TOWARDS A FOSSIL FUEL NON-PROLIFERATION TREATY: PRECEDENTS, PATHWAYS AND OPENINGS

Outcomes of the Fossil Fuel Treaty Symposium | 28-29 September, 2022

FOSSIL FUEL NON-PROLIFERATION TREATY

Rapid Transition Alliance

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It is clearer than ever that the vast majority of remaining fossil fuels must remain in the ground if humanity is to prevent global temperatures breaching the 1.5C and 2C temperature goals of the Paris Agreement and avert the worst effects of global heating. But how?

What kind of mechanism could lead to a fair and orderly withdrawal from fossil fuel extraction, and what might be the pathways to establishing it?

An inaugural Fossil Fuel Treaty Symposium convened in London by the Fossil Fuel Non-Proliferation Treaty campaign, the University of Sussex, the University of Westminster, and the Rapid Transition Alliance sought to address this critical question. Held over two days from 28-29 September, 2022, participants included a combination of academics, lawyers, and civil society experts. The discussion focused on:

- Pathways towards the development of a Fossil Fuel Non-Proliferation Treaty, including both political and legal pathways, and strategies for the global campaign calling for a Treaty;
- The potential provisions and mechanisms that could be included in a Fossil Fuel Treaty;
- And how the idea for a Fossil Fuel Treaty sits within broader efforts towards international governance on fossil fuel supply, including complementary ideas.

Key ideas that arose from this discussion are outlined below.

Background

The latest UN Production Gap report revealed that governments around the world are planning to produce 110% more fossil fuels than can be burned if humanity is to prevent global temperatures breaching the 1.5C threshold. For even half a chance of keeping global heating below 1.5C, 90% of coal and 60% of oil and gas reserves must remain safely in the ground. Meanwhile, a series of 'carbon bombs' have been planted - large scale fossil fuel projects that if detonated would destroy the prospects of keeping global heating below 2C, let alone the more ambitious 1.5C target. Crucially though, 40% of these carbon bombs have not yet reached the production stage, giving humanity a window of opportunity to safely diffuse them.

The campaign for a Fossil Fuel Treaty has entered a crucial phase of its development, with its first nation state endorsement by Vanuatu, calls for a Fossil Fuel Treaty from the Foreign Minister of Tuvalu, the Climate Minister of New Zealand, and the President of Timor Leste (an oil producing country), and a growing chorus of academics, Nobel Prize winners, health professionals, campaigners, parliamentarians, cities, and states all calling for an international framework that restricts fossil fuel production and keeps reserves in the ground. Given this traction, it is an important time to elaborate on the mechanisms and contents a prospective Treaty could contain,

the parallels and precedents that exist that shed light on pathways to a Treaty, and the form a Treaty could take.

A fossil fuel treaty needs to be effective, fair and enforceable, but what might it look like?

1. Contents of a Treaty

A complement to Paris

One key aim of the treaty would be alignment with the Paris Agreement. The Paris Agreement does not mention fossil fuels and its primary focus is on reducing emissions, not reducing the production of the fossil fuels that are in large part responsible for those emissions. As such, the Fossil Fuel Treaty would be complementary, and focussed on fairly and equitably managing the phase out of fossil fuels. The vast international climate governance regime already has responsibility for a vast range of issues including overseeing climate finance, adaptation, loss and damage, emissions mitigation, capacity building and technology transfer mechanisms. Having a separate agreement to cover the supply of fossil fuels would strengthen the Paris Agreement, while allowing the climate regime to focus simultaneously on these many other pressing and complementary matters.

There is certainly scope to push for the strengthening of supply side policies within existing Nationally Determined Contributions (NDCs), but progress to date has been limited. In addition, countries would be able to claim the emissions reductions from supply-side policies under their NDCs and state them as contributions to achieving the aims of a Fossil Fuel Treaty since the overall aim of raising ambition to tackle the climate crisis is the same. Indeed, it may be the case that the prospect of a treaty encourages countries to raise climate ambition, which in turn further galvanises the adoption of supply side policies.

