

SUBMISSION TO THE COP30 PRESIDENCY ROADMAP

Halting and Reversing Deforestation and Forest Degradation by 2030

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Stranded by Design: Correcting the Perverse Risk Architecture That Penalizes Clean Transition in Developing Economies

Executive Summary

The central paradox of the global clean energy transition is that the countries most exposed to the consequences of climate change are also those for whom the financial cost of transitioning away from fossil fuels is highest, and for whom the financial consequences of attempting that transition — through stranded fossil fuel assets, investor-state dispute settlement claims, and elevated cost of capital for clean energy — are most punishing. The IEA's Cost of Capital Observatory has confirmed empirically what developing economy practitioners have long argued: the cost of capital for utility-scale solar photovoltaic projects in emerging markets and developing economies (EMDEs) is well over twice as high as it is in advanced economies, and in some markets can be up to seven times higher when country risk premiums are fully accounted for. Meanwhile, the investor-state dispute settlement (ISDS) architecture embedded in over 2,500 bilateral investment treaties and the Energy Charter Treaty (ECT) creates a legally binding structure under which governments that attempt to phase out fossil fuel investments risk being sued for hundreds of millions — or in

the case of the Global South, for amounts exceeding their entire GDP — by the fossil fuel investors whose assets they are attempting to strand in the public interest. More than two-thirds of the calculated financial risk from potential ISDS claims is borne by countries in the Global South, according to research published in *Climate Policy* by the Boston University Global Development Policy Center. This submission argues that the COP30 Presidency Roadmap on deforestation cannot achieve its objectives without confronting this perverse risk architecture directly: an architecture that charges developing economies a premium for choosing clean energy, penalises them financially for phasing out fossil fuels, and ensures that the proceeds of fossil fuel lock-in flow primarily to investors in the Global North.

1. The Cost of Capital Asymmetry: A Structural Tax on Clean Transition

The IEA's analysis, delivered to the Paris Summit on a New Global Financing Pact in 2023 and updated through successive editions of the Cost of Capital Observatory, establishes with rigorous empirical grounding that financing costs account for approximately half of the levelised cost of electricity from a solar PV plant reaching final investment decision in emerging and developing economies, compared with 25 to 30 per cent in advanced economies and China. A narrowing of the cost of capital gap between EMDEs and advanced economies by a single percentage point — 100 basis points — could reduce average clean energy financing costs in EMDEs by USD 150 billion every year. Put differently, the structural risk premium imposed on clean energy investment in the Global South is not a marginal price signal — it is a fiscal burden of continental scale that accumulates year upon year, progressively widening the gap between the clean transition pathways available to wealthy economies and those available to developing ones.

The IEA's World Energy Investment 2024 data confirms that EMDEs outside China account for approximately 15 per cent of total global clean energy investment despite representing roughly two-thirds of the world's population and a third of global GDP. Africa, home to 20 per cent of the global population, receives just 2 per cent of global clean energy investment, and total energy capital flows into the continent have fallen by a third over the past decade, driven by a contraction in fossil fuel financing that has not been replaced by commensurate renewable energy flows. The IEA's World Energy Investment 2025 report identifies the Baku to Belem Roadmap — a COP29 initiative targeting USD 1.3 trillion for clean energy in developing economies by 2035 — as a critical step, but warns that reducing the cost of capital must be a central focus of the implementation architecture. The clean energy transition in EMDEs is not failing for want of viable technology, which is now cost-competitive at global prices; it is failing because the financial architecture that allocates capital to investment decisions prices that technology out of reach for the economies that need it most urgently.

The stranded asset dimension of this asymmetry compounds the injustice. Research published in *Frontiers in Environmental Economics* has identified resource-rich developing countries as particularly vulnerable to fossil fuel asset stranding, owing to their stronger fossil fuel fiscal dependencies and the wider societal consequences of revenue disruption beyond the investment loss itself. Bangladesh, among other Asian nations, has found itself servicing enormous debt obligations on fossil fuel infrastructure — gas pipelines and power plants financed with MDB support — that is now economically unviable relative to the rapidly falling cost of renewable

alternatives. The Energy Tracker Asia analysis of stranded fossil fuel assets linked to MDB finance documents how these investments have precipitated economic tailspins in climate-vulnerable developing economies, imposing on the governments of those economies the dual burden of debt service on stranded fossil infrastructure and the cost of capital premium that prevents them from financing the clean alternatives that could have made that infrastructure unnecessary.

