



DISCUSSION PAPER:
**DEVELOPING A
TRANSPARENCY
ARRANGEMENT FOR
INTERGOVERNMENTAL
COOPERATION ON FOSSIL
FUEL PRODUCTION**

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Key messages

- A transparency arrangement for intergovernmental cooperation on fossil fuel production can help assess the gap between governments' fossil fuel production plans and global climate goals, build trust and facilitate learning between countries, and strengthen overall climate ambition.
- An intergovernmental transparency arrangement on fossil fuel production can be developed as a stand-alone initiative and/or become part of a future treaty on a fossil fuel phase-out.
- The transparency arrangement should take the different circumstances and capabilities of fossil fuel producing countries into consideration and provide for differential treatment and capacity-building support to participate in the arrangement. Differential treatment should however be subject to minimum requirements to ensure that basic information is collected for all participating countries.
- The transparency arrangement should comprise a review by technical experts to ensure that the information compiled is reliable, as well as a peer review among states to help trust-building and facilitate peer learning and sharing of best practices.
- The transparency arrangement should ensure that follow-up activities, such as capacity-building, state-to-state learning, accountability and/or state behaviour change, are linked to the outcomes of the review process.
- The transparency arrangement should provide for the active participation of non-state actors, which can play a key role in sharing information and holding states to account.

Why Is a Transparency Arrangement for Intergovernmental Cooperation on Fossil Fuel Production Necessary?

With the 2015 Paris Agreement, the international community agreed that preventing the most dangerous impacts of climate change requires limiting the global average temperature increase to well below 2°C above pre-industrial levels and that efforts should be pursued to keep warming below 1.5°C.¹ To stay within the 1.5°C carbon budget, 90 percent of coal and nearly 60 percent of oil and gas must remain unextracted by 2050.² The UNEP Production Gap Report specifies that up to 2030 the production of coal, oil and gas needs to decrease annually by 11%, 4% and 3% respectively.³ However, governments continue to support and invest in fossil fuel projects. At the current rate, this will result in more than double the production consistent with the 1.5°C goal.⁴

To align fossil fuel production with climate goals, a better understanding of global trends in current and planned production is required. However, as noted in the Production Gap Report, the available information is incomplete, inconsistent and scattered across a range of transparency initiatives, and much of this information is reported or collected largely on a voluntary basis.⁵ It is therefore imperative that this information be collated and made available in a more systematic way to determine the most equitable and effective means of winding down fossil fuel production to achieve the goals of the Paris Agreement.

The types of information that could be made more transparent include data on the fossil fuels that are produced in a country in a given year, plans and policies for future production, oil and gas wells and coal mines that are under production or in development (including their historical production and projected future production), other fossil fuel infrastructure including pipelines and refineries, and other information facilitating an assessment of the alignment of fossil fuel production and climate goals, amounts of government support for the production of fossil fuels (e.g., fossil fuel production subsidies), and the possible levels of stranded assets that are expected.

An intergovernmental fossil fuel transparency mechanism offers one means through which such information can be collected and made public. Such an arrangement would provide baseline information on fossil fuel production. This information could be used to determine the gap between fossil fuel production and climate goals by assessing the embedded greenhouse gas emissions of future extraction against the emission pathways likely to limit warming to 1.5°C. This information could also be used in climate risk assessments and decision-making about future fossil fuel investments. Importantly, global transparency on fossil fuel production could facilitate a just transition away from fossil fuels, both in terms of assessing the fair allocation of the remaining fossil fuel budget in a way that is consistent with the 1.5°C goal, and supporting country governments to effectively plan for the wind down of fossil fuel production in their territories. A transparency mechanism on fossil fuels could also feed into reporting processes under the climate regime, including the Paris Agreement's global stocktake, to ensure the ongoing production of fossil fuels is adequately reflected in evaluating the global trajectory towards meeting the 1.5°C goal.

An intergovernmental transparency mechanism could also provide an important vehicle for the sharing of best practices between countries regarding fossil fuel phase-out policies and the collection of data in settings where it is difficult for third parties to do so. It would provide a means for enhancing governmental buy-in, by providing reassurance that other countries are also acting to limit fossil fuel production, and could thus offer a foundation for international commitments on limiting production in line with climate goals.⁶

Through regular reporting and review, it is hoped that states and other actors, including corporations, can be better held to account for their actions. Transparency can help to identify states that are shirking their responsibilities or significantly diverging from their climate commitments. Various measures can thus be deployed to help states better align their fossil

¹ Paris Agreement, Article 2.1(a).