There was a clear consensus at the symposium around the main aims of a Fossil Fuel Treaty, including its focus on the production of all fossil fuels and the infrastructures that enable it. A treaty would provide a multilateral framework for efforts aimed at addressing a broad range of issues, such as financial flows into new fossil fuel projects, keeping large fossil fuel reserves in the ground, and managing fossil fuel exploration and transportation, which also have environmentally and socially damaging impacts. More narrowly, it could seek to implement fossil fuel production phase out timelines and set up a financial mechanism to help fund a just energy transition away from fossil fuels.

As some participants noted, however, the social and environmental impacts of fossil fuels extend way beyond carbon emissions, impacting everything from health, educational attainment, to

biodiversity on land and in the oceans. This broader resistance to fossil fuels has been the focus of protests from Indigenous peoples. Fossil fuel production is intimately related to a series of social and racial inequalities and patterns of colonial extractivism. Carbon-centricity may be the dominant approach to modern climate governance, but a Fossil Fuel Treaty may benefit from charting a different course, harnessing alternative levers of power, and targeting different points of intervention to restrict the supply of fossil fuels. A World Commission on Fossil Fuels, discussed below, could lay the foundation of such a broad approach to tackling fossil fuels.

In terms of core content, the **three pillars** of commitments under the treaty would:

> **(i) *End expansion*:** Insofar as fossil fuels can increasingly be characterised as polluting and hazardous substances, precedents for controls on such substances include the World Health Organization (WHO) Framework Convention on Tobacco Control, the Montreal Protocol, the Minamata Convention on Mercury, the Ottawa Treaty on Anti-Personnel Landmines, and of course the Nuclear Non-Proliferation Treaty. Controls could also be quantifiable targets and commitments (percentages of fossil fuels to stay in the ground by agreed dates) or calculations of the economic worth of fossil fuels that countries are asked to forgo in light of carbon budgets.
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> **(ii) *Phase out fossil fuels*:** This pillar addresses the need to manage the decline of existing projects, investments, and infrastructures. The pace of decline could be determined by a combination of levels of emissions, degrees of responsibility and capacity to meet energy, transport, housing, or other needs through alternative means. Differential timeframes could be set for the phase-out, as is common in many multilateral environmental agreements (such as the Montreal Protocol), as well as arms control treaties. Tailoring commitments to 'respective capabilities' is already a feature of the climate regime.
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> **(iii) *Support a global just transition*:** There are procedural, distributional, intergenerational, and recognition aspects to justice that the treaty would need to address, from who has a right to participate in the treaty's deliberations and on what basis, to managing distributional issues from a transition away from fossil fuels. Intergenerational justice might be invoked and articulated as one of the underlying rationales for the treaty in terms of safeguarding a habitable climate for future generations and procedurally noting the key role of youth groups as stakeholders.

In practice of course these pillars would overlap, in that managed decline would have to be socially just and once expansion stops, decline will begin as projects start to near the end of their lifespan and existing oil and gas wells are depleted (though this natural decline rate is likely not fast enough to stay within 1.5C). Justice principles would inform all three pillars.

Equity & Justice

There was clear agreement about the foundational role that principles of 'equity' and 'justice' should play within a Treaty above and beyond the treatment of these issues under Pillar 3 of the Treaty. Indeed, the notion of 'common but differentiated responsibility and respective capabilities' is already enshrined in the UNFCCC. Due to the differing capacities in both fossil fuel reserves and economic development, as well as the historical responsibility of large fossil producers and consumers, principles of equity must be deeply embedded in the phase out of fossil fuels to provide developmental space to poorer nations that have done the least to cause climate change. The discussion around the importance of equity and justice stimulated ideas around compensation, loss and damage, as well as other mechanisms of support, discussed further below.

