Centre for Research on Multinational Corporations

KNSM-laan 17
1019 LA Amsterdam
The Netherlands

Tel: +31 (0)20 639 12 91
E-mail: info@somo.nl
somo.nl

IBAN: NL56 TRIO 0198407777
BIC-CODE: TRIONL2U
COC (KVK): 412 233 08

Submission to the COP 30 Presidency Roadmap on the Transition Away from Fossil Fuels in a Just, Orderly and Equitable Manner

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a) What are the most critical barriers — whether physical, economic, financial, institutional, technological or social— preventing a transition away from fossil fuels?

Barrier 1: Irresponsible divestment practices

Among the key barriers to a transition away from fossil fuels is the lack of obligations for the industry to exit fossil fuel operations responsibly, which would entail to pay for the harms they (have) cause(d) to people and the environment during the years of extraction as well as during phase-out. Fossil fuel extraction oftentimes goes hand in hand with pollution, ecological and livelihood destruction and subsequent displacement of communities. Historically marginalized communities are disproportionately impacted by this. Harms are often exacerbated when companies sell assets to entities with poor track records of operational safety and remediation of harm, or close projects without fulfilling requirements on asset retirement and decommissioning of infrastructure. The supply of coal, oil, and gas risks continuing unabated as long as companies can walk away from projects by pocketing substantial profits, while offloading the enormous costs of decommissioning and remediation onto the host country and affected communities.

Barrier 2: Investor-state dispute settlement (ISDS) mechanisms

Investor-state dispute settlement (ISDS) mechanisms in investment treaties and contracts pose another major barrier. ISDS allows foreign investors to bypass domestic courts and claim compensation when public policies affect their investments. Measures needed for a fossil fuel phase-out—such as closing projects, cancelling licences, banning exploration or removing subsidies—can trigger costly arbitration claims. The risk of large awards can create regulatory chill, discouraging governments from adopting ambitious climate policies or causing them to delay climate action. Fossil fuel companies can also use ISDS to challenge or deter corporate accountability measures addressing social and environmental harm. This makes it harder for governments to close extraction projects and reduce reliance on fossil fuels. More broadly, ISDS constitutes a major international legal barrier to a just transition by constraining governments' policy space to implement climate commitments

Barrier 3: Promotion of false solutions and 'net zero'

A third barrier to a transition away from fossil fuels are those policies that are promoted as "solutions" but that in practice allow polluters to continue polluting and using fossil fuels. These false solutions are usually promoted under the logic of "net zero", which allows polluters to claim emission reductions on paper through market or technological schemes

that leave real emissions untouched. In the case of carbon offsets, polluters do not have to reduce their emissions as long as they purchase carbon offset credits generated by projects established mostly in the Global South. These projects often harm communities and fail to deliver real emission reductions. The same flawed logic underpins technological carbon removals, such as the unproven carbon capture and storage (CCS) technology, which is draining billions in public funds without delivering the reduction in CO2 that it promises. Contrary to what polluting industries present , false solutions are not climate policies as they are in fact prolonging fossil fuel extraction.

Barrier 4: An energy addition instead of a transition

The focus on 'green' growth and consequent pursuit of critical minerals in the context of the 'green' transition perpetuate existing dynamics of dependency and unequal exchange. Under this framework, high-income countries are increasing their demand for critical minerals decisively. Resource-rich countries, where these minerals are being sourced, consume way less of them, but bear the environmental impacts of the mining of those materials, such as pollution, water scarcity, and CO2 emissions. At the same time, the consumption of energy sourced from fossil fuels is not decreasing. This leads to an energy addition, not an energy transition. Instead of addressing over-consumption, high-income countries expand and diversify their demand for energy and add to the negative impacts on people and the environment of mining and extraction. What is worse, the demand for these critical minerals is rising across sectors, including defence, AI, and the automotive industry, increasing competition with renewable energy for such limited resources.

b) What potential levers, whether economic, financial, institutional, social or technological, exist for accelerating the implementation of the transitioning away commitment?

Lever 1: Responsible Divestment From Fossil Fuels

International standards on business and human rights that require companies to conduct due diligence to avoid and address harm when exiting projects – including remediating harms they caused or contributed to - must be binding and tailored to specific industries. In the context of phasing out fossil fuels, the implementation of legal, regulatory, and judicial mechanisms on responsible divestment will help put the costs of the damages of extraction and use fossil fuels – i.e. the so-called 'externalities' - where they should be: on the balance sheets of companies causing those damages. (Together with partners, we have developed International Principles for Responsible Divestment: https://www.somo.nl/divesting-responsibly-from-fossil-fuels/)

Making affected people active participants in the divestment process, and holding harmful companies accountable for reparations; ecosystem restoration; and the decommissioning of coal, oil, and gas infrastructure, will accelerate the economic non-viability of fossil-based industries while rejecting the extractivist model that underpins them.