² Dan Welsby et al. (2021), 'Unextractable Fossil Fuels in a 1.5 °C World', *Nature* 597(7875), 230–234.

³ SEI, IISD, ODI, E3G and UNEP (2021), *The Production Gap Report 2021*, <http://productiongap.org/2021report>.

⁴ Ibid.

⁵ Ibid.

⁶ Rebecca Byrnes, 'A Global Registry of Fossil Fuels: White Paper' (Fossil Fuel Non-Proliferation Treaty 2020).

fuel production plans with climate goals. These can include the sharing of best practices and experiences, reassurance that other states are also acting in good faith, and the socialisation around attitudes towards the need to draw down fossil fuel production. Enforcement mechanisms can also be utilised, including naming and shaming, various forms of sanctions, and domestic pressure.

Necessary Features and Areas for Consideration

Transparency arrangements, either as stand-alone initiatives or as a component of multilateral agreements, have become a cornerstone of global governance. Examples of these arrangements can be found across many policy areas, including the Enhanced Transparency Framework of the Paris Agreement, the Universal Periodic Review (UPR) of the United Nations Human Rights Council, the Trade Policy Review Mechanism (TPRM) of the World Trade Organization (WTO), and the peer review process of fossil fuel subsidies under the G20. It is these existing mechanisms that we can learn from in developing a future transparency arrangement for intergovernmental cooperation on fossil fuel production that is both equitable and effective.

Allow for differentiation, but subject to minimum requirements

An intergovernmental transparency arrangement should generally encourage transparency across the board, with all countries reporting information and, where appropriate, undergoing review. Not all countries are in the same position, however. Some countries in the Global South may lack the capacity to report or participate in a review, or they may face challenges in collecting the relevant data (which in some cases may be held by privately-owned companies). A flexible approach to reporting and review may thus be warranted for some countries. However, a fully bottom-up approach to reporting and review could lead to key information being omitted, which would hamper an aggregate understanding of trends in fossil fuel production and their alignment with climate change goals, making it more challenging to compare progress across countries. A bounded approach to differentiation could help reconcile these challenges, providing for some flexibility subject to minimum requirements.

For many multilateral environmental agreements, the basic reporting obligations apply to all parties. Yet transparency-related requirements can be differentiated in several ways. First, following the example of reporting under the United Nations Framework Convention on Climate Change (UNFCCC),⁷ substantive reporting requirements could distinguish between different tiers of reporting guidance, for instance, related to ‘must have’ (Tier 1), ‘should have’ (Tier 2), and ‘nice to have’ (Tier 3) information. Reporting guidance would spell out the minimum information subject to mandatory reporting, which could include information that is usually readily available in countries, such as information on the physical infrastructure for fossil fuel production,⁸ as well as other information that is essential for understanding overall trends in fossil fuel production. In addition, guidance could be provided on types of information that may be more difficult to collect for some countries, which could be reported on a voluntary basis. Tier distinctions could concern either the types of information (e.g., information on historical levels of production; production plans and projections; fossil fuel reserves) or the level of granularity (e.g., national-level or basin-level information on fossil fuel production). Over time, with an improving information base, countries could move up between tiers.

A second way of differentiating the requirements concerns the frequency of reporting and/or of review. Specifically, some countries could be required to report more regularly than others (e.g., annually or biannually), or undergo review more frequently than others. For instance, under the Paris Agreement, Least Developed Countries (LDCs) and Small Island Developing States (SIDS) can provide relevant information ‘at their discretion’, whereas other countries are required to

⁷ Intergovernmental Panel on Climate Change (2019), ‘2019 Refinement to the 2006 IPCC Guidelines for National Greenhouse Gas Inventories’, https://www.ipcc.ch/site/assets/uploads/2019/05/01_2019rf_OverviewChapter.pdf.

⁸ Fergus Green and Declan Kuch (2020), ‘Counting Carbon or Counting Coal? Anchoring Climate Governance in Fossil Fuel-based Accountability Frameworks’, Centre for Climate Change Economics and Policy Working Paper 396/Grantham Research Institute on Climate Change and the Environment Working Paper 368, London: London School of Economics and Political Science, <https://www.cccep.ac.uk/wp-content/uploads/2021/08/working-paper-368-Green-Kuch.pdf>.

submit biennial transparency reports.⁹ In the context of international trade governance, the frequency of Trade Policy Reviews under the TPRM is tied to a country's share in world trade.¹⁰ Similarly, the frequency of reviews under an intergovernmental transparency arrangement for fossil fuel production could be tied to a country's share in global fossil fuel production.