Another foundational principle that participants identified should be enshrined in the contents of a Treaty is that the polluter pays. This is an established norm within climate governance but has become ineffective due to corporate capture and flawed often market-based mechanisms that failed to regulate pollution and polluters. Within a prospective treaty, a more fitting principle could be an **'extractor pays'** principle that prevents the dilution of responsibility through the various scopes of emissions and seeks to tackle the root of the problem. An extractor pays principles may also allow the dual targeting of private companies and state enterprises, both of which are deeply entangled with the production of fossil fuels but have different standings under international law.

Money, money, money

The contents of a prospective Treaty must tackle the multi-faceted, complex, and often opaque sphere of finance, which continues to be the lifeblood for expanding fossil fuel production. Participants agreed that a first step of tackling finance could be to address public finance, most notably through Export Credit Agencies (ECAs). ECAs continue to plough billions a year into bank rolling fossil fuel production and often play a catalytic role, de-risking fossil fuel projects for private capital. Many of the newest and largest fossil fuel production projects, such as the development of Liquified Natural Gas (LNG) terminals in Mozambique, would not have been possible without export credit. The irony being that through their 'de-risking' role, ECAs are increasing the risk of stranded assets for many governments in the Global South, while increasing climatic risk for the whole of humanity.

Some progress, however, has been made. The British ECA, UKEF (UK Export Finance), has phased out support for overseas fossil fuel projects, a move which was completely unimaginable just a few years ago. There have also been a raft of transparency initiatives and frameworks, some of

which were announced at COP26, that seek to redirect both public and private finance away from fossil fuels and into the low carbon energy sources of tomorrow. One such initiative was Export Finance for the Future, E3F, jointly launched by the governments of France, Sweden, UK, the Netherlands, Denmark, Germany and Spain to align public finance with climate goals.

Private finance, though, still has a way to go and participants were unsure as to the best way to curtail flows into fossil fuel production. However, as recent analysis of the Carbon Underground 200 found, nearly half of potential emissions from the world's largest energy firms are controlled by just ten shareholders, including BlackRock, Vanguard, and Fidelity Investments. Such a high concentration of ownership over future production – and, by extension, future emissions – means that targeting campaigns at just a handful of private financial actors could have a substantial impact. What became clear during the symposium was the limits to the 'risk-based' framework of finance that relies on changes in the price of dirty and clean assets maintaining optimal financial flows. This framework effectively outsources the speed and scale of decarbonisation to private capital, is subject to regulatory capture and is unable to deal with issues such as carbon lock-in.

Parallels and Precedents

The symposium reflected on the historic successes of other treaties and how these could provide lessons for a Fossil Fuel Treaty. Insights from non-environmental treaties such as the Land Mine Ban treaty illustrate the importance of getting agreement on core principles, then building in annexes and appendices as a more bespoke model of implementation. and not running all negotiations through a consensus-based decision-making process. The UNFCCC Kyoto Protocol offers another example of this, with the UNFCCC providing the overarching principles for the climate regime, followed by the Kyoto Protocol's legally binding emission cuts differentiated by country. However, the consensus-based process of the UNFCCC made it challenging to maintain an approach similar to the Kyoto Protocol, with the Paris Agreement instead adopting a bottom-up approach whereby countries can choose their own level of commitment.

Reflections on the Nuclear Non-Proliferation Treaty (NPT), the Treaty on the Prohibition of Nuclear Weapons (TPNW), the Land Mine Ban Treaty, and the Chemical Weapons Convention suggest a number of key ingredients for success in the multilateral space. For instance, successful campaigns aimed at developing new treaties clearly set out the threat and the potential for harm, while stimulating advocacy and awareness from the grassroots to the very top of governing institutions. Successful campaigns have also been able to shift the narrative and reframe the issue, often highlighting how multilateral efforts are required due to the scope and scale of the challenge. While the Fossil Fuel Treaty campaign has been vital in boosting support for supply-side measures and providing a practical vocabulary for those advocating supply-side policies, there is

still work needed to reframe fossil fuels as a physically harmful and damaging substance, akin to weapons of mass destruction.

