

CHAPTER 4

FOSSIL FUEL SUBSIDIES

Article 4.1 Objective

The objective of this Chapter is to discipline and eliminate harmful fossil fuel subsidies in order to mitigate their adverse impact on the environment and contribute to global efforts to rapidly reduce greenhouse gas emissions resulting from production and consumption of fossil fuels. This Chapter aims to, *inter alia*, support the global transition to renewable energy and clean energy, contribute to sustainable growth and development, increase transparency and further the objectives of the UNFCCC and the goals of the *Paris Agreement*, including by pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels.

Article 4.2 Scope

1. This Chapter applies to fossil fuel subsidies as set forth in paragraph 2 of Article 4.3 (Definitions).
2. Nothing in this Chapter shall apply to production or consumption subsidies to products that are produced from fossil fuels but not used as a source of energy.
3. Nothing in this Chapter shall apply to the allocation of units in the emission trading scheme of a Party.
4. Nothing in this Chapter shall apply to government procurement.

Article 4.3 Definitions

For the purposes of this Agreement:

1. “Fossil fuel” means a fuel derived from the remains of ancient plant and animal life, such as coal, natural gas and petroleum, as listed in Annex VII (List of Goods considered as Fossil Fuels).
2. A “fossil fuel subsidy” shall be deemed to exist if:
 - (a)(1) there is a financial contribution by a government or any public body within the territory of a Party (referred to in this Chapter as “government”), i.e. where:

- (i) a government practice involves a direct transfer of funds (e.g. grants, loans, and equity infusion), potential direct transfers of funds or liabilities (e.g. loan guarantees);
- (ii) government revenue that is otherwise due is foregone or not collected (e.g. fiscal incentives such as tax credits)¹¹;
- (iii) a government provides goods or services other than general infrastructure, or purchases goods;
- (iv) a government makes payments to a funding mechanism, or entrusts or directs a private body to carry out one or more of the type of functions illustrated in (i) to (iii) above which would normally be vested in the government and the practice, in no real sense, differs from practices normally followed by governments;

or

- (a)(2) there is any form of income or price support; and
- (b) a benefit is thereby conferred, i.e. where:
 - (i) the financial contribution, or income or price support, is primarily targeting the following economic activities: exploration, extraction, refining, processing, manufacturing, storage, transport, pipeline transportation, distribution, trade, or marketing of fossil fuels and it reduces the costs of such activities or increases revenues retained by actors engaged therein (“production subsidy”);
 - (ii) the financial contribution, or income or price support, is primarily targeting the generation or manufacturing of the items listed in Annex VIII (List of energy products considered as fossil fuels), and it reduces the cost of their generation or manufacturing or increases revenues retained by actors engaged therein, provided that those items are generated or manufactured predominantly through the combustion of fossil fuels resulting in emissions exceeding the limits specified in Annex VIII (List of energy products considered as fossil fuels) (“subsidy to generation or manufacturing of energy products considered as fossil fuels”); or

¹¹ In accordance with the provisions of Article XVI of GATT 1994 (Note to Article XVI) and the provisions of Annexes I through III of the SCM Agreement, the exemption of an exported product from duties or taxes borne by the like product when destined for domestic consumption, or the remission of such duties or taxes in amounts not in excess of those which have accrued, shall not be deemed to be a fossil fuel subsidy.

- (iii) the financial contribution, or income or price support, reduces the cost of fossil fuel use (“consumption subsidy”). For a Party that uses the SCRM mechanism provided for under Article 4.4 (SCRM Mechanism), a benefit is deemed to be conferred to the extent that, as a consequence of such financial contribution, or income or price support, the SCRM falls below that Party’s commitment according to Annex X (Schedules of Commitments – Fossil Fuel Subsidies).

3. “Standardised Carbon Rate Measurement” (SCRM), means the net total price applying to Carbon Dioxide (CO₂) emissions from fossil fuel use as a result of policy instruments that increase or decrease the CO₂ price, including carbon and energy taxes. Value-added taxes and the price effects of product and production regulations shall not be included in the calculation of the SCRM.

