

SUSTAINABILITY

A Snapshot of COP28: the good, the bad and the promising

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It has been almost two months since the United Nations ("UN") Climate Change Conference of the Parties to the UN Framework Convention on Climate Change 2023 ("COP28") came to an end on 13 December 2023 in the United Arab Emirates. COP28, arguably the largest international climate change conference, was attended by approximately 197 countries comprising of about 85,000 participants that contributed to the various outcomes of COP28.^[1]

Following years of negotiations by participating countries on the establishment of a Loss and Damage Fund during the annual Climate Change Conference of the Parties to the UN Framework Convention on Climate Change, António Guterres ("Guterres"), the UN Secretary General, urged developed countries to establish and contribute towards the fund to facilitate climate change justice, specifically in developing countries.^[2] The Loss and Damages Fund, which was not yet operational prior to COP28, has been an enduring demand of developing countries, especially those developing countries that contribute the least to the climate change crisis but face the harsh consequences thereof, such as floods, droughts and food insecurity.^[3] In a landmark decision on the first day of COP28, delegates not only agreed to a historic agreement on the Loss and Damage Fund but developed countries also pledged approximately ZAR13 billion towards the fund.^[4] As the climate crisis gets progressively worse and the consequences become more severe the Loss and Damage Fund is one of the outcomes of COP28 which will assist vulnerable developing nations to mitigate the impact of climate change.

Guterres, in addition, reported during the early days of COP28 that 2023 was the hottest year on record since the 1850, with average temperatures that were about 1.48°C warmer than the pre-industrial period of 1850 to 1900.^[5] The results of the Copernicus Climate Change Service confirmed that global temperatures are edging closer to the 1.5°C, contrary to the objectives set out in Article 2(1)(a) of the Paris Agreement.^[6] In the face of increasing concentrations of greenhouse gases due to human activities and industrial processes, Guterres in all earnest appealed to the participants of COP28 to phase out fossil fuels to decrease greenhouse gas emissions in order to alleviate the effects of the climate change crisis.^[7]

Despite the grim prospects on the climate change crisis articulated at COP28, it is noteworthy that the oil-producing and exporting countries recognised the need to reduce methane gas emission and move towards "zero" methane gas emission by 2030.^[8] An assessment by the UN Environment Programme reported the devastating effects of methane gas emission on the environment, citing that it contributes to the formation of ground-level ozone, a hazardous air pollutant and greenhouse gas, that results in approximately 1 million premature deaths annually.^[9] In response to the oil-producing and exporting countries commitment, Guterres noted that these commitments do not pass muster as the commitment falls short of what is required to meaningfully address the contribution of this industry to the climate change crisis.

COP28 was filled with historic moments, one of which was the Declaration on Sustainable Agriculture, Resilient Food Systems, and Climate Action ("**Sustainable Agriculture Declaration**"), which was signed by 152 countries (as on 10 December 2023).^[10] Surprisingly, South Africa (as on 10 December 2023) was not a signatory of the Sustainable Agriculture Declaration despite the agriculture industry in South Africa being reported as the fastest growing sector of the South African economy in the second quarter of 2023, contributing approximately R60.2 billion to South Africa's Gross Domestic Product.^[11] The objectives of the Sustainable Agriculture Declaration include (i) promoting food security and nutrition through targeted research and innovation, (ii) strengthening the integrated management of water in agriculture and food systems to ensure sustainability and

(iii) advancing resilience activities to reduce the vulnerability of the stakeholders in the agricultural sector.[12] Notwithstanding the explicit objectives set out in the Sustainable Agriculture Declaration, the declaration does not contain any timeframe on when the signatories aim to achieve the objectives set out therein.

Participants at COP28, such as the United Kingdom, France, the Netherlands and United States of America, were amongst 22 countries that adopted the Declaration to Triple Nuclear Energy ("**Nuclear Energy Declaration**"), which emphasises the need for global efforts that will accelerate zero and low carbon emission technologies such as nuclear, renewable, abatement and removal technologies.[13] In terms of the Nuclear Energy Declaration, the signatories pledge to (i) advance global aspirational goals of tripling nuclear energy capacity by 2050, (ii) ensure that nuclear power plants that they operate domestically are in line with the highest safety standards and (iii) mobilise investments in nuclear power through innovative financing mechanism.[14] The Nuclear Energy Declaration could therefore play an integral part in global efforts to achieve the net-zero objectives set out in the Paris Agreement, provided that the objectives are attained in a sustainable manner.

During COP28, the UN Environment Programme and the Cooling Coalition in its Global Cooling Watch for 2023 noted that rising global temperatures necessitate a growing demand for cooling equipment.[15] Accordingly, it was reported in the Global Cooling Watch for 2023 that an integrated action plan comprising of (i) passive strategies to reduce cooling demands, (ii) higher energy efficiency standards and norms for cooling equipment and (iii) a reduction in hydrofluorocarbon refrigerators is required to address the impact of the cooling sector on the climate crisis.[16] In response, 60 participating countries at COP28 made a commitment to reduce the greenhouse gas emission associated with the cooling sector by 2050.[17]