Past treaty campaigns were also successful in creating platforms for pioneering states, or first-movers, who could then champion the issue at an international level and galvanise further support and endorsements. Here is where the Fossil Fuel Treaty has already made significant progress, with further announcements expected in the coming months. There has been significant activity among sub-national actors such as cities and social movements on the supply-side which a Treaty could leverage to create national and international pressure. An institutional framework that stimulates internal competition for increasing climate ambition could be effective at shifting norms around fossil fuels. The importance of norm-building was stressed at multiple junctures during the symposium. We need to 'flip the norm' by challenging the dominant idea that fossil fuels are essential to creating wealth and prosperity, instead socialising the idea that fossil fuels are a threat to a habitable planet and a prosperous future.

2. Institutions and Mechanisms

On the institutional landscape that would propel a fossil fuel treaty, there is a clear choice to be made on whether a Treaty is embedded within already existing institutional frameworks, such as the UN General Assembly or the UNFCCC, or whether it seeks to build a new institutional framework from the ground up, outside of the UN. There are potential benefits and pitfalls of both. Attention was drawn to the Plastics Treaty and the rapid progress it has made through the UN Environment Assembly. With a mandate to negotiate a treaty having been agreed at UNEA 5.2 in March 2022, countries are now seeking to bring forward and adopt a treaty within just two years. This is particularly significant given the centrality of plastics production to the expected growth trajectories of petrochemical industries. However, others noted the potential dangers of following a consensus-based framework. The Landmine Ban Treaty and Treaty on the Prohibition of Nuclear Weapons both indicate even faster timeframes are possible, with both being finalised and adopted within one year of securing a negotiating mandate.

Other mechanisms that were deemed vital for any prospective Fossil Fuel Treaty were ones that would address matters of transparency, compliance, enforcement, and finance.

Transparency

Achieving transparency on the supply side is vital to ensure that reserves can be known, monitored, and potentially quantified in terms of forgone extraction. Due to the sheer number of actors within the fossil fuel industry, transparency can bring clarity to forecast production plans, and matters of equity and avoid free-rider problems. The recently launched Global Registry of

Fossil Fuels seeks to do just this by providing transparent, open-source data on fossil fuel production globally, and translating it into its CO_2 equivalent, to enable country governments to directly understand the impact of fossil fuel projects on the remaining carbon budget. Such an initiative could form a vital basis for bringing radical transparency to a proposed Fossil Fuel Treaty.

Compliance

The cyclical nature of politics and the global economy makes a compliance mechanism a necessity to lock in momentum on restricting fossil fuel supply. As changes in government within nations and fossil fuel price spikes in global commodity markets can rapidly shift policy preferences, economic incentives can lead to backsliding on prior commitments. Ensuring compliance is, therefore, a prerequisite for any multilateral agreement on fossil fuel supply. Beyond compliance, there needs to be scope for a mechanism that enables a ramping up of ambition, much like the Paris Agreement and the inclusion of non-regression clauses of the sort which feature in human rights treaties. A ratcheting mechanism will help foster the dynamic norms and inter-state competition required to make supply-side measures a standard feature of ambitious and progressive climate policy.

Enforcement

Alongside compliance comes enforcement. Unlike the Paris Agreement, which is binding but has no enforcement mechanism, a Fossil Fuel Treaty may need one due to the variety of actors involved on the supply side. Positive enforcement mechanisms that could work in this context include financial support and capacity building under pillar 3 of the proposed treaty, as well as negative enforcement mechanisms that could ensure compliance and ever-increasing ambition that might include restrictions on market access to non-parties (as is the case under the Montreal Protocol) or the use of trade mechanisms (as with the EU's Carbon Border Adjustment Mechanism).

Financing a Just Transition

Financial mechanisms are also an essential component of any would-be Fossil Fuel Treaty. One of the original ideas was the formation of a Global Transition Fund where financial resources are generated through measures such as the redirection of fossil fuel subsidies and the implementation of a global carbon tax. Such a fund could take a more proactive and allocative funding role within markets to help foster transitional capacity within the economies that are party to the treaty, helping them build the value chains for low carbon industries.

