

Talking points for APA on

23 May

Guidance by the Co-chair on matters to be discussed

- Focus on the scope and key issues for each item
- how to structure the technical work to take us beyond Paris
- understand what homework should be set so that we can demonstrate clear progress at COP22

Agenda item 3: Further guidance in relation to the **mitigation** section of decision 1/CP.21 on:

- (a) Features of nationally determined contributions, as specified in paragraph 26;
 - (b) Information to facilitate clarity, transparency and understanding of nationally determined contributions, as specified in paragraph 28;
 - (c) Accounting for Parties' nationally determined contributions, as specified in paragraph 31.
- Agenda item

Madame co-chairs, I am happy to present initial views from the LDC on issues related to agenda item 3, addressing particularly the focus of our work and the approach to structure the technical work beyond Paris.

The LDC group's understanding of this agenda item is that it aims at operationalizing Article 4 of the Paris Agreement. The group believes that the consideration of further guidance for mitigation nationally determined contributions features, as well as their corresponding information to be provided by Parties, should be comprehensive enough to encompass all types and varieties of mitigation measures proposed by Parties, which are nationally determined.

More than 162 contributions have been communicated and we understand some Parties are still working hard to prepare theirs. Further guidance on the features, as well as on information to be provided might be relevant to support Parties, if they wish to do so, for the submission of national determination contributions at the time of ratification, should encourage Parties to raise ambition during the 2018 stock take, and might be useful to track progress toward the implementation phase. It is therefore necessary that we make necessary progress under this agenda item. The mandatory application of this information however should be fully effective from the second cycle of NDC.

Some of the key features spell out in Article 4, such as link with long-term temperature goal set out in Article 2; progression on successive NDCs; to be informed by the outcomes of the global stock take; support for developing countries; and flexibility for LDCs and SIDS, should be taken in consideration as scope of this discussion.

The mitigation section of the decision 1/CP.21, as well as the discussion leading to the adoption of the agenda helped us for the organization of this particular agenda item, with agenda 3a mandated from paragraph 26, 3b from 27 and 28 which is relevant for the types of information Parties need to provide to facilitate clarity and understanding of

the contributions) and finally 3c from par 31 of the decision 1/CP.21. The revised version of the synthesis report on the aggregate effect of communicated INDC should serve as initial inputs to Parties to help us identify key types and categories of these NDC and support the work under 3a and 3b

On the accounting (3c), draft conclusion of issues under discussion under SBSTA, in particular agenda item 8 on methodological issues, that have linkages with some APA agenda item, namely APA agenda items 3 and 5 are positive as they allow avoiding duplication of the work among the two bodies. Parties should be informed by previous work of other bodies of the Convention relevant for this discussion on NDC to ensure quick progress. Agenda 3c will be key for trust building in our process, as they will further support positive comparability of efforts between Parties.

On possible homework to demonstrate progress at COP 22, we believe further in-depth discussion tomorrow and Wednesday will help Parties to better understand where they are and will allow to make more informed propositions on the best way to use our time during the intercessional period. In our discussions within next two days, we should be able to identify where further clarity and in-depth discussion is needed. If required, we should also be able to identify areas for call for submissions, preparation of technical papers and organization of technical workshop. But, as I said, we will be able to better reflect by Wednesday.

Agenda item 4: Further guidance in relation to the **adaptation communication**, including, inter alia, as a component of nationally determined contributions, referred to in Article 7, paragraphs 10 and 11, of the Paris Agreement.

Art7.10. Each Party should, as appropriate, submit and update periodically an adaptation communication, which may include its priorities, implementation and support needs, plans and actions, without creating any additional burden for developing country Parties.

Art7.11. The adaptation communication referred to in paragraph 10 of this Article shall be, as appropriate, submitted and updated periodically, as a component of or in conjunction with other communications or documents, including a national adaptation plan, a nationally determined contribution as referred to in Article 4, paragraph 2, and/or a national communication.

Madam Co-chair, I would like to start by reiterating how much adaptation issues is important, relevant and needed for my group, the least developed countries and thus most vulnerable to climate change, worldwide. For this reason, we welcome the inclusion of this precisely crafted agenda item in the deliberations of the APA.