Differentiation could provide the necessary flexibility to allow a wide range of governments to participate, and minimum requirements would ensure that a basic level of information is available for all countries. The question then is which countries would be granted differential treatment. Differentiation in an intergovernmental transparency arrangement could be tied to equity principles related to fossil fuel production (e.g., capacity or dependence on fossil fuels),¹¹ and/or consist of listing specific groups of countries (e.g., LDCs and SIDS) that would be treated differently.

Provide capacity-building support

Closely related to the previous point, the lack of capacity and/or information availability also points to the importance of providing technical and financial support to build capacity to allow countries in the Global South to effectively participate in reporting and review, and to implement any recommendations emerging from the transparency arrangement.

Providing support to overcome capacity challenges is a common feature in intergovernmental transparency arrangements in international environmental governance as well as other areas of governance. For instance, the Capacity-Building Initiative for Transparency¹² funds a range of capacity-building projects to support the reporting of information under the Paris Agreement.¹² In the context of human rights, the UPR under the Human Rights Council has established specific funds to support LDCs and SIDS: one to allow to participate in the review, and another to facilitate the implementation of recommendations emanating from the review.¹³ Capacity-building for reporting is important given the general need to disclose information on fossil fuel production. Capacity-building to support countries' participation in a review process can further allow those countries to learn and benefit from the information generated in such a review. Lastly, support to implement recommendations can alleviate fears that a review process would lead to undue burdens.

As with the differentiation of reporting and review requirements, capacity-building efforts could target a specific (groups of) countries based on equity principles, or generally focus on those countries with the lowest capacities (e.g., LDCs and SIDS).

Combine expert and peer review

Two broad types of review can be distinguished in intergovernmental transparency arrangements: (1) the verification of information by technical experts; and (2) a political process of peer review among governments. A review by independent technical experts can offer a detailed check of reported data along a set of objective criteria (e.g., accuracy, completeness, consistency) without having to engage in a discussion on the subjective, political dimension of the reported information. Such a review can serve to build the confidence that the reported information is trustworthy. In the context of other international regimes, such reviews are often carried out by bureaucracies, such as the Secretariat of the Convention on Biological Diversity for the Nagoya Protocol, or the WTO Secretariat for the TPRM. Alternatively, independent experts can be drawn upon, such as the people listed in the UNFCCC's roster of experts.

Several international review processes also involve state-to-state interactions, or peer reviews. Such reviews can help build mutual trust and enhance learning across countries. For instance, in the context of the G20's 2009 commitment to phase out fossil fuel subsidies, several G20 countries – starting with the United States and China – have undergone peer reviews

⁹ UNFCCC, 'Decision 18/CMA.1, Modalities, Procedures and Guidelines for the Transparency Framework for Action and Support Referred to in Article 13 of the Paris Agreement' UN Doc. FCCC/PA/CMA/2018/3/Add.2 (19 March 2019), paragraph 4 and Annex, paragraph 11.

¹⁰ See https://www.wto.org/english/tratop_e/tptr_e/tptr_e.htm.

¹¹ Greg Muttitt and Sivan Kartha (2020), 'Equity, Climate Justice and Fossil Fuel Extraction: Principles for a Managed Phase Out', *Climate Policy*, 20(8), 1024–1042.

¹² UNFCCC, 'Decision 1/CP.21, Adoption of the Paris Agreement' UN Doc. FCCC/CP/2015/10/Add.1 (29 January 2016) paragraph 84.

¹³ <https://www.ohchr.org/EN/HRBodies/UPR/Pages/TrustFundParticipation.aspx> and <https://www.ohchr.org/EN/HRBodies/UPR/Pages/TrustFundImplementation.aspx>.

of each other's subsidies and intended reforms in pairs.¹⁴ In other contexts, peer review has involved opportunities for states to ask each other questions. This has been the case in international regimes as diverse as human rights (the UPR), trade (the TPRM), and climate change (the 'facilitative sharing of views' and 'multilateral assessment' under the UNFCCC, and the 'facilitative, multilateral consideration of progress' under the Paris Agreement). Although there is a risk that such questions-and-answers sessions become a mere formality,¹⁵ peer reviews provide an opportunity for states to ask each other the more politically oriented questions that expert reviewers may not be well-positioned to ask. As the example of the UPR shows, this could help build peer pressure, and foster a process of socialisation to prevailing norms.¹⁶ This could promote adherence to such norms without resorting to 'naming and shaming' or coercion, which is important with a view to securing the widest possible participation in the transparency arrangement.