More broadly, participants stressed the importance of tackling the pervasive issue of sovereign debt, especially given the fact that mounting debt pressures can lead developing nations to expand fossil fuel production. Debt for nature swaps have been used before to support conservation efforts and could be adapted to address the supply side. 'Debt for climate' swaps would provide debt relief to nations that choose to forgo extraction and keep reserves safely in the ground. There is also scope to overlay this mechanism with global biodiversity hotspots so that the development of fossil fuel assets does not come at the cost of destroying the natural world.

3. Opportunities and Pathways

Engaging established players

There are no shortage of opportunities and pathways to further the Fossil Fuel Treaty proposal. We need to build on the successes of national supply side policies with large and industrialised economies, such as France, Denmark, Ireland, and Costa Rica to establish supply-side norms within international politics. Engaging these national and sub-national actors that already have established supply-side policies could be an effective way of furthering the norms and values of a Fossil Fuel Treaty, as well as drawing lessons on what worked and what coalition of actors was required to get the policy over the line.

There are also established clubs composed of nation states and subnational actors that are targeting supply-side measures, such as the Beyond Oil and Gas Alliance (BOGA) and the Powering Past Coal Alliance (PPCA). Clubs like these could provide an important platform for building support for cuts to fossil fuel supply as well as providing a stepping stone to a broader treaty.

Engaging large producers

One area that requires greater thought is what incentives would be required for engaging the largest fossil fuel producers. The mapping of the largest reserves shows that just three hotspots have around 60 percent of carbon bombs: Saudi Arabia, China and Russia. However, all three of these states are highly unlikely to join any Fossil Fuel Treaty in the near term. Within these states, there is very little civic space for democratic contestation over energy pathways. The question is then is how to reduce the overall demand for the fossil fuels these states produce, which would entail more 'demand-side measures'. Following this logic, there is a clear opportunity to engage large energy importing nations, who may be more willing to contemplate supply-side measures. These challenging dynamics show the importance of using both arms of the scissors simultaneously, to address both the demand-side and the supply-side. There are also examples,

such as Australia, of fossil fuel producers seeing opportunities in critical minerals: switching from coal to lithium, for example.

In terms of pathways, there are opportunities through a top-down approach and a bottom-up approach. One top-down approach would be a 'grand bargain' with the largest fossil fuel-producing nations. This would entail developing an offer to producing states to restrict production. Here there is an opportunity to take advantage of the sharp fluctuations in commodity markets, where structurally low fossil fuel prices could wreak havoc on the economies of high-production states. A Fossil Fuel Treaty could provide a framework that streamlines the phase out process and shields economies from global market turbulence and price point speculation.

As part of this 'grand bargain' some participants proposed a set of carbon take back obligations whereby fossil fuel expansion would be contingent on the use of Carbon Capture and Storage (CCS) or Carbon Dioxide Removal (CDR) technologies or, for states that forgo expanding extraction, carbon storage credits. Supporters claim such measures would entail a degree of "calling the bluff" off large producers, essentially telling them to clean up or close down. But they would contradict the goals of the treaty by enabling increased supply on the promise of using technologies that are not yet saleable or well advanced and have thus far mainly been used to facilitate further fossil fuel extraction and are certainly not affordable to poorer countries which would be the only ones with a legitimate demand to access fossil fuels. There are established fora for engaging with these large producers, such as the Net Zero Producers' forum, but there has been very little progress to date and many see it as an ineffective institution or, worse still, a distraction that allows further lock-in of fossil fuel use. Charting this path would be a big gamble on expecting action from an industry that has historically done everything in its power to delay or dilute action and is likely to use its extensive influence and incumbent power to negotiate any such obligations in its favour.