Indeed Co- chairs, this agenda item 4, recognize that adaptation communications are not limited to NDCs adaptation component, while recognizing the importance for many countries of this component and supporting the need for the recognition of adaptation component of NDCs as agreed in the Paris Agreement. However the LDC groups would like to emphasize that as adaptation NDCs, all adaptation communications must have equal value and treated as such.

Your guiding questions are again helpful to structure this discussion. On the scope of this discussion, we believe there are two key matters to be addressed in this agenda item: 1) What to communicate and 2) how to communicate. There will be other aspect in relation to this matters that will be discussed in agenda item related to transparency and global stocktake.

Article 7.10 provides guidance on what to communicate, and Article 7.11 provides guidance on how to communicate. We will come back with more inputs on tomorrow's focused discussion on this agenda item. Let me share some of our initial thoughts here.

As we also know we are not starting this discussion from scratch, we already have enough materials and process related to adaptation communication. LDCs also have experience on working on National Adaptation Programme of Action (NAPA), and building on its experience many of our country are in process of formulating National Adaptation Plans (NAPs).

We also recognize the link with agenda item 5, 6 and 8c of the APA and need to ensure coherence on these matters

On issues of homework, our previous remarks remains, and we will be able to recognize relevant work needed for the intercessional period over the course of the coming days

Thank you Madame co chairs

Agenda item 5: Modalities, procedures and guidelines for the transparency framework for action and support referred to in Article 13 of the Paris Agreement.

On transparency LDCs believe that modalities, procedures and guidelines for the transparency framework for action and support referred to in Article 13 of the Paris Agreement, to be developed by APA and adopted by CMA-1, should be based on relevant paragraphs in Decision 1/CP. 21 and Article 13, and cover all elements of the Paris Agreement. We should develop means to enhance the transparency arrangements under the Convention while recognizing the special circumstances of the LDCs and SIDS.

On the structure, relevant paragraphs from the decision 1/CP.21 provide us with clear guidance. Our focus is two folds:

1. Development of recommendation of **MPG** (para 91, 1/CP.21), *drawing from experiences from and talking into account ongoing relevant process under the Convention and to be completed by 2018*
2. Definition of the year of the first and subsequent review (para 91, 1/CP.21)

On the first element, the decision clearly indicates following areas of works: Mitigation, Adaptation, and Support.

On **mitigation** following guidance are clear

- Improvement of reporting and transparency overtime (para 92, a)
 - Flexibility to developing country in need (para 92, b), namely types of flexibility (para 94,
- Promotion of transparency, accuracy, completeness, consistency and comparability (para 92, c)
 - Consistency between methodology communicate in the NDC and the methodology for reporting (para 94, b)
- avoiding duplication as well as undue burden (para 92, d)
- Frequency and quality of reporting (para 92, e)
- Avoiding double counting (para 92, f)
- Ensuring environmental integrity (para 92, g)
- Information on biennial assessment (para 94, e)

On **adaptation**: Information on adaptation action and planning (para 94, c), bearing in mind the need to avoid duplication with current agenda item 4 of the APA

On **support**:

- Support provided (para 94, d)
 - Recommendation to enhance reporting by developing countries on support received
 - common tabular formats for reporting support
 - methodologies for reporting on on financial information (taking into account issue considered by SBSTA)
- Information in the biennial assessments and other reports of the SCF (para 94, e)
- Recommendation to enhance transparency of support provided (para 95)

Looking at the complexity and the scope of this agenda item, it is of utmost importance that we organize ourselves in a very efficient manner to be able to deliver on the tight timeframe ahead of us.

On organization of the work it is important to have balance allocation of time to discuss both transparency of 'action' and 'support'.

Possible tools for advancing the work would be to identify areas for Call for submissions; Technical paper (eg: experiences on relevant process under the Convention) and Technical workshop

Agenda item 6: Matters relating to the **global stocktake** referred to in Article 14 of the PA:

(a) Identification of the sources of input for the global stocktake;

(b) Development of the modalities of the global stocktake.

On the issue of 2023 global stocktake, we see this stocktake as keep our process honest and ensure the adequacy of achieving the ultimate objective of the Convention.