2. The ISDS Architecture as a Legal Lock-In Mechanism

The investor-state dispute settlement system represents the most formally coercive dimension of the perverse risk architecture that penalises clean transition in developing economies. The fossil fuel industry accounts for approximately 20 per cent of all known ISDS cases across all sectors — making it the most litigious industry in the dispute settlement system — and the average award to fossil fuel investors, at over USD 600 million, is almost five times the amount awarded in non-fossil fuel cases, according to the International Institute for Sustainable Development. Research by the Boston University Global Development Policy Center published in *Science* estimates that global action on climate change could generate more than USD 340 billion in legal claims from oil and gas investors through ISDS mechanisms in the upstream sector alone. The Energy Charter Treaty, which the IISD has identified as generating more ISDS proceedings than any other investment treaty and protecting the most oil and gas production worldwide, adopted a formal modernisation in December 2024 that falls significantly short of the reforms required to align the treaty with the Paris Agreement's temperature targets.

The distributional consequences of the ISDS architecture for the Global South are severe and systematically underestimated in the climate policy debate. The Boston University Global Development Policy Center's analysis in *Climate Policy* calculates that more than two-thirds of the financial risk from potential ISDS claims is borne by countries in the Global South, producing a de facto transfer of wealth from South to North that directly undermines global climate finance commitments. Guyana faces ISDS exposure upwards of USD 15 billion — nearly three times its GDP. Mozambique faces exposure of nearly twice its GDP (USD 29 billion) while being among the top 25 per cent most climate-vulnerable countries globally. For these countries, the legal obligation to compensate fossil fuel investors for the loss of future profits from assets that are incompatible with a 1.5 degrees Celsius carbon budget is not an abstract legal risk: it is a concrete fiscal constraint that determines whether those governments can afford to pursue the supply-side climate policies that their NDC commitments require. The 'chilling effect' of ISDS — documented across multiple jurisdictions — means that governments modify or withdraw proposed climate policies in advance of formal legal challenge, not because the policies are legally untenable but because the financial risk of arbitration is unacceptable given existing debt sustainability constraints.

The interaction between ISDS exposure and carbon market architecture creates a further perverse incentive structure that the COP30 Roadmap must address. The ISDS system protects existing fossil fuel investments against regulatory stranding; but the carbon market system under Article 6 of the Paris Agreement does not compensate developing economies for the foregone revenues and stranded debt obligations that arise from choosing not to develop fossil fuel infrastructure that would be inconsistent with 1.5 degrees Celsius pathways. The GOVDEV submission

accompanying this package has addressed the Article 6.4 methodology gap for infrastructure prevention crediting. The present submission frames that gap in its ISDS and investment law dimension: the legal and financial architecture rewards fossil fuel investment and punishes its absence, while the carbon market architecture fails to recognise, credit or compensate the sovereign decision to leave fossil fuel resources undeveloped.

3. Reform of the International Investment Architecture

The reform of the international investment architecture to remove the structural bias toward fossil fuel lock-in requires action on three fronts simultaneously. The first is the urgent termination or fundamental reform of bilateral investment treaties that extend ISDS protection to fossil fuel investments in ways incompatible with Paris Agreement commitments. The IISD, the Boston University Global Development Policy Center and UNCTAD have all called for states to stop issuing new permits for fossil fuel projects protected by investment treaties, to terminate existing BITs where possible, and to develop binding rules capping the compensation available to fossil fuel investors for regulatory stranding attributable to climate policy. The EU's coordinated withdrawal from the ECT, formally approved by the European Council of Ministers in March 2024 on the grounds that the treaty is incompatible with Europe's climate ambitions, provides a precedent and a model. The challenge for the COP30 Roadmap is to extend the political momentum of that withdrawal process to the 2,500-plus bilateral investment treaties that cover the majority of the world's fossil fuel assets but have received a fraction of the policy attention directed at the ECT.

The second front is the design of compensatory mechanisms for developing economies that voluntarily strand fossil fuel assets in compliance with Paris Agreement-consistent carbon budgets. The absence of such mechanisms is not only an equity failure — it is a design failure in the international climate architecture that actively contradicts the Paris Agreement's principle of common but differentiated responsibilities and respective capabilities. If a developing country government that has declined to develop an oil field or a coal mine in accordance with a 1.5 degrees Celsius pathway receives no compensatory financing, while a fossil fuel company that expected to exploit those resources can sue the government for the present value of the foregone profits, the net financial incentive for the developing country is unambiguous: develop the resource. The Baku to Belem Roadmap's USD 1.3 trillion target, and the broader climate finance architecture under the New Collective Quantified Goal, must explicitly include dedicated instruments for sovereign compensation for voluntary fossil fuel asset stranding, structured as grant-equivalent transfers rather than loans that would add to the debt sustainability crisis that already constrains developing economy fiscal space.

