04/5-charts-show-how-global-emissions-have-changed-1850>. See also Historical Responsibility for Climate Change – from countries emissions to contribution to temperature increase, Report commissioned by the Brazilian Environmental Ministry, November 2015, Climate Analytics and Potsdam Institute for Climate Impact Research.

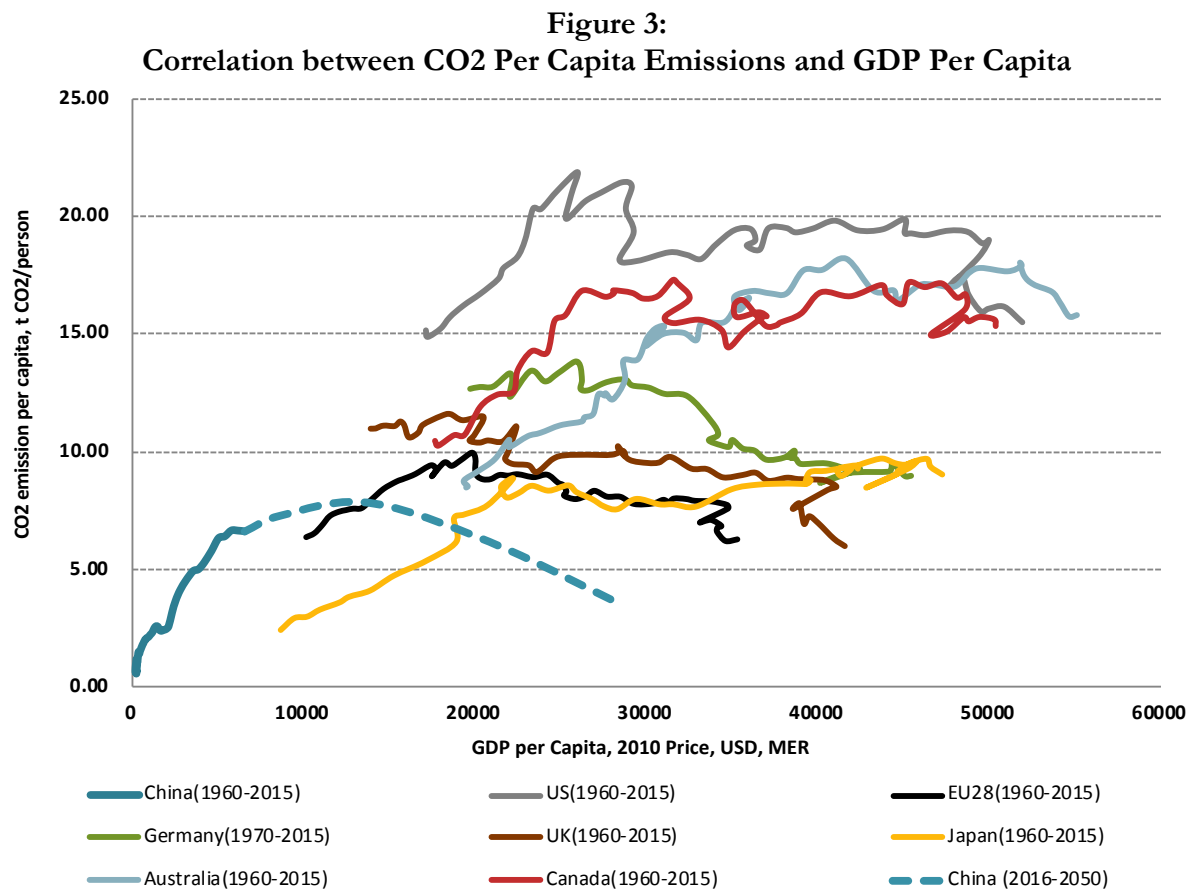


Figure 4: CO2 Emissions and Development Curve

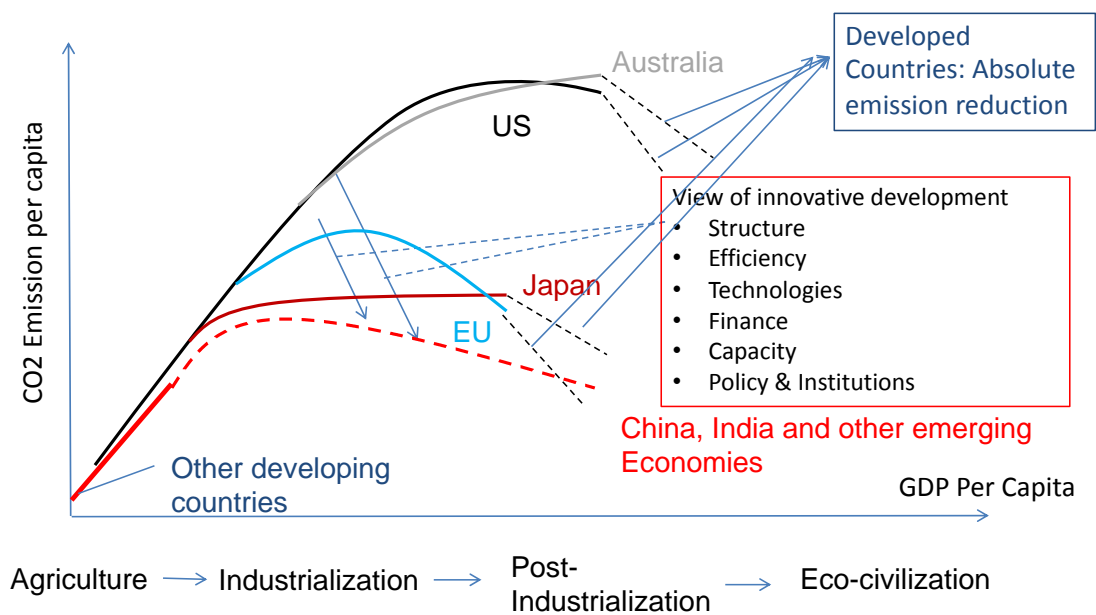
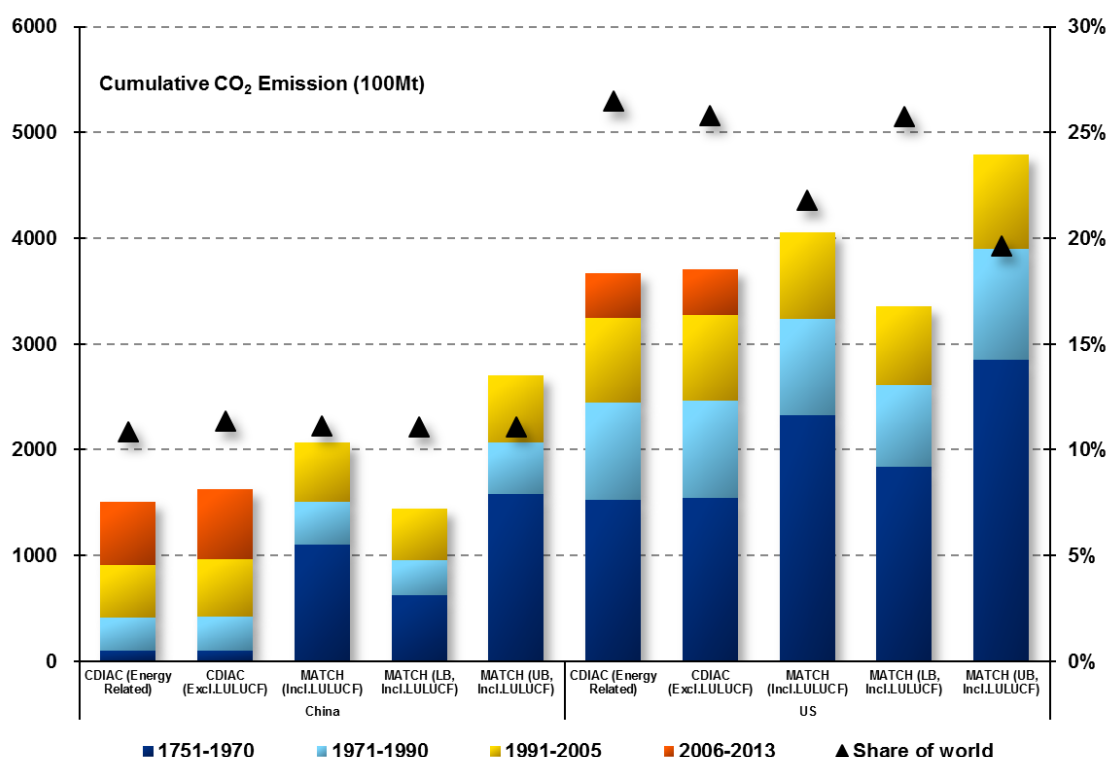


