Article 2.1(c) of the Paris Agreement

Prerna Bomzan
Third World Network (TWN)

Provision of Climate Finance from Developed to Developing countries: History & Context

- Provision of climate finance as it relates to Article 2.1(c) and Article 9 of the PA requires a common understanding of its **context** and **negotiating history** which provides the **rationale** for the commitments of Annex 2 Parties (under the UNFCCC)/developed countries (under the PA) for the provision and mobilisation of climate finance to non-Annex 1 Parties/developing countries.

- Rationale for such commitments is based on the recognition of their **historical responsibility** for their emissions. The Preamble of the UNFCCC (Convention) notes, "that the largest share of historical and current global emissions of greenhouse gases has originated in developed countries, that per capita emissions in developing countries are relatively low and that the share of global emissions originating in developing countries will grow to meet their social and development needs".

Provision of Climate Finance from Developed to Developing countries: History & Context

- **Historical responsibility** is therefore the underpinning of the principles of **equity** and **common but differentiated responsibilities and respective capabilities** (CBDR&RC) between developed and developing countries recognised by **Article 3.1 of the Convention**. Article 3 lists down the principles of the Convention.

- **Article 4 of the Convention** containing the commitments **operationalises CBDR&RC** especially **Article 4.7**: "The extent to which developing country Parties will effectively implement their commitments under the Convention will depend on the effective implementation by developed country Parties of their commitments under the Convention related to financial resources and transfer of technology and will take fully into account that economic and social development and poverty eradication are the first and overriding priorities of developing country Parties".

- CBDR&RC is also reflected in **Article 2.2 of the PA** linking the entire PA to Articles 3 and 4 of the Convention's CBDR&RC framework, since **Article 2 of the PA is linked with the Convention which says,** "This Agreement, in enhancing the implementation of the Convention….."

Provision of Climate Finance from Developed to Developing countries: History & Context

- Therefore, the foundational principles of **equity** and **CBDR&RC** are critical for reaching a common understanding of Article 2.1(c) with its **scope and operationalisation through Article 9**. Article 9.1 explicitly continues Articles 4.3 and 4.4 of the Convention's obligations by developed countries on provision of financial resources to developing countries.

- Furthermore, a **whole-of-Article 2** approach comprising both Articles 2.1 and 2.2 is required given inter-linkage and interdependency among them and its complementarity and operationalisation through Article 9.

- **If this context as well as history of developed countries' climate finance obligations is not recognised and Article 2.1(c) is taken in isolation including without its linkage to Article 9 then it can be taken as a great escape by developed countries from their climate finance obligations.**

Provision of Climate Finance from Developed to Developing countries: History & Context

- The provision of finance by the MDBs, the private sector and other financial institutions cannot be regarded as meeting any financial commitments as they do not have any obligation to do so under the Convention and its PA. **It is the developed countries who have the obligations**.

- **This is fundamental to understanding what are climate finance commitments under these multilateral climate agreements.**

- Therefore, the scope and operationalisation of Article 2.1(c) must be based on a **whole-of-Article 2** approach and must be anchored on the principles of **equity** and **CBDR&RC** and in the context of **sustainable development** and **poverty eradication** in order to be achieved through the lens of **climate justice**, given different circumstances of countries shaped by historical and current realities of an imbalanced, neocolonial global order including overwhelming use of the carbon budget by developed countries for limiting temperature rise under Article 2.1(a).

Making sense of Article 2.1(c)

- In the negotiations as recalled by TWN, **Article 2 as a whole** was understood as the **"purpose"** of the PA. While the "purpose" is a global aspiration, it has to be implemented to reflect **CBDR&RC** which means differentiated obligations that are operationalised and spelt out in the **various articles that follow embedding differentiation** in the respective obligations as provided for in the PA.

- A reading of the PA makes clear that the purpose of the PA in Articles 2.1(a), 2.1(b) and 2.1(c) are operationalised or implemented as follows, *inter alia*:
- Article 2.1(a), relating to the temperature goal, by Article 4
- Article 2.1(b), relation to the adaptation goal, by Article 7
- **Article 2.1(c), relating to finance, by Article 9**. In addition, Articles 4 and 7 also contain references to provision of support for implementation.

Article 2.1(c) is therefore an enabler for 2.1(a) and 2.1(b) and not a stand-alone purpose. The link between Article 2.1(c) and Article 9 is therefore the centrality of Article 9 on the provision and mobilisation of climate finance by developed countries as mandatory commitments (Articles 9.1 and 9.3) while other Parties can do so voluntarily (Article 9.2).

Vehicle for Aligning Financial Flows via respective NDCs

- Article 3 of PA states, “As nationally determined contributions to the global response to climate change, all Parties are to undertake and communicate ambitious efforts as defined in Articles 4, 7, 9, 10, 11 and 13 with the view to **achieving the purpose of this Agreement as set out in Article 2**. The efforts of all Parties will represent a progression over time, while recognizing the need to support developing country Parties for the effective implementation of this Agreement”.

- NDCs of developing countries generally cover 2 components – **the conditional component which indicates international resources needed as climate finance per Article 9**, while the unconditional component covers resource mobilisation domestically.