A modular approach

On the other hand, a more bottom-up approach would create and expand fossil-free zones, where extraction, transportation and combustion is prohibited in certain areas. There has already been progress in this area, such as fossil-free zones introduced in national parks and protected areas, so there are already established norms of constraining fossil fuels that can be built on and scaled. This approach would be inherently modular - inviting parties, be it individual states or whole regions, to do what they can, where they can, with a view to raising ambition and commitment from all. This type of approach would help to establish the norm of constraints on fossil fuels, build systems that reward small wins through clubs and build from below. It would bring in producers over time rather than go for a grand bargain. It could build momentum by gaining the support of cities, states, provinces, and other actors.

In a similar vein, there is scope to build in a modular approach to the treaty through the use of annexes and appendices dealing with particular sectors, industries and infrastructures.

As mentioned above, intermediate steps towards establishing the global norms needed to open the political window for the negotiation of a treaty could include the global registry on fossil fuels followed by a World Commission on Fossil Fuels (following the precedent of the World Commission of Dams).

Framings matter

Participants identified that the approach taken to framing matters. Drawing on lessons from humanitarian treaties, when discussing the phase out the narrative could focus on the fossil fuels themselves as the problem, rather than country governments, to enable countries to become part of the solution. However, there are clearly fora and contexts where framings of historical responsibility and transitional capacity are effective at cutting through and garnering support. Indeed, the fact that a large majority of planned fossil fuel production is set to take place within just a handful of states speaks to the opportunity for targeted national level framings. Being guided by climate justice principles will inevitably mean clarifying state responsibilities and duties.

For large parts of the last two centuries, fossil fuels have come to be positively associated with economic prosperity, political stability, and peace. The origins of peace in Europe after the Second World War are often thought to lie in the European Coal and Steel Community that forged a mutual dependence between former enemies France and Germany through energy cooperation. Yet in recent years we have seen energy wars in Europe and the Middle East, as well fossil fuels propping up autocratic regimes around the world from Iran to Venezuela, Russia, and Saudi Arabia, as well as the destabilisation of the climate system by continued reliance on fossil fuels. It is clearly time to *'flip the norm'* and emphasise how peace, prosperity, and democracy are better served by renewable energy systems.

Taking advantage of windows of opportunity

It is critical to mobilise efforts around key windows of opportunity or geopolitical moments when a spotlight is being shone on major players within fossil fuel production. There is ample scope to exploit the opportunities at upcoming meetings of the Conference of the Parties (COPs), where the likes of Australia have bid to host COP29 in 2024 and United Arab Emirates (UAE), a producing state with both carbon bombs and biodiversity hotspots that are threatened by the expanding production, is set to host COP28 next year. IRENA, the intergovernmental organisation that pushes

renewable sources of energy, is also based in UAE, which offers scope to collaborate with the renewables business lobby to present alternative energy pathways.

In some countries, like the UK and Canada, there are windows of opportunity opening up on the domestic political spectrum to set limits on production where prospective producer countries have upcoming elections. As the recently passed Inflation Reduction Act (IRA) in the USA shows, there is now a convergence of policy imperatives around investment, industrialisation and climate change. This has been popularised and legitimised by the success of the Green New Deal (GND) and the Sunrise Movement in the US, as well as in the UK and among various EU member states. Here, there is a clear corollary between a GND for domestic policy and a fossil fuel treaty as a branch of foreign policy.

Such an approach may have added political weight given the ongoing invasion of Ukraine by Russia. Organisations such as Razom (Together) We Stand stress the clear connection between Ukranian efforts to rid their energy supply of Russian fossil fuels and a prospective Fossil Fuel Treaty despite the fossil fuel industry's efforts to use the war to legitimise further expansion.