Figure 5: Cumulative CO₂ Emissions – China and the United States

Note: Includes only energy-related CO₂ emissions.

Source: Historical CO₂ emissions data from 1960 to 2015 is from CDIAC. Population and GDP data is from the World Bank. Data after 2015 is calculated based on NDC targets.

- For many developing country Parties, while they agree that all countries have a common objective under the Convention and its Paris Agreement to combat climate change, they highlight the importance of the idea that developed and developing countries bear different responsibilities for climate action because of differences in countries' finance and technology capability and soft power. The GDP per capita of developed countries on average remains more than that of developing countries, with an increasing gap in absolute terms when compared with the 1990 level. With most core technologies still controlled by multinational corporations (MNCs) and national research and development laboratories from developed countries,¹⁵ developing countries are still in the middle and lower links of the global value chain, a disadvantageous position for income distribution. In addition to conventional advantages in capabilities, developed countries also generally exert soft power, given their influence on technology and knowledge innovations, on the process of designing and implementing international rules (including in relation to the global financial and monetary system). Hence, for equity considerations to be adequately addressed in the GST, it is also important that the developed countries undertake a larger share of the

¹⁵ Using patent applications as a proxy for technology control, the majority of renewable energy technology patent applications were filed in developed countries (Japan 55%, United States 20%, European Union (EU) 9%). See e.g. International Renewable Energy Agency, Global patenting trends in RET, at <https://www.irena.org/inspire/Intellectual-Property-Rights/Global-Patenting-Trends-in-RET>. See also World Intellectual Property Organization, Patent-based Technology Analysis Report: Alternative Energy Technology, at https://www.wipo.int/edocs/plrdocs/en/landscape_alternative_energy.pdf.

global mitigation efforts, in response to their historical responsibility of having contributed the largest share to global greenhouse gas emissions. Since the developed countries lead in their current and historical levels of energy consumption and emissions, therefore they must also lead in their efforts to address issues arising from and pertaining to climate change. The leadership by developed countries should be identified as a vital and cross-cutting issue to ensure ambition and to operationalize equity in the context of the GST.

What seems to come out very clearly from proposals that were put forward by developing countries during the climate change negotiations in relation to equity in the GST is that economic development and the eradication of poverty continue to be the overriding priorities of developing countries and that pursuing economic development and poverty eradication, with corresponding increases in per capita GDP, will have implications in terms of increasing developing countries' greenhouse gas emissions. This means that developing countries' climate change actions, whether in terms of mitigation or adaptation, should not be assessed by the same standards as those for developed countries. Rather, the assessment should be done progressively and take into account the extent to which developing countries' developmental goals are met as the context under which their climate change actions take place. This also highlights the main point that developing countries have frequently stressed in the climate change negotiations that in order for developing countries to enhance climate change mitigation and adaptation actions in a manner that will not adversely affect their efforts to also develop their economies and eradicate poverty, developed countries should support developing countries in doing so by providing them with the needed finance, technology, and capacity building support.

In November 2017, developing countries put forward some ideas in relation to the reflection of equity in the GST modalities. The main ideas highlighted by developing countries included that equity is a cross-cutting and overarching consideration in the GST; it is about including fairness in both the process and outcome of the GST; and that equity must be made operational in terms of the various activities of the GST rather than be abstract.¹⁶

¹⁶ See e.g. G77 GST Coordinator (Philippines), Key Ideas of G77 on Equity in the GST (14 November 2017), at https://unfccc.int/files/bodies/apa/application/pdf/g77_key_ideas_on_equity_in_the_gst_r1.pdf. See also G77 GST Coordinator (Philippines), G77 Inputs to Building Blocks for GST (13 November 2017), at https://unfccc.int/files/bodies/apa/application/pdf/general_structure_outline_for_cma_decision_on_gst-g77_r2.pdf. In addition to the Philippines' input regarding equity as the G77 Coordinator for GST, other Parties also made submissions during COP23 in November 2017 that in various ways highlighted the importance to their groups of equity being reflected operationally in the GST modalities. See e.g. Arab Group, at https://unfccc.int/files/bodies/apa/application/pdf/arab_group_input.pdf, https://unfccc.int/files/bodies/apa/application/pdf/arab_group_submission_on_gst_apa_1-4.pdf, https://unfccc.int/files/bodies/apa/application/pdf/arab_group_3rd_submission_on_gst.pdf, and https://unfccc.int/files/bodies/apa/application/pdf/arab_group_4th_submission_on_gst.pdf; China, at https://unfccc.int/files/bodies/apa/application/pdf/china_short_revised_template_12_nov2017_1215-textual_input_from_china.pdf; Micronesia, at https://unfccc.int/files/bodies/apa/application/pdf/fsmicronesia_comments_on_short_revised_template_131117.pdf; LDC Group, at https://unfccc.int/files/bodies/apa/application/pdf/ldcs_inputs_to_building_blocks_table_v3.pdf; and South Africa, at https://unfccc.int/files/bodies/apa/application/pdf/south_africa_equity_in_the_gst_11_nov_sa.pdf.

IV. REFLECTING EQUITY IN THE GLOBAL STOCKTAKE UNDER ARTICLE 14 OF THE PARIS AGREEMENT

From a textual analysis of the relevant provisions of the Paris Agreement, for the purposes of the design and implementation of the Global Stocktake (GST) mechanism under Art. 14 of the UNFCCC's Paris Agreement, the concept of equity needs to be reflected and fully operationalized. Doing so will ensure that there is faithful compliance with the provisions of the Paris Agreement and the understanding among Parties at the time of the adoption of the Paris Agreement in 2015 that the GST will be in the light of equity and the best available science.¹⁷

Equity, as referred to in Art. 2.2 of the Paris Agreement, is an important aspect of the Global Stocktake (GST) under Art. 14 of the Paris Agreement.

Art. 14.1 of the Paris Agreement in relation to the GST states as follows:

“The Conference of the Parties serving as the meeting of the Parties to this Agreement shall periodically take stock of the implementation of this Agreement to assess the collective progress towards achieving the purpose of this Agreement and its long-term goals (referred to as the "global stocktake"). It shall do so in a comprehensive and facilitative manner, considering mitigation, adaptation and the means of implementation and support, and **in the light of equity** and the best available science.” (Emphasis added)

A plain reading with respect to the ordinary meaning of Art. 14.1 clearly shows that the GST process has to be based in equity along with best available science – i.e. that both equity and the best available science form the underlying foundation and context within which the global assessment of progress to be undertaken through the GST should take place. Such an interpretation would be consistent with reading the provision in accordance with the ordinary meaning of the terms in their context and in light of the Paris Agreement's object and purpose.¹⁸

The inclusion of “equity” as part of the operational context in which the GST would be undertaken was the result of a strong push by developing countries in the negotiations leading up to and during COP21. As late as the draft text of 9 December 2015 for the draft Paris Outcome, the words “and equity” were still in brackets¹⁹ (denoting no agreement thereon), as developed countries had been objecting to its inclusion in the operational part of the text

¹⁷ See Art. 14.1, Paris Agreement.