Article 4.4 SCRM Mechanism

1. A Party may choose whether to use the SCRM Mechanism provided for in this Article.
2. A Party intending to use the SCRM Mechanism shall undertake a SCRM commitment by notifying such commitment:
 - (a) when that Party notifies the completion of its ratification, acceptance or approval procedures pursuant to paragraph 1 of Article 8.3 (Entry into Force) or when it deposits its instrument of accession pursuant to subparagraph 4(a) of Article 8.6 (Accession); or
 - (b) after the entry into force of this Agreement for that Party, subject to approval by the Joint Commission.
3. For any Party using the SCRM Mechanism:
 - (a) that Party’s SCRM commitment shall be set out in Annex X (Schedules of Commitments – Fossil Fuel Subsidies); and
 - (b) that Party’s SCRM commitment shall be consistent with the climate targets of that Party, including under the *Paris Agreement*. A Party shall endeavour to increase the level of ambition of its SCRM commitments to reflect developments in its climate policy.
4. A Party may increase its SCRM commitment at any time by notifying such increase to all Parties. Another Party may request within 60 days of the receipt of the notification by all Parties confirmation by the Joint Commission that the new SCRM commitment constitutes an increase in ambition. Absent such request, or if it provides that confirmation, the Joint Commission shall modify Annex X (Schedules

of Commitments – Fossil Fuel Subsidies) in accordance with Article 6.2 (Functions of the Joint Commission) to incorporate such change.

Article 4.5

Prohibition and Scheduling of Fossil Fuel Subsidies

1. A Party shall not introduce or maintain fossil fuel subsidies listed in Annex IX (List of Prohibited Fossil Fuel Subsidies).
2. A Party shall not introduce new fossil fuel subsidies, unless:
 - (a) the yearly aggregate amount of fossil fuel subsidies in place, introduced by that Party after this Agreement entered into force for it, does not exceed a *de minimis* limit of SDR 1 million¹² or another limit agreed by the Joint Commission; and
 - (b) fossil fuel subsidies within the *de minimis* limit provided for in subparagraph (a) are not listed in Annex IX (List of Prohibited Fossil Fuel Subsidies).
3. Each Party shall either eliminate or schedule existing fossil fuel subsidies that do not fall under paragraph 2 and shall not introduce any policy changes that increase an existing scheduled fossil fuel subsidy or enlarge its eligible group of recipients.¹³ The scheduled fossil fuel subsidies of a Party are set out in Annex X (Schedules of Commitments – Fossil Fuel Subsidies) .
4. Each Party shall periodically review its scheduled fossil fuel subsidies with a view to assessing their possible elimination.
5. Paragraphs 1 to 4 shall not apply to production subsidies¹⁴ for oil classified under HS 2707 and 2709-2710 and for gas classified under HS 2711 as set out in Annex VII (List of Goods considered as Fossil Fuels), when such subsidies are granted in the form of tax revenue foregone falling under subparagraph 2(a)(1)(ii) of Article 4.3 (Definitions). For greater certainty, the obligations provided for in Article 4.7 (General Cooperation), Article 4.9 (Transparency), and Article 4.10 (Review) are applicable.

¹² For the purpose of this provision, this amount is expressed in constant 2024 SDR.

¹³ For greater certainty, increases of the total amount of a subsidy resulting solely from increased supply and demand of fossil fuels and not from the amendment of relevant laws, regulations or policies, are not considered an increase of existing subsidies through policy changes.

¹⁴ For greater certainty, production subsidies referred to in this paragraph primarily target the economic activities listed in subparagraph 2(b)(i) of Article 4.3 (Definitions).

Article 4.6 Specific Exceptions

1. The Parties reaffirm their commitment to the objectives of the UNFCCC, the goals of the *Paris Agreement*, and the achievement of net zero emissions by reducing greenhouse gas emissions from fossil fuels and transitioning away from fossil fuels towards cleaner and renewable energies.
2. Nothing in this Chapter shall prevent a Party from introducing or maintaining subsidies that contribute significantly to the fulfilment of at least one of the following policy goals:
 - (a) support for decommissioning fossil fuel infrastructure provided such decommissioning results in a reduction in the capacity to extract fossil fuels; and provided that the Party has used all means reasonably available to it in accordance to its domestic law to require any entity previously engaged in production activities to take the necessary steps;
 - (b) targeted support to the reduction of greenhouse gas emissions or other forms of pollution that result from the supply or use of fossil fuels, including support to research and development;
 - (c) targeted support to low-income, remote or vulnerable communities or population groups, including where such support is designed to:
 - (i) ensure the availability of public transport, including air and sea transport to remote or outlying areas, while no lower-emission alternative is reasonably available to deliver equivalent services; or
 - (ii) reduce the disparity in access to and cost of energy across social groups and geographical regions;
 - (d) public or compulsory stockholding of fossil fuels for the improvement of energy security;
 - (e) temporary support for the response to, direct relief of, or recovery from, the effects of unexpected events causing significant hardship to that Party, such as natural disasters, emergencies or crises, including severe economic hardship or instability;
 - (f) energy supply for the provision of essential public services for education and health, or of humanitarian and emergency services;
 - (g) time-limited support to enable the generation of electricity needed to ensure the security of the domestic energy supply of that Party as part of its transition to increased use of renewable energy; and

- (h) support biologically sustainable fishing activity of a Party, provided that the supported activity shall in total account for no more than:¹⁵
 - (i) 0.5% of global marine capture per most recent FAO data for developing countries or 0.05% for developed countries; and
 - (ii) 1% of that Party's total domestic consumption of fossil fuels for developing countries or 0.5% for developed countries.