For an intergovernmental transparency arrangement on fossil fuels, it will be important that the data reported be reliable, but at the same time, the review process should also serve to build trust among countries in an area where information disclosure is still lagging behind. However, providing for expert review will have resource implications, as it will require financial and human resources to allow experts (whether part of a Secretariat or independent) to effectively carry out their tasks.

Ensure follow-up

There are two broad types of follow-up in intergovernmental transparency arrangements, namely facilitative and goal-oriented approaches. Facilitative processes focus on policy learning through the sharing of lessons learnt, and the identification of challenges and opportunities. State needs, in terms of capacity-building and opportunities for cooperation, can be identified through open dialogues between states, possibly involving non-state actors and expert reviewers. A goal-oriented approach focuses on improvements in state conduct and involves identifying priority actions for states to implement. This process usually occurs within peer review (as in the UPR) and can be more political and adversarial than the facilitative process, as states can ask questions, provide comments and make recommendations concerning the behaviour and progress of the state under review.

A necessary component of a facilitative approach is the building of linkages from the review process to capacity-building, resource mobilisation and implementation support. A facilitative approach will generally be apolitical and avoid recommendations or requirements for behavioural change. The aim of a facilitative process is to develop capacity and build peer-to-peer learning, and its strength lies in wide acceptance and buy-in and the building of confidence and mutual trust. An example of this type of process can be found in the above-mentioned peer review process under the Paris Agreement, which is designed to be implemented in a facilitative, non-intrusive, non-punitive manner. Expert reviewers and other states are instructed to avoid querying the adequacy of state commitments with respect to achieving global climate goals, so as to avoid politicising the process.¹⁷ While a facilitative process can potentially be transformative in its ability to socialise states to emergent norms and thereby improve state behaviour and social accountability, it also risks delegating the important task of holding states to account to non-state actors. The design should ensure accountability is embedded within the process, possibly through the formal inclusion of civil society actors within the process (see below).

The goal-oriented approach is more overtly focused on holding states accountable and ensuring immediate behaviour change. The UPR employs this type of approach, allowing questions, comments and recommendations from any UN Member State. The state under review has an opportunity to respond, choosing to either accept or note recommendations,

¹⁴ Organisation for Economic Co-operation and Development (OECD) (2021), 'OECD Companion to the Inventory of Support Measures for Fossil Fuels 2021', Paris: OECD.

¹⁵ See, e.g., Jan Karlas and Michal Parížek (2019), 'The Process Performance of the WTO Trade Policy Review Mechanism: Peer-Reviewing Reconsidered', *Global Policy*, 10(3), 376–384; Aarti Gupta, Sylvia Karlsson-Vinkhuyzen, Nila Kamil, Amy Ching and Nadia Bernaz (2021), 'Performing Accountability: Face-to-Face Accountgiving in Multilateral Climate Transparency Processes', *Climate Policy*, 21(5), 616–634.

¹⁶ Ryan Goodman and Derek Jinks (2004), 'How to Influence States: Socialization and International Human Rights Law', *Duke Law Journal*, 54(3), 621–703; Damian Etone (2019), 'Theoretical Challenges to Understanding the Potential Impact of the Universal Periodic Review Mechanism: Revisiting Theoretical Approaches to State Human Rights Compliance', *Journal of Human Rights*, 18(1), 36–56.

¹⁷ Decision 18/CMA.1 (n. ix), paragraph 149.

which are then included in the final report of the review. The reviewed state then has a responsibility to implement recommendations and is expected to provide information on how they have done so in the subsequent review.