Overcoming resistance, climbing barriers

A successful treaty would need to overcome resistance, incumbency, and barriers to raising climate ambition. Examples where fossil fuel interests have been highly effective at mobilising these barriers include the Energy Charter Treaty, bilateral investment treaties and investor-state dispute mechanisms. Their effect may be more imagined than real, but the mere threat to use them can be sufficient to stall production cuts by having a 'chilling' effect on climate ambition. These, and many other similar mechanisms, are in urgent need of reform to take away the corporate right of standing in investor state dispute settlement (ISDS) mechanisms, for instance. There is also clearly momentum at the governmental level for unilaterally pulling out of such mechanisms, as the recent moves from Spain, the Netherlands and Poland to withdraw from the Energy Charter Treaty, all citing concerns over the restrictions the treaty places on domestic climate and energy policy. Alongside this there is scope here for NGOs and trade unions to bring cases against fossil fuel majors to reduce the resistance to climate action such as the case brought against oil major Shell by a Dutch court which required it to reduce its greenhouse gas emissions 45% by 2030.

There is also a need - and an opportunity - to draw greater attention to conflicts of interest at the heart of climate and energy policies that enable undue influence over process and policy outcomes. While it's true that companies will never design their own demise, there is scope to create structures and checks and balances that restrict the influence of powerful interests over key regulatory changes. There is a current civil society demand for a new accountability

framework within the UNFCCC, for example. Within the fossil fuel industry, there is scope to challenge the internal incentives structures where bonuses are still tied to increasing extraction, creating a cycle of expansion.

Engaging with, and helping shape, financial innovations

There has been much talk on what type of financial mechanisms would induce producing states to leave large swathes of fossil fuel reserves safely in the ground. The economic logic is to make it more valuable to leave it there, but there are important questions over the longevity and the surety of pledges made within a wider context of economic cycles and price fluctuations. Clearly, there is a need to engage deeply with areas of sovereign debt, credit, and capital markets to ensure reserves remain more valuable in the ground than pumped and burnt. Evidence suggests a correlation between higher sovereign debt burdens and a reliance on fossil fuel exports to generate government incomes. Tying debt relief to keeping reserves in the ground could represent a climate and development win. Such a mechanism would require engaging central banks to extend their reach beyond monetary stability to climatic stability. These so-called Climate Bailouts are gaining support from activists and advocates around the world.

Building coalitions of the affected and effective

If a Fossil Fuel Treaty is to gain real traction it will need widespread support. The campaign will need to bring in affected communities: labour, Indigenous, human rights, gender, and health groups. These issue areas are intimately tied to fossil fuels. Connections to SDGs and our inability to deliver them if fossil fuel expansion continues to need to be identified and tensions and contradictions called out. The beneficiaries or coalitions of the winning and the willing need to be mobilised. As one participant in the symposium asked 'Where are the renewable energy advocates in the supply-side conversation and on the treaty?' There is a need to bring on board business beneficiaries of supply-side policy.

In terms of states, as well as garnering the support of countries vulnerable to the effects of climate change brought about expanding fossil fuels such as Vanuatu, there is also a strong case for engaging with fossil fuel importing countries which, with support, could diversity their economies and reduce their dependence on major fossil fuel exporters through national policy and by creating regional fossil free zones.

Treaty as the umbrella, not the magic bullet

Advocates of a Fossil Fuel Treaty need to beware that it does not become a Christmas tree that everyone hangs their pet issue on until it is weighed down and topples over. There is only so much

a Fossil Fuel Treaty could do to get the world economy off fossil fuels, however comprehensive and ambitious it is. There are many issues it can and should tackle, but it can't tackle them all. It may operate best as a broad umbrella that codifies norms, articulates principles, and adopts a modular approach that builds in flexibility.

Stopping the expansion of fossil fuels and accelerating the wind down of existing infrastructures cannot and will not fall to the treaty alone. Expansion of the industry will need to be addressed through other means. Protecting land and biodiversity, Indigenous peoples' rights, and addressing plastics through a treaty on that subject are among the entry points for pressing for limits on production. Sub-national and regional initiatives and agreements can also help build the treaty from below.