¹⁸ Note that under international law, when it comes to reading and interpreting treaty provisions such as Art. 14 of the Paris Agreement, the 1969 Vienna Convention on the Law of Treaties stresses that “a treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.” See United Nations, Vienna Convention on the Law of Treaties (1969), Art. 31.1, at <https://treaties.un.org/doc/publication/unts/volume%201155/volume-1155-i-18232-english.pdf>.

¹⁹ See UNFCCC, Ad-Hoc Working Group on the Durban Platform: Draft Text on COP21 agenda item 4(b) – Draft Paris Outcome (9 December 2015), at <https://unfccc.int/resource/docs/2015/cop21/eng/da01.pdf>. By 10 December 2015, the reference to equity was already included in the draft Article 10 of the Paris Outcome as part of the context for the GST. See UNFCCC, Ad-Hoc Working Group on the Durban Platform: Draft Text on COP21 agenda item 4(b) – Draft Paris Outcome (10 December 2015), at <https://unfccc.int/resource/docs/2015/cop21/eng/da02.pdf>.

(preferring instead to either completely drop it or at most see it as preambular language)²⁰. For developing countries, it was important that there would be an explicit reference to equity as part of the operational context for the GST because they see it, together with the reference to the best available science, as an important conceptual foundation for the GST to be able to discuss how overall progress can be assessed and increased ambition in Parties' national climate change actions be enabled.

In essence, this would mean that the GST's design and implementation should reflect Art. 2.2 and 4.1 of the Paris Agreement and Art. 3.1 of the Convention. The text "in the light of equity" in Art. 14.1 of the Paris Agreement indicates that the GST should have modalities under which Parties' collective climate change actions that reflect their common but differentiated responsibilities and respective capabilities, in light of their different national circumstances, are recognized and taken into account, so that it remains clear that, as pointed out in Art. 3.1 of the Convention, "developed countries should take the lead in combating climate change and its adverse effects".

In this context, integrating equity within the GST would mean that the GST should involve an aggregate assessment of progress, based on equity, of all climate actions undertaken by Parties in implementation of their common and differentiated obligations under the Convention and its Paris Agreement, i.e. mitigation, adaptation, the provision of the means of implementation and support (in terms of finance, technology transfer and development, and capacity building), and transparency; and to situate such implementation in the context of the pursuit by developing countries of their overriding objectives of development and the eradication of poverty.

A. Elements for Reflecting Equity in Operational Terms in the Global Stocktake

In light of the importance attached by Parties, particularly developing countries, to the concept of equity, the operationalization of Convention Art. 3.1's references to equity and common but differentiated responsibilities and respective capabilities through Convention Art. 4²¹, and the subsequent inclusion of references to equity in the Paris Agreement (including in Art. 14.1 on GST), a concrete way of making equity operational needed to be captured in the GST process and in its outcome.

For this purpose, in the context of the academic discussions and political negotiations that took place in relation to the GST modalities during the period 2016-2018, the concept of equity was variously discussed or raised, without necessarily gaining political consensus, in different ways, including equity in relation to individuals²²; equity between generations²³; equity with respect to countries' historical responsibility for global warming; equity with

²⁰ Authors' personal notes and recollections as developing country negotiators on GST from 2016 to 2018.

²¹ Under Convention Art. 4, all Parties had common commitments to cooperate and implement reporting, mitigation, and adaptation actions (Convention Art. 4.1) with developing countries' actions being dependent on the extent to which developed countries provide them with support (Convention Art. 4.7); while developed countries were specifically committed to taking the lead in undertaking mitigation (Convention Art. 4.2), provide adaptation support to developing countries (Convention Art. 4.4), and provide finance and technology transfer to assist developing countries to report on and to implement their own mitigation and adaptation actions (Convention Art. 4.3 and 4.5).

²² E.g. the outcome as it affects or relates to individuals, such as per capita emissions.

²³ This looks at ensuring that sufficient natural environment is provided for future generations to survive; and it is required that we come up with sustainable patterns.

respect to countries' capacity to contribute to finding solutions to anthropogenic climate change; equity with respect to countries' access to a public good or benefit (such as a healthful environment and stable climate) or achievement of a right (such as the right to development)²⁴; equity with respect to process; and equity with respect to fairness in the distribution of positive or negative outcomes arising from certain actions taken.

The inclusion of equity in the GST modalities negotiations prior and up to the adoption of the Paris Agreement in December 2015 and since then up to and including the final negotiations for such modalities at Katowice in December 2018 highlights the political and policy importance of equity in the overall design of the climate change treaty regime.²⁵ In this context, it would be important that the Convention and its Paris Agreement's textual references to equity could be reflected, when it comes to operationalizing equity in the GST mechanism, through the following elements:

- An element in doing so is for Parties through the GST to be able to assess, in a collective manner, whether such equity and CBDR-based Convention commitments have been achieved through the implementation of the corresponding Paris Agreement provisions – i.e. Arts. 3-11 of the Paris Agreement – including on mitigation, adaptation, and the provision of the means of implementation;
- Additionally, another element to operationalizing equity in the GST is that its modalities with respect to the inputs and how these inputs are to be considered should also reflect the concept of responsibility for historical emissions that underlies the concept of equity and CBDR in Convention Arts. 3.1 and 4.²⁶ What this means is that:

²⁴ This would, for example, look at what development stages countries are in based on their fossil fuel energy consumption, their share of the historical accumulation of GHGs, their gross domestic product (GDP), their population sizes and growth rates, and other qualitative or quantitative benchmarks or indicators that would enable the GST process to look at how the countries which have attained and enjoyed development have limited the available carbon space to those nations that are not on a high development trajectory. Equity will help the latter attain their developmental goals.

²⁵ This can be seen in the large number of negotiating proposals on this topic that had been submitted by developing countries in the course of the climate change negotiations, see e.g. Third World Network, Addressing “equity” in the global stocktake under the Paris Agreement (14 November 2017), at <https://twnetwork.org/climate-change/addressing-%E2%80%98equity%E2%80%99-global-stocktake-under-paris-agreement>. Additionally, for many of the civil society stakeholders observing the climate change negotiations, equity being in the GST was also very important, see e.g. Climate Action International, Let it shine – “in the light of equity” in the Global Stocktake (9 November 2017), at <http://www.climateactionnetwork.org/blog/let-it-shine-%E2%80%93%E2%80%9C-light-equity%E2%80%9D-global-stocktake>; Centre for Science and Environment, Addressing Global Stocktake under the Paris Agreement (An equity-based approach) (2017), at <https://unfccc.int/sites/default/files/890.pdf>; University of Michigan Climate Delegation, From the Global Stocktake to We Are Still In: The role of equity in climate change action (13 November 2017), at <https://climateblue.org/2017/11/13/from-the-global-stocktake-to-we-are-still-in-the-role-of-equity-in-climate-change-action/>.