In addition to the individualised review process, an additional component of the transparency mechanism could be a global-level review, in which country-level data are aggregated to understand how collective efforts are progressing, both in terms of successes and limitations. This allows for both a technical assessment and understanding in relation to gaps and future needs, but also the creation and maintenance of political impetus and momentum. For this to be achieved, it is important that country reports be prepared in a standardised format, as the data is then easier to compare and aggregate. Such a global-level review could either mirror, or feed into, the five-yearly global stocktake under the Paris Agreement.¹⁸ An important element of the global stocktake is that the outcomes are directly linked to follow-up actions, as they are explicitly stated to inform the nationally determined contributions that Parties submit every five years.

The two general approaches to follow-up, along with the collective review are not mutually exclusive and can be combined to enhance the outcomes of the transparency mechanism. One way of doing this would be through the development of a staged process. This could involve an initial period of only a facilitative review, with a focus on information gathering, reporting and learning. A second phase could include a global review, with gap analysis and examination of progress and needs. The final phase could introduce goal-oriented accountability, in which states would have an opportunity to ask questions, provide comments and make recommendations for improvement, that would need to be responded to by the state under review.

Provide for participation and openness

Non-governmental organisations and businesses hold important information on fossil fuel production and there should be an opportunity to bring such information into the intergovernmental transparency process. Non-state actors can also strengthen reporting and review and highlight gaps in information, best practices, and options for future action.¹⁹ Some existing transparency arrangements allow for only indirect involvement of non-state actors. However, others, such as the UPR, specify a more formalised role. The UPR provides for participation for ‘other stakeholders’, including civil society and national human rights institutions. These actors can submit written information to be considered during the review process. They can also gain accreditation to observe the UPR Working Group and can attend and make oral contributions to the Human Rights Council sessions where the outcomes of state reviews are considered.

The important role that civil society actors frequently play in monitoring state compliance and their work in helping to overcome barriers could similarly be formalised in a fossil fuel transparency arrangement, for example through consultation with expert reviewers, and the submission of comments and shadow reports. This can also be achieved, although to a lesser extent, by ensuring openness and accessibility of the process to the general public and non-state actors, including making reports and other documents publicly available and webcasting meetings. For this to be most successful, information should be provided in systematised and accessible formats so as to be easily understandable and useful to non-state actors who may not have full technical capacities to utilise the information made available.

The level and type of involvement of fossil fuel companies also need to be given consideration. While engaging in constructive dialogue with fossil fuel companies may be an important part of planning and implementing the transition away from fossil fuels, allowing for their wholesale participation in a transparency mechanism risks its hijacking by vested interests and corporate capture, especially with regard to the release of information relating to untapped reserves and markets. While not directly transparency-related, the World Health Organization (WHO) Framework Convention on Tobacco Control directly recognises the role that the tobacco industry has played in subverting the role of governments and the WHO in implementing tobacco-related health policies and that there is ‘a fundamental and irreconcilable conflict between the tobacco industry’s interests and public health policy interests’.²⁰ Given the similar role that fossil fuel

¹⁸ Paris Agreement, Article 14.

¹⁹ Harro van Asselt, ‘The Role of Non-State Actors in Reviewing Ambition, Implementation, and Compliance under the Paris Agreement’, *Climate Law*, 6(1–2), 91–108.

²⁰ WHO (2008), ‘Guidelines for Implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control, Geneva: WHO, www.who.int/fctc/guidelines/adopted/article_5_3/en/.

companies have played in undermining the science of climate change,²¹ it is worth considering whether a similar stipulation to protect government policy around winding down fossil fuel production needs to be considered.

The WHO has also adopted a Framework for Engagement with Non-State Actors (FENSA)²² to help guide non-state actor engagement, including avoiding conflicts of interest. The framework sets out a series of policies for how the WHO should engage with different types of non-state actors and how the risks of each should be assessed. Non-compliance rules are also established that can lead to termination of non-state actor engagement with the WHO. The FENSA establishes a transparent process in which an annual report is produced outlining non-state actor engagement, including assessment and management of risks. There is also a public registry of non-state actors and their type of engagement with the WHO. These elements could be included within an intergovernmental fossil fuel transparency arrangement, with the development of rules of engagement and an open registry of non-state actor participation. A component of this registry could be the inclusion of commitments of non-state actors, such as fossil fuel companies, and the disclosure of relevant information. Similar lists of voluntary commitments are collected in repositories, such as the UNFCCC's Global Climate Action portal²³ and the Biodiversity Convention's registry of non-state actor biodiversity commitments.²⁴

Finally, there are an increasing number of examples of state-based legislation requiring corporate disclosure, including disclosure of information from offshore activities. For example, both the United States²⁵ and EU²⁶ have brought in rules requiring companies to disclose the use of conflict minerals across their entire supply chains and due diligence obligations respectively. Similar rules pertaining to fossil fuel company production and/or phase out plans could be developed by individual states. These could then be disclosed as part of the intergovernmental reporting process, allowing for the sharing of best policy practices and the creation of consistent rules regarding company reporting requirements. Gathering such information is integral to planning for a shift away from fossil fuels and for holding fossil fuel companies accountable to their commitments.