The third front is the reform of MDB risk assessment methodologies to cease penalising clean energy investments in EMDEs with risk premiums that reflect historical volatility in fossil fuel-intensive economies rather than the actual long-term risk profile of renewable energy assets. The IEA has identified delayed payment by state-owned utilities, regulatory uncertainty, permitting complexity and the absence of guarantee instruments as the primary operational drivers of elevated cost of capital for renewables in EMDEs — all factors that are addressable through targeted policy and guarantee instrument design rather than through the blunt instrument of country-level risk premiums that treat a solar PV project in Senegal as intrinsically more risky than the equivalent

project in France. The G20 Brazil Presidency tasked the IEA with developing a roadmap for scaling up energy investments in EMDEs ahead of COP29; the COP30 Roadmap should formally adopt and extend that roadmap's recommendations, with specific reference to the guarantee and risk-sharing instruments identified as most effective in reducing cost of capital for clean energy projects in high-risk country environments.

4. Recommendations to the COP30 Presidency Roadmap

The authors advance the following five recommendations to the COP30 Presidency Roadmap on Halting and Reversing Deforestation and Forest Degradation by 2030.

The Roadmap should, first, explicitly recognise the perverse risk architecture of the international investment system — including the ISDS mechanism under the ECT and bilateral investment treaties — as a structural impediment to clean transition in developing economies, and call upon Parties to terminate or fundamentally reform investment treaty provisions extending ISDS protection to fossil fuel investments incompatible with Paris Agreement carbon budgets, with specific reference to the need for sunset clause neutralisation agreements among withdrawing ECT parties.

The Roadmap should, second, call for the inclusion of dedicated sovereign instruments for compensating developing economies for voluntary fossil fuel asset stranding within the climate finance architecture of the New Collective Quantified Goal, structured as grant-equivalent transfers and conditioned on demonstrated alignment with 1.5 degrees Celsius-consistent national energy pathways rather than on debt-creating lending instruments.

The Roadmap should, third, call upon multilateral development banks to reform their clean energy risk assessment methodologies to disaggregate country-level risk premiums from technology- and project-level risk, and to significantly expand the availability of guarantee instruments covering payment delay risk, regulatory uncertainty, and first-mover risk for clean energy projects in EMDE contexts, with the IEA Cost of Capital Observatory roadmap serving as the technical reference document for MDB methodology reform.

The Roadmap should, fourth, call for the formal adoption of a binding international standard requiring that all ISDS claims by fossil fuel investors against climate policy measures adopted in compliance with Paris Agreement obligations be subject to a mandatory climate compatibility assessment conducted by a technical panel jointly constituted by the UNFCCC Secretariat and the relevant ISDS arbitral institution, with findings on Paris Agreement compatibility constituting a binding constraint on the arbitral tribunal's liability determination.

The Roadmap should, fifth, call for the explicit recognition in the COP30 final text that the clean energy cost of capital premium in EMDEs constitutes a structural climate finance gap of comparable magnitude to the adaptation finance gap, and that meeting the Baku to Belem Roadmap's USD 1.3 trillion target requires reducing, not merely accommodating, the financial risk premium that makes clean energy more expensive in the countries that need it most — through coordinated guarantee instruments, risk-sharing mechanisms, regulatory reform, and the removal of the legal architecture that continues to subsidise the incumbent fossil fuel industry at the expense of the clean transition.

Conclusion

The global clean energy transition is not failing because renewable technology is unproven or uncompetitive. At global benchmark prices, solar and wind are already the cheapest sources of new electricity generation in the majority of markets. The transition is failing — or rather, is being systematically retarded — because the financial, legal and institutional architecture within which investment decisions are made has been constructed, over decades, in ways that price clean energy investment out of reach for developing economies, that legally protect the fossil fuel assets whose phaseout the Paris Agreement demands, and that transfer the financial consequences of both lock-in and transition onto the governments least equipped to bear them. The COP30 Presidency Roadmap is the moment to name this architecture for what it is — a system stranded by design — and to commit, with the specificity the moment demands, to dismantling it.

Submitted to the UNFCCC Secretariat in response to the COP30 Presidency Invitation for contributions to the Roadmap on Halting and Reversing Deforestation and Forest Degradation by 2030.

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