We see the Global Stocktake as an iterative process to take stock every five years on the implementation of the agreement, including Parties' implementation of their mitigation commitments and the aggregate level of ambition communicated by Parties for subsequent cycles, including the scope as defined in the Paris Agreement and 1/CP.21 covering adaptation and means of implementation.

We envision this be sourced from the core bodies dealing with the six elements of the Paris Agreement: mitigation, adaptation, finance, technology, capability building and loss and damage, including bodies contributions from latest IPCC reports. We believe that this process of stocktaking should be informed by best science.

Likewise, the Global Stocktake should also include the importance of "transparency" and "compliance" as input including other technical reports such as the Special Report on 1.5 degrees Celsius, 2018 Review - Facilitative Dialogue and AR6 Report.

Together with Article 14, we should also acknowledge that the mandate and further scope of the Global Stocktake also comes from other articles of the Paris Agreement, such as Article 4, 7, 9 & 10 and ongoing discussion on SBSTA and SBI.

As mentioned in the Art 14 of the Paris Agreement, we believe that the outcome of the global stocktake should provide guidance for Parties further effort to assess the collective progress towards achieving the purpose of the Agreement and its long-term goals, and particularly the long-term temperature goal established under the agreement.

We look forward to speaking more on the subject when it comes up for discussion tomorrow afternoon.

Agenda item 7: Modalities and procedures for the effective operation of the committee to facilitate implementation and promote **compliance** referred to in Article 15, paragraph 2, of the PA.

Madame co-chairs, I am happy to present initial views from the LDC on issues related to agenda item 8: **Facilitating implementation and promoting compliance**

Co-chairs, on scope of the mechanism:

- The scope should be considered to include both action and support. As such, the mechanism must include all substantive areas
- Parties should address the functions and working of the mechanism with a view to creating a framework for mutual learning, transparency, celebrating success and disseminating good practice.

On functions:

The Committee could function both in prevention of future non-compliance and in promotion of compliance where a party is not fulfilling its obligations:

- a. The Committee facilitates implementation of the provisions where parties **are struggling**.
- b. The Committee promotes compliance with the provisions where parties **are failing**.

On triggers:

We recognise the close linkages with the transparency framework and implementation and compliance mechanism, and that an output of the technical expert review could be a trigger.

However, we should be clear that an output from the transparency mechanism is not the only trigger to the mechanism under Article 15 hence we don't have to wait till we complete the discussions of the transparency framework to initiate the discussion under Article 15.

We will intervene on Wednesday to give more details on functions of the committee and the outputs.

On how to structure the technical work to take our work beyond Paris: we believe that the discussion could focus on two key areas:

1. Facilitating implementation of and
2. Promoting compliance with the provisions of the Paris Agreement.

Under these items, the detailed discussions could further focus on scope, triggers, functions, and outputs. We could also discuss the lessons learnt from the existing compliance mechanisms including the compliance mechanism of the Kyoto Protocol. We should also discuss the linkages of the Art.15 with the transparency framework and the global stocktake.

On homework, this is also an area where we can give targeted questions for party submissions. However, we should wait till the end of the discussions on Wednesday to decide what they are.

Agenda item 8: Further matters related to implementation of the Paris Agreement:

- (a) Preparing for the entry into force of the Paris Agreement;
- (b) Preparing for the convening of the first session of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement;
- (c) Taking stock of progress made by the subsidiary and constituted bodies in relation to their mandated work under the Paris Agreement and section III of decision 1/CP.21, in order to promote and facilitate coordination and coherence in the implementation of the work programme, and, if appropriate, take action, which may include recommendations.

Madam Co-chair,

This is one of the important agenda item that relates with the process and helps in building synergy with other bodies.

In New York last month, we saw record numbers of political leaders gather for the signing ceremony convened by the UN Secretary General. To date 177 Parties signed the Paris Agreement and 17 ratified it. This exemplifies the strong political momentum that has flowed on from Paris, and we should be able to maintain this political momentum.

As you all know, some of the countries from my constituency have already submitted Instrument of ratification. As poorest and most vulnerable countries in the world to the impact of climate change we are very keen to make progress in the APA to ensure early entry into force of the Paris Agreement.