- **Hence, financial flows as a response to climate change should be aligned with Article 2.1(c) as reflected in their NDCs, in response to Articles 2.1(a) and 2.1(b). This means a national responsibility and therefore aligning with their needs and priorities within the context of sustainable development and poverty eradication.**

NO to International Standard Setting and Guiding Frameworks for Alignment of Financial Flows

- Since, aligning financial flows is a national responsibility with appropriate policies and measures respecting national circumstances, and given principles of equity and CBDR&RC, **there should not be a role for a multilateral top-down setting and imposition of standards and frameworks.**

- Asymmetries in the governance of the global financial system predominantly set by developed countries mean that regulatory and policy design in the international financial architecture will not lead to equitable outcomes in developing countries in addressing their climate changes.

NO to International Standard Setting and Guiding Frameworks for Alignment of Financial Flows

- There are currently many standards and initiatives such as the International Sustainability Standards Board's corporate sustainability disclosure that are being drawn up by non-inclusive, un-transparent and opaque processes which are dominated by Northern institutions.

- Such global standards **do not take into account the principles of equity and CBDR&RC** and fail to incorporate differences between developed and developing country entities, including those that are small- and medium-sized.

- **Hence, the adoption of such global standards disadvantage developing countries, especially for the much needed just transition finance to move from high-carbon to low carbon economies and enable climate resilient development.**

NO to International Standard Setting and Guiding Frameworks for Alignment of Financial Flows

- With the lack of public resources to address adaptation challenges, and impacts of rising loss and damage, climate risk assessment by Northern financial sector actors and credit rating agencies will rate developing countries as high risk who are not climate resilient, including those who have mounting debts.

- Hence the cost of borrowing for developing countries will be higher, making it hugely problematic. **Therefore, this is why public resources from developed countries and not reliance on market or the private sector is needed to address these challenges.**

Alignment of Financial Flows must NOT impose 'GREEN CONDITIONALITIES'

- **The alignment of Article 2.1(c) must necessarily include financing for the just transition, as it involves "a pathway", and demonstrates the operationalisation of the principles of equity and CBDR&RC.**

- TWN has heard of experiences that in the name of the need for "Paris alignment", western banks in developing countries are not lending even loans to sectors like steel or coal, even though these sectors are seeking resources to transition away from being carbon intensive or are phasing down from coal. Such cases illustrate the problem of **green conditionalities**, that make adjustments and transitions difficult for developing countries.

- Further, the imposition of conditions such as carbon pricing measures in place before they are allowed access to finance are unjust and unfair impeding **policy space** of developing countries. Such signals to financial actors are contrary to the country driven strategies as embodied in Article 9.3.

Hype about Private Finance and Investment Flows to Developing countries

- Shifting the billions to the trillions is the buzzword but which fails to materialise.

- The expectation for private finance mobilisation has been severely an underperformance according to the SCF's report on the USD 100 billion per year goal (the goalpost now shifted from 2020 to 2025).

- The WB's 'Scaling Solar' project only managed to leverage 28 cents of private finance for every USD 1 of public finance, and only with the support of guarantees, tax breaks and subsidies by the governments.

- Access to low-cost finance is uneven with the cost of capital substantially differing between regions and developing countries often paying an interest rate many times more to private and other official creditors.

Hype about Private Finance and Investment Flows to Developing countries

- From recent IEA's report, the high cost of capital and rising borrowing costs threaten to undercut the economic attractiveness for investments in clean energy in developing countries.
- Studies also show that IFIs have been slow to release finances to meet the demonstrated needs and continue to prioritise de-risking modalities which have little evidence of success.
- Recently, the case of Ecuador – when the referendum of 59% votes decided to keep the Yasuni oil reserves in the Amazon in the ground, the credit rating agency Moody issued a note that it would be a negative factor in credit terms for Ecuador. Moody's note indicating high risk would result in a default qualification and further increase the interest rate paid by the country to its creditors.

Hype about Private Finance and Investment Flows to Developing countries

- Recent July report by the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment is of particular concern.

- **“Paying polluters: the catastrophic consequences of investor-State dispute settlement for climate and environment action and human rights”**

- The summary of the report states that the **ISDS has become a major obstacle** to the urgent actions needed to address the planetary environmental and human right crises. Foreign investors use the dispute settlement process to seek exorbitant compensation from States that strengthen environmental protection, with the fossil fuel and mining industries already winning over USD 100 billion in awards.

CONCLUSION

- Genuine concerns over use of Article 2.1(c) as a way to impose new conditionalities for accessing finance in the name of enabling environment and to shift the burden and responsibility onto developing countries, contrary to Article 9 of the PA.
- Hence, the current stress on Article 2.1(c) by developed countries must not go in the wrong direction, which will make it difficult for developing countries to access the much needed climate finance for meeting their NDC implementation and for contributing to the achievement of the PA.
- G77's common and united understanding on the issue would certainly help in this big fight which cuts across the board in the climate change negotiations. As we know in the course of negotiations, only with the strong unity of developing countries have gains been made, for instance, the establishment of the Loss and Damage Fund at the last COP27 in Sharm el-Sheikh, Egypt.