3. Nothing in this Chapter shall prevent a Party from maintaining subsidies to fulfil its existing international obligations, such as the *Convention on International Civil Aviation* done at Chicago on 7 December 1944, the *Vienna Convention on Diplomatic Relations* done at Vienna on 18 April 1961 and the *Revised Rhine Navigation Act* done at Mannheim on 17 October 1868. A Party may maintain detaxation of maritime shipping fuels unless a binding international instrument enables their taxation subject to a review of this matter by the Joint Commission pursuant to Article 4.10 (Review).

4. With regard to measures within the scope of this Chapter, a Party may only invoke Article 1.8 (Security Exceptions) if this Article is not applicable.

Article 4.7 **General Cooperation**

1. The Parties recognise the importance of cooperation to implement this Chapter, strengthen the Parties joint and individual capacities to undertake fossil fuel subsidy reform as well as promote the importance of fossil fuel subsidy reform with non-parties in furtherance of international efforts to address climate change.

2. Accordingly, the Parties shall, as appropriate and as the resources of each Party allow, cooperate between themselves, in international *fora*, and together with non-parties, on fossil fuel subsidy reform, with the aim to discipline and eliminate harmful fossil fuel subsidies. Such cooperation may include:

- (a) exchanging information and experiences on the development of best practices for reform policies, for example through dialogue, workshops, collaborative programmes and projects, sharing of information, joint analysis and the exchange of experts;
- (b) joint advocacy to advance fossil fuel subsidy reform at the WTO, for example in the context of Trade Policy Reviews, at the WTO Committee on Trade and Environment, and in the Trade and Environmental Sustainability Structured Discussions, as well as through Joint Ministerial Statements;

¹⁵ In the case of Costa Rica, Annex XI (Party-Specific Institutional Arrangements) shall apply.

- (c) joint advocacy to advance fossil fuel subsidy reform within the relevant United Nations processes, organisations and agencies, including in the context of the United Nations Environment Programme (UNEP), the UNFCCC, the *Paris Agreement*, and the 2030 Agenda for Sustainable Development (including the United Nations Sustainable Development Goals);
- (d) joint advocacy and strengthening cooperation to advance fossil fuel subsidy reform under the agreements mentioned in paragraph 3 of Article 4.6 (Specific Exceptions);
- (e) encouraging Multilateral Development Banks (MDBs) and the *International Monetary Fund* (IMF) to increase their support to fossil fuel subsidy reform, which may include financial support, technical assistance, capacity building and policy advice;
- (f) technical cooperation, including through information sharing and capacity building activities undertaken with international and civil society organisations, to facilitate and support non-parties to develop and apply best practice approaches for the elimination of harmful fossil fuel subsidies including through adherence to the disciplines set out in this Chapter;
- (g) supporting and encouraging non-parties, on a voluntary basis, to submit to and engage in self-review or peer-review mechanisms offered by international organisations in order to assist in the identification and reform of harmful fossil fuel subsidies;
- (h) increasing the transparency of fossil fuel subsidies globally, including by supporting and encouraging non-parties to report fossil fuel subsidies through notification to international bodies as appropriate, and collaborating on the development and adoption of international standards for transparency; and
- (i) any other cooperation measures as appropriate.

Article 4.8
Assistance for Capacity Building

1. A Party in a position to do so shall strive to assist other Parties with limited capacity or specific needs in the successful implementation of their obligations under this Chapter, including, but not limited to, in the design of measures to effectively carry out the tasks required to discipline, eliminate, or notify fossil fuel subsidies.

2. A Party in a position to do so shall strive to assist non-parties with limited capacity or specific needs in reforming their fossil fuel subsidies, with a view to facilitate their pursuance of accession to this Agreement.

Article 4.9 Transparency

1. Each Party shall notify the other Parties of any fossil fuel subsidy:
 - (a) that is introduced, maintained or extended in accordance with paragraph 2 of Article 4.5 (Prohibition and Scheduling of Fossil Fuel Subsidies);
 - (b) that is maintained in accordance with paragraph 3 of Article 4.5 (Prohibition and Scheduling of Fossil Fuel Subsidies);
 - (c) that is referred to in paragraph 5 of Article 4.5 (Prohibition and Scheduling of Fossil Fuel Subsidies); and
 - (d) that is introduced, maintained or extended in accordance with Article 4.6 (Specific Exceptions).