An international treaty will provide a normative and legal framework for a series of other trends and drivers of change: from the falling price of renewables and concerns about stranded assets, to litigation and activism on the part of environmental defenders the world over. Though the emphasis of this symposium was on supply-side policies, reducing demand for fossil fuels is crucial. Whether through addressing advertising, intelligent urban planning, energy conservation and stringent efficiency measures, choice editing and behaviour change, ultimately less supply is required if demand can be curtailed.

It is also vital that the narrative around the Fossil Fuel Treaty is one that balances the urgency of action required with the benefits that can be accrued from restraining fossil fuel production. There is scope here to share and promote examples of evidence-based hope, where notable and successful initiatives from governments, sub-national governments, communities, cities, and citizens to target fossil fuel supply can be leveraged to show that change is not only possible, but desirable. Through this, the campaign can help shift the Overton window around fossil fuels, transforming the idea that they are integral to human prosperity to one where they are deemed a threat to all life on earth, now and in the future. Radical incrementalism means building stepping stones, clubs, building upwards and outwards.

Our societies and economies are still saturated with fossil fuels, so we need to match the scale of the challenge with an ecosystem of transformation: regulating finance, standards, disclosure, due diligence, and litigation: targeted interventions at every stage of the production and consumption supply chain. We need to politicise the debate about fossil fuel supply via difficult conversations about subsidies, tax relief and support to an industry causing so much damage that continues to drive demand through advertising of its products. These intervention points draw on multiple theories of change and means working with unlikely coalitions and partners from above and below. It also means engaging with the theory of practice and doing, working with what you have and doing what you can, whenever and wherever that is possible.

Conclusion

At the time of this Fossil Fuel Treaty Symposium, the Treaty Initiative is two years old and has garnered significant momentum and political support. As the Initiative moves into its next phase, with a focus on diplomatic outreach and securing government buy-in to the need to negotiate a Treaty, the ideas raised during the symposium will become increasingly important. The Initiative invites researchers, lawyers, and experts to continue to contribute to this discussion through their own research work, diving deeper into the questions raised here or developing proposals for mechanisms and institutions that could bring a Fossil Fuel Treaty into existence. In summary, key ideas raised throughout the meeting included:

What?

- Principles of justice and equity are central to the contents of the Fossil Fuel Treaty.
- Contents of the Treaty must be able to engage with the spheres of public and private finance, such as Export Credit Agencies and majority shareholders of large fossil fuel firms.
- An 'extractor pays' principle could help target both state-owned and private fossil fuel companies.
- Key mechanisms within a Treaty:
    - *Transparency* - brings clarity to production plans, matters of equity and helps avoid free-rider problems.
    - *Compliance* – non-regression and the ability to rachet-up ambition.
    - *Enforcement* – positive and negative enforcement mechanisms required.
    - *Financial* – a mechanism to fund a just transition and engage with questions of debt.

Where?

- Questions over where a Treaty would be embedded within existing climate governance landscape (under the purview of the UNFCCC, UN General Assembly or UNEA).
- Creating a new institutional framework from the ground-up through first-movers.
- Benefits and pitfalls to both (e.g. limits to consensus-based approach).

Who?

- Engaged established players who have already introduced supply-side measures (France, Denmark, New Zealand, Ireland & Costa Rica), sub-national actors (cities and states), and existing supply-side clubs (BOGA, PPCA).
- Engaging large producers that are exploring largest carbon bombs (China, Russia, Saudi Arabia) might be difficult, so more needs to be done on the demand-side.
- Engaging with financial institutions such as multilateral development banks and central banks.

How?

- Engaging with impacted communities: indigenous, gender, health, labour, human rights groups.
- Modular approach inviting parties to do what they can, where they can, with ambition rising due to competition. Making use of annexes and appendices to build momentum.
- Take advantage of upcoming climate moments (future COPs in large producer states with biodiversity hotspots).
- Building broad coalitions of the winning and the willing and creating unusal allies.
- Overcoming incumbency by challenging trade agreements (Energy Chater Treaty etc.).
- A Treaty as a broad umbrella that codifies norms, articulates principles and adopts a modular approach that builds in flexibility.

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Further Reading

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