²⁶ The principles of equity and CBDR are closely linked under the Convention. Convention Arts. 3.1 and 4 reflect the framing of equity and CBDR seen in the Convention's preamble, especially the preambular paragraphs 3, 6, and 18 when read together. Convention preamble 3 states that “Noting that the largest share of historical and current global emissions of greenhouse gases has originated in developed countries, that per capita emissions in developing countries are still relatively low and that the share of global emissions originating in developing countries will grow to meet their social and development needs;” Convention preamble 6 states that “Acknowledging that the global nature of climate change calls for the widest possible cooperation by all countries and their participation in an effective and appropriate international response, in accordance with their common but differentiated responsibilities and respective capabilities and their social and economic conditions;” Convention preamble 18 states that “Recognizing also the need for developed countries to take immediate action in a flexible manner on the basis of clear priorities, as a first step towards comprehensive response strategies at

- Not only must the GST provide modalities that would enable the collective assessment of progress, in light of equity, in the implementation of CBDR-based Convention commitments as reflected in the Paris Agreement with respect to mitigation, adaptation support, and provision of the means of implementation; but also
- Such collective assessment should take into account the historical responsibility of countries with respect to their respective cumulative emissions (the largest share of which came from developed countries), and whether or not developed countries have fulfilled or are fulfilling their Convention commitment to take the lead in combating climate change and its adverse effects – i.e. it is important that developed countries' historical responsibility for the accumulation of anthropogenic greenhouse gases over the past two to three centuries is reflected in present-day and future responsibility for leading and doing more in reducing greenhouse gas emissions. This collective assessment should also provide and enable greater clarity and understanding about the extent of reaching the goal of the Convention based on what global effort is needed; and
- On the basis of this collective assessment, further enhanced actions under the Paris Agreement, including the submission of NDCs by Parties and the scaling up of different modes of international cooperation, could then be identified in a way that would also reflect equity.

Keeping the above in mind, in operational terms, how then should the concept of equity be reflected in the GST design? This is a question that had been raised and discussed by a number of commentators when looking at how the GST should be designed, and was a central part of the GST negotiations during the 24th Conference of the Parties held in Katowice, Poland, in December 2018.²⁷ For developing countries, the question during the negotiations was how should the concept of equity be made operational in the GST in a manner that is consistent with the provisions of the Convention and the Paris Agreement relating to equity and CBDR?

the global, national and, where agreed, regional levels that take into account all greenhouse gases, with due consideration of their relative contributions to the enhancement of the greenhouse effect.” The clear link between historical responsibility for emissions (see in Convention Preamble paragraph 3) to the principles of equity and CBDR embedded in Convention Preamble paragraphs 6 and 18 and Convention Arts. 3.1 and 4 is best exemplified by the explicit recognition by the UNFCCC Conference of the Parties of such link in relation to enhanced action on mitigation contained in Preamble 2 to Sec. III.A (Enhanced Action on Mitigation) of the UNFCCC Cancun Agreements which states as follows: “Acknowledging that the largest share of historical global emissions of greenhouse gases originated in developed countries and that, owing to this historical responsibility, developed country Parties must take the lead in combating climate change and the adverse effects thereof.” See UNFCCC, COP decision 1/CP.16, at <https://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf>.

²⁷ See e.g. Christian Holz and Xolisa Ngwadla, *The Global Stocktake under the Paris Agreement: Opportunities and Challenges* (ECBI Paper, October 2016); Eliza Northrop et al., *Achieving the Ambition of Paris: Designing the Global Stocktake* (WRI Working Paper, May 2018), at <https://newclimate.org/wp-content/uploads/2018/04/achieving-ambition-paris-designing-global-stocktake.pdf>; Eliza Northrop et al., *INSIDER: 4 Key Questions for the Design of the Global Stocktake* (WRI, 19 May 2016), at <https://www.wri.org/blog/2016/05/insider-4-key-questions-design-global-stocktake>; Sumit Prasad et al., *Shaping the Global Stocktake Process Under the Paris Agreement* (CEEW Issue Brief, September 2017), at <https://unfccc.int/sites/default/files/973.pdf>; Claire Fyson, *Taking Stock of the Global Stocktake* (Climate Analytics Blog, 8 May 2018), at <https://climateanalytics.org/blog/2018/taking-stock-of-the-global-stocktake/>.

The operational modalities for the GST were negotiated under Agenda Item 6 of the Ad-Hoc Working Group on the Paris Agreement (APA). There were various options available to Parties to operationalize equity in the GST process.²⁸ Some of these options came up in suggestions from Parties during the GST negotiations from 2016 to 2018 for the inclusion of references to indicators for equity, e.g. per capita emissions, historical emissions, ability to pay (countries which have enjoyed development are capable of paying and diverting funds towards low carbon emission pathways), as well as using as equity “indicators” what Parties have used in their NDCs to explain why their contributions are fair and ambitious. Considering that fair process is as important as a fair outcome, an indicator that does not address the concerns of all countries will not be readily accepted in a multilateral process.

B. Possible Elements to Operationalize Equity in the Global Stocktake Consistent with Developing Country Perspectives

From the foregoing discussion, the following points are important to highlight in relation to operationalizing equity in the GST from a developing country-oriented perspective:

1. For developing countries, equity is a cross-cutting and overarching consideration in the GST in order to reflect and link the GST to the purpose of the Paris Agreement (Art. 2.1) and the principles under which it should be implemented (Art. 2.2);
2. Equity in the context of the GST is about including and reflecting on questions of fairness in both the process and the outcome of the GST. That is:
 - a. The GST process must take place in a fair and equitable manner in all the activities to be undertaken in the GST so that all perspectives, inputs, and views from Parties, scientists, and other stakeholders with respect to the issues that would be discussed in the GST are given fair play and adequate time, as appropriate, and that all relevant stakeholders – particularly representatives of developing country Parties - may be able to contribute to the collective assessment to be undertaken in the GST; and
 - b. The GST outcome should reflect equity in terms of taking stock, in a fair and comprehensive manner, of the implementation of the Paris Agreement to assess the collective progress towards achieving the purpose of the Agreement and its long-term goals.²⁹ What this means is that the stocktaking and

²⁸ The submissions and views made by Parties between 2016 and 2018 with respect to the design of the GST as well as the various “tools” that have been developed in the course of the process in order to facilitate Parties’ discussions on the design of the modalities and sources of inputs for the GST can be found here on the UNFCCC website relating to APA Agenda Item 6. See UNFCCC, APA Item 6, at <https://unfccc.int/process/bodies/subsidiary-bodies/ad-hoc-working-group-on-the-paris-agreement-apa/information-on-apa-agenda-item-6>.

²⁹ This essentially means having to read Paris Agreement Art. 14.1 together with Paris Agreement Art. 2 and Convention Art. 2 as an integrated package. The “purpose” of the Paris Agreement is expressed in the chapeau of Art. 2.1, as follows: “This Agreement, in enhancing the implementation of the Convention, including its objective, aims to strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty.” The “long-term goals” of the Paris Agreement that are referred to in the chapeau of Art. 2.1 include the long-term temperature, adaptation, and finance goals set out in Art. 2.1(a) to (c) and the global goal on adaptation referred to in Art. 7.1. This “purpose” and the “long-term goals” of the Paris Agreement are to be achieved through the Paris Agreement “enhancing the implementation of the

assessment of collective progress through the GST should reflect on the extent to which the global response to climate change is being strengthened and the burden thereof fairly shared, in the context of sustainable development and efforts to eradicate poverty, by the enhanced collective efforts and actions of Parties to implement the Convention and its Paris Agreement (especially in terms of mitigation, adaptation, loss and damage, response measures, and the provision of the means of implementation, as provided for in the Convention and its Paris Agreement) in order to stabilize greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system, within a timeframe sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner. The stabilization level and timeframe issues are addressed by the Paris Agreement.³⁰

Developing countries, as represented by the Group of 77 and China, in relation to equity in the Global Stocktake negotiations at COP24 in Katowice in December 2018, had sought to ensure that the concept of equity is clearly referred to in the GST text, and for it to be made operational in terms of being taken into account and considered in all parts and activities of the GST. This would include clearly indicating that equity-related considerations and information would be among those that would feed as inputs into the GST; that during the conduct of the GST, the concept of equity would also be explicitly considered as part of the information collection, technical assessment, and political consideration phases of the GST; and that equity considerations will form part of the overall context in which the GST would be conducted.