Responsible actors

Multilateral and regional organisations must develop binding requirements on responsible divestment. States should develop and align their legal and regulatory power towards the responsible phase-out from fossil fuels. Companies must comply with these requirements, and refrain from using arbitration tribunals to challenge states' actions towards responsible divestment.

Required instruments

International binding instruments referring to responsible divestment; implementation and alignment of national laws and regulations that ensure participatory planning for phasing-out fossil fuels while also developing mechanisms that compel harmful companies to cover the costs of reparation and decommissioning before exiting extraction projects.

Key milestones and timelines

Short term:

- Develop phase-out plans with the active participation of affected people
- Implement legal and regulatory mechanisms requiring fossil fuel companies to pay for damages and decommissioning obligations before exiting projects

Medium term:

- Adopt a multilateral agreement to stop fossil fuel proliferation, including obligations for responsible divestment

Long term:

- Ensure responsible divestment from any remaining fossil fuel activities

Gender-responsive and human-rights-based approach

The proposal further develops requirements on responsible exit contained in international frameworks on business and human rights. It aligns with various instruments of the United Nations, including the International Court of Justice's advisory opinion on climate change of 2025 and the UN Special Rapporteur's report A/HRC/59/42 among many others.

<u>Lever 2: Elimination of ISDS Risks For A Just Transition</u>

Governments can eliminate ISDS through a coordinated strategy combining unilateral and multilateral action. At the national level, governments should stop signing new treaties with ISDS and begin terminating or withdrawing from existing investment treaties in line with treaties' termination clauses. At the regional and global level, governments should work toward a multilateral instrument to jointly terminate investment treaties or amend them to remove ISDS and coordinate efforts to neutralise treaty sunset clauses which extend investor protection after termination. Removing ISDS protections would restore policy space for governments to implement fossil fuel phase-outs, close extraction projects, and address social and environmental harms without the threat of costly arbitration.

Responsible actors

National governments should lead treaty termination and reform. Regional organisations and state coalitions can coordinate withdrawals and neutralise sunset clauses. International organisations, experts, civil society, and affected communities should be consulted in legal design, research, and policy coordination in support of these efforts.

Required instruments

A moratorium on ISDS provisions in future treaties and contracts; letters expressing notification of termination/withdrawal from investment treaties; joint *inter se* agreements neutralising sunset clauses; development of a multilateral instrument to terminate or reform investment treaties to scrap ISDS.

Key milestones and timelines

Short term:

- Governments adopt a moratorium on ISDS in future treaties and contracts;

- Governments begin terminating or amending existing treaties; and
- Governments establish an international coalition on ISDS exit.

Medium term:

- States negotiate and adopt a multilateral opt-out instrument to jointly terminate investment treaties and neutralise sunset clauses.

Long term:

- States strengthen domestic and regional legal systems to ensure access to justice and effective remedies in line with national and international obligations.

Gender-responsive and human-rights-based approach

Removing ISDS strengthens governments' ability to implement policies that protect human rights, public health, and the environment. This helps safeguarding communities that are disproportionately affected by fossil fuel extraction—especially women, Indigenous peoples, and frontline communities—while enabling more inclusive and equitable transition policies.

Lever 3: Eliminating false solutions from energy transition plans

False solutions, such as carbon offsetting or carbon capture and storage, should not be included in transition or climate action plans. They prevent a real transition away from fossil fuels by allowing polluting actors to continue to pollute.

Governments must enforce emission reduction targets for industries, ensuring these targets are met without the use of false solutions. Genuinely hard-to-abate emissions should be disclosed but not offset. Regulations must focus on achieving absolute emission reductions rather than relying on creative accounting tricks.

Lever 4: Promote demand reduction in high-consumption countries

Governments can implement policy measures to promote demand reduction of energy in high-consumption countries. These can include investing in shared mobility options, promoting measures for limiting energy use in households and the industry and promote viable alternatives to current modes of transport. Instead of focusing on how to provide an increasing amount of energy for increasing consumption patterns (and thereby expanding the sourcing of raw materials for energy provision), policy efforts should focus on promoting demand reduction through stimulants for less resource-intensive ways of living and producing.