2. Each Party shall include the following information in its notifications under paragraph 1:
 - (a) identification of the subsidy and the laws, regulations, or policies under which the subsidy is granted;
 - (b) the policy objective or purpose of the subsidy, including any modifications thereof;
 - (c) the subsidy per unit in local currency or, in cases where this is not possible, the total amount or the annual amount budgeted for that subsidy. With regard to subsidies granted in accordance with paragraph 2 of Article 4.5 (Prohibition and Scheduling of Fossil Fuel Subsidies), the aggregate annual amount budgeted for that subsidy shall be included;
 - (d) the form of the subsidy (grant, loan, tax concession, etc);
 - (e) the intended recipient or recipients;
 - (f) the duration of the subsidy or other time-limits attached to it;
 - (g) any available information demonstrating the mitigation of greenhouse gas emissions, if relevant; and

- (h) for a subsidy notified pursuant to subparagraph 1(d), the compatibility of that subsidy with the climate policy of that Party.

3. Each Party shall provide consolidated information regarding the measures that fall under subparagraph 2(b)(iii) of Article 4.3 (Definitions) but do not confer a benefit on the use of fossil fuels because the SCRM does not fall below the Party's commitment. Such information shall include:

- (a) identification of the laws, regulations, or policies under which the measure is granted;
- (b) policy objective or purpose of the measure where it exists;
- (c) support per unit in local currency;
- (d) the form of the measure;
- (e) the intended recipient or recipients;
- (f) the duration of the measure or other time-limits attached to it; and
- (g) the information relevant for the calculation of the SCRM concerning that measure.

4. Any notification or information provided under this Chapter shall be without prejudice as to whether the measure is consistent with this Agreement or any other international agreement, including the SCM Agreement.

5. Each Party shall provide to the other Parties notifications pursuant to paragraphs 1 and 2 and consolidated information pursuant to paragraph 3 within six months of the date of entry into force of this Agreement for that Party. Thereafter each Party shall update its notifications pursuant to paragraphs 1 and 2 and consolidated information pursuant to paragraph 3 every two years if any new subsidy or measure is introduced, or if a subsidy or measure has been modified. If the subsidies or measures remain unchanged compared with its previous notification or submission of consolidated information, the Party shall inform the other Parties thereof.

6. The Joint Commission shall examine new and updated notifications submitted pursuant to paragraphs 1 and 2, and consolidated information submitted pursuant to paragraph 3.

Article 4.10 Review

1. The Joint Commission shall undertake a review of this Chapter, including with regard to the following items, with the aim to further discipline and eliminate harmful fossil fuel subsidies:

- (a) the inclusion of additional relevant measures, such as export restrictions or dual pricing schemes, under subparagraph 2(a)(2) of Article 4.3 (Definitions);
- (b) the functioning of the SCRM Mechanism enshrined in paragraph 3 of Article 4.3 (Definitions);
- (c) Article 4.5 (Prohibition and Scheduling of Fossil Fuel Subsidies), including Annex IX (List of Prohibited Fossil Fuel Subsidies);
- (d) Annex VIII (List of Energy Products Considered as Fossil Fuels) and Annex X (Schedules of Commitments – Fossil Fuel Subsidies);
- (e) the application of Article 4.5 (Prohibition and Scheduling of Fossil Fuel Subsidies) to production subsidies in the form of tax revenue forgone;
- (f) Article 4.6 (Specific Exceptions);
- (g) the implementation and operation of this Chapter; and
- (h) any other matters as agreed by the Parties.

2. The Joint Commission shall undertake reviews provided for in paragraph 1 in temporal alignment with general reviews referred to in Article 6.7 (General Review), or upon request of a Party.

3. In conducting a review under paragraph 1, the Joint Commission shall take into account, *inter alia*, relevant:

- (a) technological developments;
- (b) new developments in domestic and international policy related to climate, environment, and trade; and
- (c) academic research and developments with respect to climate, environment and trade policy challenges.

4. Upon completion of a review under paragraph 1, the Joint Commission may submit to the Parties proposals to amend this Agreement or modify Annexes to this

Agreement or their Appendices pursuant to Article 6.2 (Functions of the Joint Commission).

Article 4.11

Annexes

The following Annexes, including their Appendices, form an integral part of this Chapter:

- (a) Annex VII (List of Goods considered as Fossil Fuels);
- (b) Annex VIII (List of Energy Products considered as Fossil Fuels);
- (c) Annex IX (List of Prohibited Fossil Fuel Subsidies); and
- (d) Annex X (Schedules of Commitments – Fossil Fuel Subsidies).