C. Operationalizing Equity in the Global Stocktake from the Katowice COP24 Outcome

On 14 December 2018, the UNFCCC's Conference of the Parties adopted by consensus a package of decisions that constituted the Katowice Outcome. In particular, this package included a set of decisions covering various aspects of the Paris Agreement for which modalities, guidance, or procedures needed to be adopted in order for the Paris Agreement's provisions to become operational. Among these decisions was the Conference of the Parties

Convention, including its objective" – i.e. the Paris Agreement's implementation to be done in a way that would enhance Parties' implementation of their commitments under the Convention and lead to the achievement of the Convention's objective under Convention Art. 2 which is "the stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner." In this context, Paris Agreement Art. 2.2 says that the Paris Agreement "will be implemented to reflect equity and the principle of common but differentiated responsibilities and respective capabilities, in the light of different national circumstances."

³⁰ The stabilization level is linked to the temperature goal in Paris Agreement Art. 2.1(a) as follows: "Holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels", while the timeframe issue is linked to Paris Agreement Art. 4.1 which states that Parties "aim to reach global peaking of greenhouse gas emissions as soon as possible, recognizing that peaking will take longer for developing country Parties, and to undertake rapid reductions thereafter in accordance with best available science, so as to achieve a balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of this century, on the basis of equity, and in the context of sustainable development and efforts to eradicate poverty."

serving as the meeting of the Parties to the Paris Agreement (CMA) Decision 19/CMA.1 on “Matters relating to Article 14 of the Paris Agreement and paragraphs 99–101 of decision 1/CP.21”³¹ – the Katowice GST decision.

1. Understanding the Global Stocktake Modalities in the Katowice Global Stocktake Decision

The Katowice GST decision contains the modalities for the implementation of the GST, beginning with the first GST in 2023. It has the following sections:

- **Overarching elements**, contained in paragraphs 1 to 18 of the decision, reflecting, inter alia, the general identification of the GST components (paragraph 3); the governance of the GST (paragraphs 4-6, 15-16); the timelines for the GST (paragraphs 7-8); the scope for the GST (paragraph 6(b)); the manner in which the GST would be undertaken (paragraphs 9-13); the general outputs of the GST (paragraph 14);
- **Information collection and preparation**, contained in paragraphs 19 to 25, which identify who would be involved in terms of the information collection and preparation component and what form should the information collected be put into for consideration in the technical assessment component;
- **Technical assessment**, contained in paragraphs 26 to 32, which expands further on what the technical dialogue referred to in paragraphs 5 and 6 of the decision would actually be undertaking, including how the information inputs would be treated (paragraph 27); how the best available science from the Intergovernmental Panel on Climate Change (IPCC) would be taken into account (paragraphs 28-29); the manner in which the technical dialogue would be undertaken (paragraph 30); the outputs of the technical dialogue (paragraph 31);
- **Consideration of outputs**, contained in paragraphs 33 to 34, which describes how such consideration would be done through “high-level events” (paragraph 33); and what the outputs of this GST component should contain (paragraph 34); and
- **Sources of inputs**, contained in paragraphs 35 to 38, including:
 - **Identification of the information that would be considered in the GST**, contained in paragraph 36; and
 - **Identification of the documentary sources of inputs for the GST**, contained in paragraph 37.

The **information to be considered** should be collective or aggregated in nature and, under paragraph 36 of the Katowice GST decision, is as follows:

“(a) The state of greenhouse gas emissions by sources and removals by sinks and mitigation efforts undertaken by Parties, including the information referred to in

³¹ See UNFCCC CMA, Matters relating to Article 14 of the Paris Agreement and paragraphs 99-101 of decision 1/CP.21, decision 19/CMA.1. Available from https://unfccc.int/sites/default/files/resource/CMA2018_03a02E.pdf.

Article 13, paragraph 7(a), and Article 4, paragraphs 7, 15 and 19, of the Paris Agreement;

“(b) The overall effect of their nationally determined contributions and overall progress made by Parties towards the implementation of their nationally determined contributions, including the information referred to in Article 13, paragraph 7(b), of the Paris Agreement;

“(c) The state of adaptation efforts, support, experience and priorities, including the information referred to in Article 7, paragraphs 2, 10, 11 and 14, of the Paris Agreement, and the reports referred to in Article 13, paragraph 8, of the Paris Agreement;

“(d) The finance flows, including the information referred to in Article 2, paragraph 1(c), and means of implementation and support and mobilization and provision of support, including the information referred to in Article 9, paragraphs 4 and 6, Article 10, paragraph 6, Article 11, paragraph 3, and Article 13, in particular paragraphs 9 and 10, of the Paris Agreement. This should include information from the latest biennial assessment and overview of climate finance flows of the Standing Committee on Finance;

“(e) Efforts to enhance understanding, action and support, on a cooperative and facilitative basis, related to averting, minimizing and addressing loss and damage associated with the adverse effects of climate change;

“(f) Barriers and challenges, including finance, technology and capacity-building gaps faced by developing countries;

“(g) Good practices, experience and potential opportunities to enhance international cooperation on mitigation and adaptation and to increase support under Article 13, paragraph 5, of the Paris Agreement;

“(h) Fairness considerations, including equity, as communicated by Parties in their nationally determined contributions;”

Other Katowice decisions also added the following as among the information to be considered in the GST:

- Information with respect to the activities and actions undertaken, and support received, under the Paris Agreement’s Technology Mechanism to implement Art. 10 of the Paris Agreement on technology development and transfer;³²
- The outcomes of the periodic assessment of the effectiveness and adequacy of the support provided to the Technology Mechanism in supporting the implementation of the Paris Agreement on matters relating to technology development and transfer;³³ and

³² UNFCCC CMA, Technology framework under Article 10, paragraph 4, of the Paris Agreement, Annex, para. 25(e). Available from https://unfccc.int/sites/default/files/resource/cp24_auv_cop_4_TF.pdf.

³³ UNFCCC CMA, Scope of and modalities for the periodic assessment referred to in paragraph 69 of decision 1/CP.21, para. 4. Available from https://unfccc.int/sites/default/files/resource/cp24_auv_cp4_SBI_item_14a.pdf.

- Information relating to climate change action undertaken by Parties and the support provided and received by Parties under the Paris Agreement, as communicated through the transparency framework for action and support.³⁴

The **sources of inputs** for the GST, through which the information to be considered would be brought into the GST process, include those that are identified in paragraph 37 of the Katowice GST decision as follows:

“(a) Reports and communications from Parties, in particular those submitted under the Paris Agreement and the Convention;³⁵

“(b) The latest reports of the Intergovernmental Panel on Climate Change, pursuant to decision 1/CP.21, paragraph 99;

“(c) Reports of the subsidiary bodies, pursuant to decision 1/CP.21, paragraph 99;

“(d) Reports from relevant constituted bodies and forums and other institutional arrangements under or serving the Paris Agreement and/or the Convention;³⁶

“(e) The synthesis reports by the secretariat referred to in paragraph 23 above;³⁷

“(f) Relevant reports from United Nations agencies and other international organizations, that should be supportive of the UNFCCC process;

“(g) Voluntary submissions from Parties, including on inputs to inform equity consideration under the global stocktake;

“(h) Relevant reports from regional groups and institutions;

“(i) Submissions from non-Party stakeholders and UNFCCC observer organizations;”

Additional sources of inputs for the GST include those specified in other Katowice decisions such as the following:

- Adaptation communications from Parties;³⁸

³⁴ UNFCCC CMA, Modalities, procedures and guidelines for the transparency framework for action and support referred to in Article 13 of the Paris Agreement, para. 1-2. Available from https://unfccc.int/sites/default/files/resource/cp24_auv_transparency.pdf.

