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Argentina. Brasil. Uruguay

Article 2.1.c

10th August 2023

Brazil on behalf of ABU welcome the opportunity to present its views on Article 2, paragraph 1 (c), of the Paris Agreement in the context of the discussions in the Standing Committee on Finance (SCF) as per FCCC/PA/CMA/2022/L.9, para. 4.

THE LEGAL BASIS

According to Article 2, the Paris Agreement (PA), “in enhancing the implementation of the Convention, including its objective” was adopted to “strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty”, including by “(c) making financial flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development”.

According to Article 31 of the Viena Convention on the Law of Treaties (1969), 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 objective and purpose.

The objective of the PA firmly **anchors the global response to climate change within sustainable development and efforts to eradicate poverty**. In particular, the Agreement states that “In pursuit of the objective of the Convention, 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,” We should highlight that developing countries (i) have little historical responsibility for global GHG emissions; and (ii) nowadays they are the ones that struggle the most to promote sustainable development, eradicate poverty, guarantee food security, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations.

Article 2.1.c was not laid down in a vacuum. The context for its interpretation is given in the article's chapeau. It is also important to highlight that Article 2.1.c was drafted in the context of Article 2.2, which makes also specific reference to **equity and the principle of common but differentiated responsibilities and respective capabilities**, in light of different national circumstances”. Being the CBDR-RC a foundational principle of the Agreement, there is little room for any interpretation of Article 2.1.c that leads to a top-down or a one-size-fits-all approach.

We should recall that, in line with Article 4.7 of the UNFCCC, the extent to which developing country Parties effectively implement their commitments under the Convention will depend on the manner in which developed country Parties effectively implement their commitments relating to financial resources and technology transfer, and will take fully into account that economic and social development and poverty eradication are the first and overriding priorities of developing-country Parties. The PA reiterates the same logic when it states that “developed country Parties should continue taking the lead by undertaking economy-wide absolute emission reduction targets” (Art. 4.4) and “support shall be provided to developing country Parties (…) in accordance with Articles 9, 10 and 11, recognizing that enhanced support for developing country Parties will allow for higher ambition in their actions” (Art. 4.5).

Moreover, since Article 2.1.c has a direct impact on the finance flows in the context of the Paris Agreement, we should also read it in light of the provisions of the PA related to climate finance, namely Articles 9, 7.13, 10.6 and 13.6.

ASPIRATIONAL GOAL WITH REAL IMPACTS

Climate finance is a key component for the effectiveness of the international climate change regime under the UNFCCC and its Paris Agreement. The global response referenced in the PA will require an appropriate scale-up of climate finance provision and mobilization from developed countries to developing countries; and at the same time, a redirection of investments representing a significant shift in the global flows of finance, including on its quantity and quality.

As an aspirational goal, **Article 2.1.c is, from our perspective, a framework of a structural change of the global economy (transitional approach)**. In terms of climate change financing, it is important that it supports the achievement of sustainable development in its three dimensions – economic, social and environmental –, in a balanced and comprehensive manner, and the eradication of poverty, in line with the 2030 Agenda and its Sustainable Development Goals. Article 2.1.c is, thenceforth, a means to foster a holistic transition of the international financial system in light of the provisions of the Paris Agreement on mitigation (2.1.a) and adaptation (2.1.b).

Delivering on Article 2.1.c is **intrinsically linked to the GST** (connection of the national contributions to the Agreement's overall objectives) and the SCF's reports on climate finance. It is also relevant to the reports that developed countries shall submit to the COP/CMA, including through their BTRs and 9.5 BAs on their efforts to achieve 2.1.c.

We should ensure that delivering on Article 2.1.c, does not result in disguised restrictions on international trade, in line with the principle in Article 3.5 of the UNFCCC, which states that measures to combat climate change, even unilateral ones, should not constitute trade barriers. In this sense, some of the proposals included in the report of the Standing Committee on Finance (document FCCC/CP/2022/8/Add.3-FCCC/PA/CMA/2022/7/Add.3) in its Table 2 (“Policies, approaches and methodologies relevant to implementing Article 2, par.1 .c, of the Paris Agreement, as identified in Party submissions”), such as “carbon pricing -emission trading scheme, carbon border adjustment mechanism-; taxation (on energy and fossil fuels); pricing incentives; carbon footprinting of portfolios; developing products with lower GHG profile, etc. would have trade implications, while there is no multilateral agreement on such proposals, and they could lead to arbitrary or unjustifiable discrimination, and may not be the least trade restrictive measures to achieve the legitimate objective of combating climate change.

In addition, unilateral measures such as the EU's carbon border adjustment mechanism, or "carbon footprint" measures or methodologies to discriminate products on the basis of their emissions, which have not been multilaterally-agreed, should not be legitimized at the multilateral level. At the same time, such measures, as well as other proposals included in

Table 2, such as the removal or reduction of inefficient fossil fuel subsidies, are not necessarily linked to climate finance. One should bear in mind that the debate should instead focus on the provision of new and additional resources from developed countries to developing countries, in accordance with the UNFCCC and its Paris Agreement, avoiding legitimizing measures on which there is no multilateral consensus and which could penalize trade and be inconsistent with the principles of the UNFCCC and the rules of the WTO.

Bearing the Synthesis report in mind, we are also of the view that climate finance needs to be new and additional, and different from ODA, which should not be accounted for as climate finance in the context of the article 2.1.c.

The transition under Article 2.1.c will require a significant increase in flows of new, additional and predictable climate finance from developed countries towards developing countries in light of Articles 9.1 and 9.3 of the PA. It also means that developed countries should take the lead in this transition, in particular, the redirection of their current international investments in developed countries, towards developing countries to significantly contribute to limit the global average temperature increase to 1.5º C above pre-industrial levels and increase the resilience to the adverse impacts of climate change in a manner that does not threaten food production.

Based on the bottom-up approach enshrined in the Paris Agreement, in the principle of CBDR-RC, and in the imperative of promoting just transitions, we also see a relevant role to be played by all Parties in improving their national regulatory, structural, and capacity systems, while contributing to the efforts of making financial flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development. This approach should not create any additional burden for developing countries in the implementation of their commitments under the Agreement nor for the provision and mobilization of climate finance to developing regions. Developed countries should create incentives to, in addition to providing climate finance to developing countries, mobilize climate finance to and at the same time, redirect sustainable investments to developing countries.