Towards an Intergovernmental Transparency Arrangement for Fossil Fuels

An intergovernmental transparency arrangement on fossil fuel production can be developed as a stand-alone initiative, or become part of a future international agreement on a fossil fuel phase-out, such as the proposed Fossil Fuel Non-Proliferation Treaty.²⁷ Even if an intergovernmental transparency arrangement is first developed as a stand-alone initiative, it could provide a basis for the development of an international agreement, or be integrated in the latter over time. The distinction drawn here matters as some suggestions for a transparency arrangement may require dedicated financial and human resources, which may be more easily provided for under an international agreement – which can usually avail of a dedicated secretariat. Whether the features of an intergovernmental transparency arrangement outlined above can be integrated thus depends in part on whether the arrangement is embedded in a broader institutional structure – e.g., a fossil fuel treaty negotiated under the auspices of the United Nations – or whether it is designed as a stand-alone initiative – e.g., as an initiative by a coalition of like-minded countries.

Ultimately, the form that the transparency arrangement will take is subject to negotiations by countries. Nevertheless, transparency mechanisms in other international regimes demonstrate that there are lessons to be learnt for the design and implementation of a fossil fuel transparency arrangement. First, it is important that the different circumstances and capabilities of fossil fuel producing countries be taken into consideration through differential treatment and capacity-building. Second, regardless of differentiated responsibilities, minimum requirements need to be established to

²¹ Geoffrey Supran and Naomi Oreskes (2017), 'Assessing ExxonMobil's Climate Change Communications (1977–2014)', *Environmental Research Letters*, 12(8), 084019; Christophe Bonneuil, Pierre-Louis Choquet and Benjamin Franta (2021), 'Early Warnings and Emerging Accountability: Total's Responses to Global Warming, 1971–2021', *Global Environmental Change*, 102386.

²² WHO (2016), 'Framework of Engagement with Non-State Actors', WHA Doc A69/10, Annex I.

²³ UNFCCC, 'Global Climate Action', <https://climateaction.unfccc.int/>.

²⁴ Convention on Biological Diversity, 'Options to Enhance Planning, Reporting, and Review Mechanisms with a View to Strengthening the Implementation of the Convention', UN Doc. CBD/SBI/3/11 (19 October 2020).

²⁵ Dodd-Frank Act on Conflict Minerals (2012).

²⁶ Regulation (EU) 2017/821 <https://eur-lex.europa.eu/eli/reg/2017/821/oj>.

²⁷ Peter Newell and Andrew Simms (2020), 'Towards a Fossil Fuel Non-Proliferation Treaty', *Climate Policy*, 20(8), 1043–1054.

ensure that basic information is collected from all participating counties, with a view to improving the information base over time. Third, reviews should be conducted by both technical experts and by state peers. This will ensure that the data being reported is reliable and that the process facilitates trust-building, peer learning and sharing of best practices. Fourth, follow-up activities, such as capacity-building, state-to-state learning and accountability, need to be linked to the outcomes of the review process. And fifth, the active participation of non-state actors should be formalised, so as to ensure that these actors can continue to play a pivotal role in sharing information and holding state and corporate actors to account. Given the urgency with which fossil fuel production needs to be reduced, a goal-oriented approach to transparency is important, as is the need to develop a mechanism that will effectively illuminate the fossil fuel production landscape and truly assist in closing the fossil fuel production gap.

This discussion paper was written by guest authors Harro van Asselt and Ellycia Harrould-Kolieb, both with the Centre for Climate Change, Energy and Environmental Law (CCEEL) at the University of Eastern Finland (UEF) Law School, as part of the Fossil Fuel Treaty Initiative's goal to generate thinking and research on different aspects of international cooperation on fossil fuels. Views expressed in this paper are those of the authors. We are grateful to Fergus Green and Rebecca Byrnes for helpful comments on an earlier draft.