³⁵ These would include, for example, Parties’ national communications under Art. 12 of the Convention and the biennial transparency reports under Art. 13 of the Paris Agreement.

³⁶ These would refer to the synthesis reports from these bodies, forums and other institutional arrangements referred to in paragraph 24 of the Katowice GST decision.

³⁷ These include the following synthesis reports specified in para. 23 of the Katowice GST decision: “(a) A synthesis report on the information identified in paragraph 36(a) below, taking into account previous experience in preparing such reports; (b) A synthesis report on the state of adaptation efforts, experience and priorities summarizing the most recent information identified in paragraph 36(c) below; (c) A synthesis report on the overall effect of nationally determined contributions communicated by Parties summarizing the most recent information identified in paragraph 36(b) below; (d) A synthesis report on the information identified in paragraph 36(d) below”.

³⁸ UNFCCC CMA, Further guidance in relation to the adaptation communication, including, inter alia, as a component of nationally determined contributions, referred to in Article 7, paragraphs 10 and 11, of the Paris

- Synthesized and summary reports prepared by the Secretariat relating to the recognition of the adaptation efforts of developing countries, including their support needs for adaptation;³⁹
- Compilations and synthesis reports of the Secretariat on the projected public financing to be provided by developed country Parties under Art. 9.5 of the Paris Agreement;⁴⁰

How the outcome of the GST process would inform Parties pursuant to Art. 4.9 and 14.3 of the Paris Agreement is made operational by all Parties being required, “in communicating their second and subsequent nationally determined contributions, ... [to] provide the information necessary for clarity, transparency and understanding ... as applicable to their nationally determined contributions” on “how the Party’s preparation of its nationally determined contribution has been informed by the outcomes of the global stocktake, in accordance with Article 4, paragraph 9, of the Paris Agreement.”⁴¹ Additionally, under the Katowice GST decision, Parties are invited “to present their nationally determined contributions, informed by the outcome of the global stocktake, at a special event under the auspices of the Secretary-General of the United Nations.”⁴²

2. Equity in the Operational Modalities for the Global Stocktake

In light of the operational modalities set out in the Katowice GST decision, operationalizing equity in the GST would therefore mean that the concept of equity should be embedded in the way in which the various components of the GST – i.e. information collection and preparation, technical assessment, and consideration of outputs – would be implemented.

In this context, equity has been incorporated in operational terms throughout the Katowice GST decision, especially in terms of the information collection and preparation and the technical assessment components. In terms of the consideration of outputs component, which is the more political component of the GST, equity will inform such consideration but the decision does not specify exactly how the high-level events in this component should discuss and reflect equity. Additionally, equity is referred to twice in the sources of inputs section, once in relation to fairness as expressed in NDCs and more broadly in terms of equity being possibly referred to in the voluntary submissions by Parties as inputs to the GST.

More specifically, equity is operationalized in key paragraphs of the Katowice GST decision as follows:

Agreement, paras. 1(c) and 6. Available from at https://unfccc.int/sites/default/files/resource/cma1_auv_L.21_Adaptation%20communication.pdf.

³⁹ UNFCCC CMA, Matters referred to in paragraphs 41, 42 and 45 of decision 1/CP.21, paras. 9-13 and 31. Available from https://unfccc.int/sites/default/files/resource/cma_auv paras%2041%2042%2045.pdf.

⁴⁰ UNFCCC CMA, Identification of the information to be provided by Parties in accordance with Article 9, paragraph 5, of the Paris Agreement, para. 7. Available from at https://unfccc.int/sites/default/files/resource/cp24_auv_agenda%20item%204_9.5.pdf.

⁴¹ See UNFCCC CMA, Further guidance in relation to the mitigation section of decision 1/CP.21, para. 7 and Annex 1, para. 4(c), at https://unfccc.int/sites/default/files/resource/cp24_auv_L.22_ndc.pdf.

⁴² See UNFCCC, Matters relating to Article 14 of the Paris Agreement and paragraph 99-101 of decision 1/CP.21, para. 17, at https://unfccc.int/sites/default/files/resource/cp24_auv_GST_L.16.pdf.

- Preamble 1 includes a reference to Article 2 of the Paris Agreement, which therefore indicates that Art. 2.2's reference that the Paris Agreement will be implemented on the basis of equity and CBDR forms part of the context in which the GST would be undertaken;
- Paragraph 1 recalls Art. 14.1 of the Paris Agreement, which explicitly states that the GST process shall be done "in the light of equity and the best available science". In connecting the two sentences from Art. 14.1 of the Paris Agreement, this paragraph strengthens the application of equity and the best available science to both the collective stock-taking by Parties of the implementation of the Paris Agreement and progress towards its long-term goals;
- Paragraph 2 states that "equity ... will be considered in a Party-driven and cross-cutting manner, throughout the global stocktake". This clearly indicates that equity is a cross-cutting consideration for all of the GST components, and it is operationalized in paragraphs 5, 13, 37 and 31 of the Katowice GST decision;
- Paragraphs 5, 13, 27 and 31 when read together explain how these inputs on equity flow throughout the GST in the information and sources of inputs and across all of its three operational components:
 - In terms of the information and sources of inputs for the GST, paragraph 5 stresses that the inputs that would be the subject of "expert consideration" are those from the sources of inputs referred to in paragraphs 36 and 37, thereby including the subparagraphs relating to equity (paragraphs 36(h) and 37(g)). Paragraph 5 therefore makes it clear that the equity-related information and inputs will be part of the technical assessment undertaken through the technical dialogue. Furthermore, as the vehicles through which the information under paragraphs 36 and 37 would be brought into the GST, the compilation and the synthesis reports referred to in paragraphs 22, 23 and 24 would need to include equity considerations as an element therein. For example, aggregate effects may include how countries referred to equity in their NDCs and how equity is considered in relation to addressing climate change-related impacts (including loss and damage and response measures), adaptation, and the provision of the means of implementation and support by developed to developing countries;
 - Paragraph 13 states that the "outputs of the components of the global stocktake ... should summarize opportunities and challenges for enhancing action and support in the light of equity ..." This highlights that equity should be part of the context in which Parties' collective assessment and identification of opportunities and challenges for enhancing action and support should be done during the GST. This means that in the process of summarizing opportunities and challenges with respect to mitigation, adaptation and means of implementation, the issue of gaps and failures of both ambition and implementation (such as on finance, technology transfer, capacity building, responses to impacts) can be expressed and included. Paragraph 13 therefore provides a clear opening for Parties to be able to stress that equity considerations should be clearly indicated and referred to in the outputs of the various GST components, as follows:

- Information collection and preparation component: In terms of the information to be collected, prepared, and included in the sources of inputs.⁴³ In particular, paragraph 36(h) states that among the information to be considered at a collective level would be information on “fairness considerations, including equity, as communicated by Parties in their nationally determined contributions.”⁴⁴ Additionally, paragraph 37(g) allows Parties to make voluntary submissions as among the GST sources of input, “including on inputs to inform equity consideration under the global stocktake,”⁴⁵ through which Parties can explain how they consider their NDCs to be fair⁴⁶ as well as provide, through such voluntary submissions, other various equity-related considerations as Parties would not be constrained to linking such equity considerations to their NDCs (this information would then be compiled by the Secretariat pursuant to paragraph 22 of the decision) (see, for example, Box 1 on how equity considerations could be raised).