Lastly, a coalition of 30 participating countries at COP28, announced their commitment to mutually recognise clean hydrogen certificates in line with the Declaration of Intent on Mutual Recognition of Low-Carbon Hydrogen Certification Schemes ("**Hydrogen Certification Declaration**") and ISO/TS 19870:2023[18] to ensure that producers sustainably produce and trade green hydrogen.[19] In addition to ensuring that green hydrogen is produced sustainably, the main objective of the Hydrogen Certification Declaration is to enable the long-distance cross-border flow of low-carbon hydrogen that is produced from renewable sources of energy.[20]

It is evident from the various outcomes from COP28 that a multi-disciplinary concerted effort is required to address the contributing factors and consequences of the climate change crisis. Even though the participants of COP28 made numerous commitments to address the climate change crisis, it remains unclear whether the objectives set out in the commitments will be achieved and if so, whether it will alleviate the ramifications of global warming. Nevertheless, South African companies engaging in transactions with multinational companies in jurisdictions that have signed and adopted any of the declarations approved by the participating countries at COP28 should consider incorporating the objectives of the COP28 declarations into the internal policies (if not already done) to ensure that they remain competitive in the global market.

[1] "Climate: highlights of COP28" published by the United Nations on 14 December 2023, available on <https://unric.org/en/climate-highlights-of-cop28/> (accessed on 11 January 2024)

[2] "COP28 talks open in Dubai with breakthrough deal on loss and damage fund" published by the United Nations on 30 November 2023, available on <https://news.un.org/en/story/2023/11/1144162> (accessed on 11 January 2024)

[3] "COP28 agrees to establish loss and damage fund for vulnerable countries" published by the World Economic Forum on 1 December 2023, available on <https://www.weforum.org/agenda/2023/12/cop28-loss-and-damage-fund-climate-change/> (accessed on 7 January 2024)

[4] "Pledges to Loss and Damage Fund at COP28 – Calling for accountability in Climate Finance" published by the IRC, Water For People and Water for Good on 19 December 2023, available on <https://www.ircwash.org/blog/pledges-loss-damage-fund-cop28> (accessed on 8 January 2024)

[5] "UN declares 2023 hottest year ever as crucial climate summit starts" by Laura Millan, published on 30 November 2023, available on <https://www.bloomberg.com/news/features/2023-11-30/united-nations-calls-2023-hottest-year-ever-at-dubai-cop28-climate-talks> (accessed on 8 January 2024)

[6] Paris Agreement to the United Nations Framework Convention on Climate Change, 12 December 2015

[7] "Climate: highlights of COP28" published by the United Nations on 14 December 2023, available on <https://unric.org/en/climate-highlights-of-cop28/> (accessed on 7 January 2024)

[8] "Climate: highlights of COP28" published by the United Nations on 14 December 2023, available on <https://unric.org/en/climate-highlights-of-cop28/> (accessed on 7 January 2024)

[9] "Methane emissions are driving climate change. Here's how to reduce them." published by the United Nations Environment Programme on 20 August 2021, available on <https://www.unep.org/news-and-stories/story/methane-emissions-are-driving-climate-change-heres-how-reduce-them> (accessed on 10 January 2024)

- [10] "COP20 UAE Declaration on Sustainable Agriculture, Resilient Food Systems, and Climate Action", available on <https://www.cop28.com/en/food-and-agriculture> (accessed 14 January 2024)
- [11] "Minister Thoko Didiza welcomes latest figures released by Statistics South Africa on Gross Domestic Product", available on <https://www.gov.za/news/media-statements/minister-thoko-didiza-welcomes-latest-figures-released-statistics-south> (accessed on 20 January 2024)
- [12] "COP20 UAE Declaration on Sustainable Agriculture, Resilient Food Systems, and Climate Action", available on <https://www.cop28.com/en/food-and-agriculture> (accessed 14 January 2024)
- [13] "COP28 recognises the critical role of nuclear energy for reducing the effects of climate change" published by the Nuclear Energy Agency, available on https://www.oecd-nea.org/jcms/pl_89153/cop28-recognises-the-critical-role-of-nuclear-energy-for-reducing-the-effects-of-climate-change (accessed on 20 January 2024)
- [14] "Declaration to Triple Nuclear Energy", available on <https://www.state.gov/declaration-to-triple-nuclear-energy/> (accessed on 19 January 2024)
- [15] "Global Cooling Watch 2023" published by the United Nations Environment Programme, available on <https://www.unep.org/resources/global-cooling-watch-2023> (accessed on 19 January 2024)
- [16] "Global Cooling Watch 2023" published by the United Nations Environment Programme, available on <https://www.unep.org/resources/global-cooling-watch-2023> (accessed on 19 January 2024)
- [17] "Global Cooling Pledge for COP28", available on <https://www.cop28.com/en/global-cooling-pledge-for-cop28> (accessed on 20 January 2024)
- [18] ISO/TS 19870:2023 Hydrogen Technologies – Methodology for determining the greenhouse gas emissions associated with the production, conditioning and transport of hydrogen to consumption gate
- [19] "30 countries commit to mutual recognition of clean hydrogen certificates", available on <https://www.euractiv.com/section/energy-environment/news/30-countries-commit-to-mutual-recognition-of-clean-hydrogen-certificates/> (accessed on 20 January 2024)
- [20] "Climate: highlights of COP28" published by the United Nations on 14 December 2023, available on <https://unric.org/en/climate-highlights-of-cop28/> (accessed on 7 January 2024)



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