⁴³ Such as the compilation referred to in paragraph 22 and the synthesis reports referred to in paragraphs 23 and 24 of the Katowice GST decision.

⁴⁴ This is, however, a watered-down compromise text that is the result of intense negotiations between the G77, the EU, the Umbrella Group, and the Environmental Integrity Group (EIG), with the G77 on one side insisting for more detailed language that included explicit references to “quantitative and qualitative information” in relation to equity-related reference benchmarks; the EU showed some flexibility so long as the word “benchmarks” was removed, while the Umbrella Group and the EIG were strongly opposed to any reference to equity-related information and wanted the entire paragraph deleted. That this paragraph remained is a reflection of the G77’s insistence on ensuring that the concept of equity-related information going into the GST be explicitly retained in the text.

⁴⁵ This is compromised language. The G77 had insisted on a paragraph on equity that would explicitly indicate that information relating to the responsibility for historical and current emissions, equitable access to sustainable development, and the leadership of developed countries in combating climate change and addressing its adverse effects, should be among the information to be collected for the GST. The EU, Umbrella Group, and the EIG vehemently opposed this G77 proposal as they did not want to see any mention of developed countries’ historical responsibility for causing anthropogenic climate change due to their historical and current emissions, and neither did developed countries want to see any information that would link their historical emissions to their historical development patterns and thence to their current responsibilities and obligations to provide support to developing countries and be more ambitious in undertaking current and future emissions reductions; the G77, especially the Like-Minded Developing Countries (LMDC), African Group, and the Argentina-Brazil-Uruguay (ABU) Group, just as strongly said that such information should be in the GST and that it be clearly indicated as a separate paragraph in paragraph 36. The African Group had also put forward a proposal regarding the establishment of benchmark indicators and efforts. Because of these strong opposing views, the COP Presidency put forward the compromise such that such equity-related information (on historical responsibility, equitable access to sustainable development, and on the climate leadership of developed countries) could still go into the GST through Parties’ voluntary submissions. This gives an opening, therefore, for Parties wishing to highlight equity considerations to use voluntary Party submissions under paragraph 37(g) as the vehicle to bring in their equity-related information and other considerations into the GST.

⁴⁶ In communicating information regarding their NDCs, Parties are required to provide information on, inter alia, “how the Party considers that its nationally determined contribution is fair and ambitious in the light of its national circumstances”, including “fairness considerations, including reflecting on equity.” See UNFCCC CMA, Further guidance in relation to the mitigation section of decision 1/CP.21, para. 7 in relation to Annex I, para. 6(b), at https://unfccc.int/sites/default/files/resource/cp24_auf_L22_ndc.pdf.

Box 1: Examples of Equity Considerations that Could be Raised by Parties under Paragraphs 36(h) or 37(g) of the Katowice GST Decision

- The extent to which developed countries are exhibiting their leadership in climate change actions by undertaking ambitious economy-wide emission reduction targets and by providing the means of implementation and support to developing countries through finance, technology development and transfer, and capacity building. This would include, with respect to the first GST in 2023, the extent to which the gaps in the implementation by developed countries of their mitigation and support commitments under the Convention and its Kyoto Protocol during the pre-2020 period exist and hence should be addressed by developed countries in terms of increasing their ambition and actions in both mitigation and the provision of support to developing countries in the post-2020 period so as to ensure that the burden of meeting such gaps will not be shifted to developing countries
- The extent to which adaptation efforts are given the policy, financing, and implementation importance as part of climate change actions, particularly for developing countries
- The extent of the gaps that may exist between the needs of developing countries for support and the means of implementation with respect to mitigation and adaptation (as well as loss and damage and addressing the impact of response measures) and the support and means of implementation provided and to be provided by developed countries
- The extent to which Parties' collective actions to meet the Paris Agreement's long-term goals (under Art. 2 with respect to long-term temperature, Art. 4 with respect to the peaking and balancing of emissions, and Art. 7 with respect to adaptation) are being undertaken in a manner that is fair and commensurate to Parties' national circumstances and historical responsibility for global warming
- The extent to which support is being provided to developing countries to assist them in addressing and adapting to the adverse effects of climate change as well as to the impacts of climate change loss and damage and response
- The extent to which the implementation and impact of climate change mitigation and adaptation policies adopted by Parties pursuant to their NDCs under the Paris Agreement are reducing the risks associated with climate change to the populations of developing countries

▪ Technical assessment component:

- With respect to the consideration of inputs during the technical assessment component, Paragraph 27 confirms that “all the inputs and topics, in particular the linkage among various issues, should be discussed in a balanced, holistic and comprehensive manner with a balanced allocation of time between thematic areas, taking into account equity considerations ...”.

A key question that would need to be addressed for taking equity into account and including it as part of the assessment to be undertaken in the GST in the Paris Agreement is the question of “how did we get here” – i.e. what were the factors that led to the problem sought to be addressed by the Convention and its Paris Agreement. Once that key question is addressed, the GST can then proceed with its assessment of “where do we want to go” and “how do we get there”. The technical assessment to be done could be provided with greater guidance through the use of specific guiding questions to be provided by the Chairs of the subsidiary bodies.⁴⁷

In this context, the equity-related considerations raised either in terms of the information under paragraph 36(h) or the information under paragraph 37(g) would then have to be considered during the technical assessment component.

⁴⁷ See paragraph 7 of the Katowice decision.

- In relation to the preparation of the outputs of the technical assessment component, paragraph 31 states that the co-facilitators of the GST technical dialogue “will summarize its outputs in summary reports, taking into account equity ... for each thematic area ...” This clearly indicates that the co-facilitators for the GST technical dialogue are instructed to build equity into their summary reports such that the key messages that they transmit to the high-level consideration of outputs could include messages about how equity should be reflected.
- Consideration of outputs component: In terms of the process and outputs of the high-level consideration by the Parties, which leaves it open to Parties to agree on including equity-related key messages as part of the political outcome of the GST.⁴⁸ In this regard, the key messages coming out as part of the political outcome of the GST could underscore and highlight equity references (such as, but not limited to, an enhanced understanding of what is fair in terms of collective climate action burden sharing), reflect the needs and special circumstances of developing countries, and clearly specify how climate change impacts, actions, and responses, and the extent to which international cooperation takes place on these under the Convention and its Paris Agreement, have a bearing on developing countries’ achievement of sustainable development and eradication of poverty.

⁴⁸ Such as the outputs referred to in paragraph 34(b) and (c) of the Katowice GST decision.

V. CONCLUSIONS

It is clear from the discussion above that the concept of equity, and the principle of common but different responsibilities that is closely associated with it as its reflection, is deeply embedded in the overall design and architecture of the GST under the Paris Agreement.

Equity is fundamental to the GST's design. Equity in particular colours the substance and modalities of the GST, such that equity-related considerations have to be taken into account, considered, assessed, and reflected in all the components of the GST. This is important because equity is the gateway through which increased ambition and increased climate change action by all Parties under the Convention and its Paris Agreement would be promoted. Equity, therefore, should be part and parcel of the entire process, the themes, and the outcome of the GST. For this to happen, countries for whom the concept of equity in the GST is important should ensure that they are able to provide solid inputs into the GST process. Such inputs should highlight not only the equity considerations that they wish to highlight but also the linkage between such equity considerations to the issue of further or enhanced action and support that need to take place. As the GST process is collective in nature, consideration of equity issues should also be collective in nature.

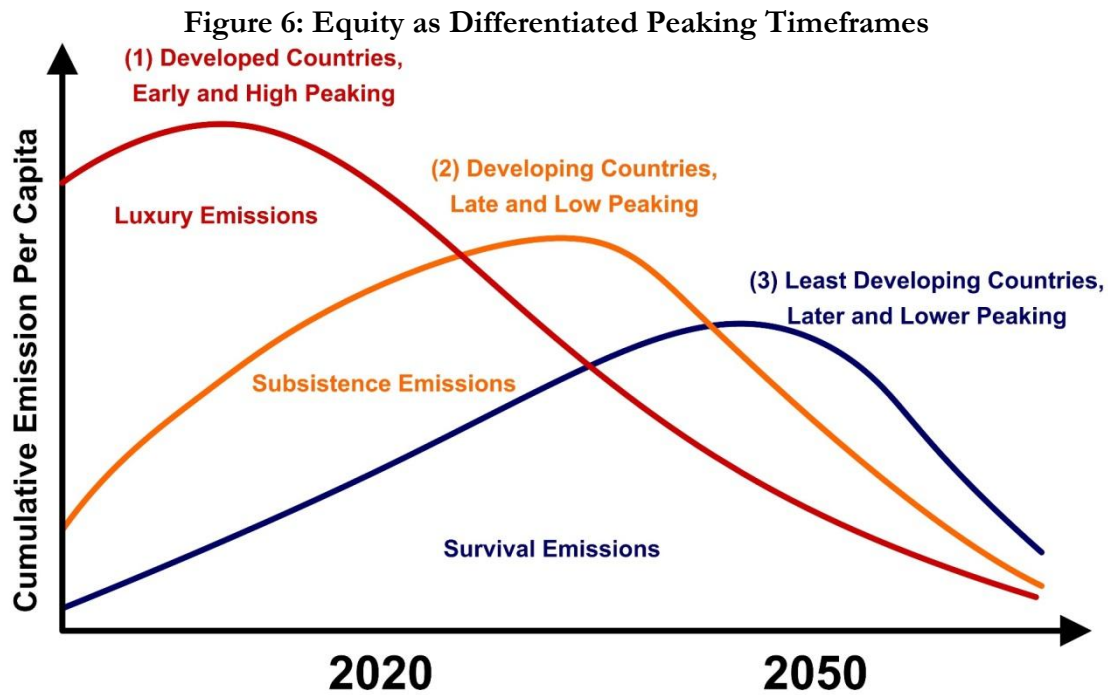
There are clear lessons that could be taken from the equity discussions and negotiations that took place in relation to the GST. These include the following:

- First, equity matters. Its presence or absence affects regime viability and effectiveness.
- Second, equity refers to the distribution of mitigation actions and of mitigation costs. Most of the world's capacity and responsibility for undertaking climate change mitigation lie in countries that are different from those where most of the world's present and future mitigation potential lies.
- Third, no single size fits all. The results of equity proposals vary, with different methodologies, variables, data sources, etc. (e.g. starting year to calculate historical responsibilities), creating great difficulty in obtaining any consensus on any specific equity formulation or equity indicator.
- Fourth, equity means avoiding a "blaming game" and focusing, instead, on the sharing of development and transformation opportunities, ensuring that rights and opportunities exist to shift to sustainable and low carbon development pathways for all, and in establishing an equitable, effective and sustained motivation system to mitigate and adapt to climate change.
- Fifth, equity means accepting that differentiation between developed and developing countries continue to play an essential role in ensuring that climate change actions will be undertaken, and that this is linked to: the provision of implementation flexibility and policy space for developing countries; developed countries taking the lead in mitigation and support actions; and the provision of support and flexibility to developing countries, especially to those most vulnerable and with least capacities.

The concept of equity in essence becomes the driver and enabler for increased action on climate change by all Parties. This will be particularly so if the GST results in technical assessments and political messages that highlight the need to enhance equity-oriented international cooperation on climate change. It provides the basis for ensuring that all Parties contribute their fair share to addressing climate change in accordance with their respective common but differentiated responsibilities under the Convention and its Paris Agreement, in

the light of their respective capabilities and different national circumstances, and gives developing countries the assurance that climate change actions can be done in a manner that is consistent with their respective sustainable development and poverty eradication objectives.

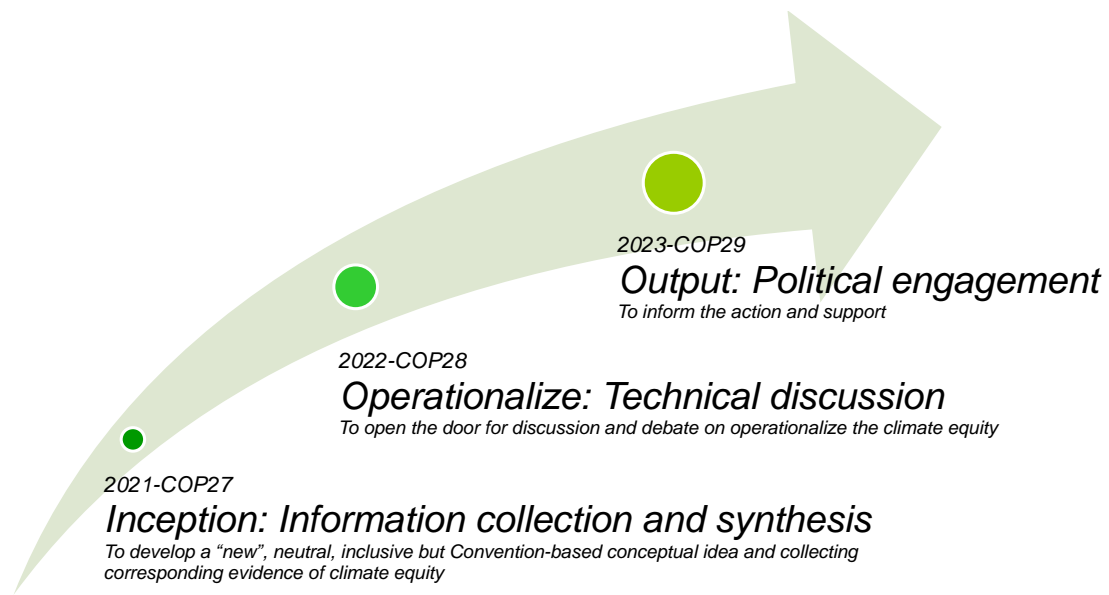
For example, a key equity-related GST conclusion in 2023 could be a political message that recognizes that developed countries should have already peaked, with peaking to come later for developing countries and still much later for least-developed countries (see Figure 6).



Source: Fu Sha and Chai Qimin

The next steps for the implementation of the adopted GST modalities will be crucial. For the moment, there are no technical negotiations mandated to further elaborate on the adopted modalities. In effect, under the adopted modalities, the first GST process will start in 2021 with information collection and gathering, intensify in 2022 and 2023 with technical discussions and assessment of the gathered inputs, and culminate in 2023 with the political engagement by Parties to conclude the GST (see Figure 7). This is with a view towards ensuring that the outcome of the GST informs Parties in their preparation of their subsequent NDCs that are due to be communicated between 2024-2025.

Figure 7: Moving Forward to the First GST in 2023



Source: Fu Sha and Chai Qimin

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