The practical effect of an early entry into force (EIF) should be that it creates an additional incentive for countries that have not ratified the PA prior to EIF to ratify promptly so that

they can participate as Parties to the PA in the work of the Conference of the Parties serving as the meeting of the Parties to the PA (CMA).

Only the CMA can adopt decisions that affect the implementation of the PA. Any work that is completed by the APA, or recommendations made by the CMA, will still have to be adopted by the CMA. With the prospect of a possibly early entry into force of the Paris Agreement, we need to be as efficient as possible in undertaking our work while proactively prepare to manage in the most efficient manner possible process and legal related implications for a such possible entry into force. The note prepare by the secretariat on such implications is thus relevant and we should provide enough space in our deliberation under this agenda item to consider the options ahead of us.

On matters related to Agenda item 8(c),

The addition of agenda item 8 (c) in the APA provisional agenda has now provided a clear space to assess progress made in the subsidiary and constituted bodies. It would also be helpful if the Chairs of the Subsidiary and constituted bodies provide written reports with respect to the items related to their mandated work under the Paris Agreement and section III of 1/CP.21 that can be reviewed under this agenda item to facilitate this work. This would help with smooth implementation of the work programme on different thematic areas.

We are prepared to constructively engage in these discussions highly important for the success of our work under the APA.

Thank you Madame co chairs

Item 3: Mitigation NDC

- Should the features and information on Nationally Determined Contributions be tailored to the type of NDCs or should they be tailored on some other basis? If so what? What lessons can be drawn in this respect from the INDCs already submitted?
- Can the existing guidance on accounting under the Convention be taken into account, and if so how? How detailed or general should the guidance be and what should it address?

Delivered by Salam, Ethiopia

Madame co-chairs, I am happy to present views from the LDC on issues related to agenda item 3.

On your first question, as stated yesterday, the group believes that the features of NDCs, as well as the corresponding information to be provided by Parties, should be comprehensive enough to outfit all types and varieties of mitigation measures proposed by Parties. We believe that the features and information should accommodate all types of NDCs and provide a basis for Parties to improve their communication in future cycle or at their best convenience, if they decide to update their NDC sooner.

We envisage the work under this agenda item, broadly technical by its nature to help countries better understand information they need to communicate to ensure the NDC they have communicated is clear, transparent, can be understood by all other Parties, but more importantly, can help in assessing individual (at country level) and collective progress (at international level). Article 4 of the Paris Agreement, including principles of no backsliding and progression, should guide any outcome under this agenda.

Indeed, more than 161 contributions have been communicated, further guidance on the features, as well as on information to be provided are needed and might be relevant to support Parties, if they wish to do so, for the submission of national determination contributions at the time of ratification, should encourage Parties to raise ambition during the 2018 stock take, and might be useful to track progress toward the implementation phase. It is therefore necessary that we make necessary progress under this agenda item. The mandatory application of this information however should be fully effective from the second cycle of NDC.

The revised version of the synthesis report on the aggregate effect of communicated INDC should serve as initial inputs to Parties to help us identify key types and categories of these NDC and support the work under 3a and 3b

The varieties of types of NDCs to be taken into account when developing further guidance on features and information including:

- Quantified emission reduction targets
- Relative targets for reducing emissions below the 'business as usual' (BAU) level, either for the whole economy or for specific sectors,
- Intensity targets, with reductions in GHG emissions per unit of gross domestic product (GDP)
- Specify the year or time frame in which the respective Party's emissions are expected to peak
- Strategies, plans and actions for low GHG emission development reflecting the respective Parties' special circumstances,
- Sectoral or sub-sectoral quantified targets

For each of these categories, Parties should collaborate to develop key common information needed to enable the clarity, transparency, and understanding of these contributions.

Question 2

On the second question, the LDC believe existing accounting guidance have been developed under the Kyoto Protocol and believe these previous work can support the development of guidance on this matter under the Paris Agreement. This work is necessary to allow for conversion of equivalent emission reduction to tonnes of CO2 equivalent. This is necessary to ensure environmental integrity and the avoidance of double counting. A common accounting system is needed to enable corresponding adjustments under Article 6, facilitate purchase or use of units or outcomes, and track progress toward implementation of NDCs.

Item 4: Adaptation Communication

- What are adaptation communications seeking to achieve, especially in light of linkages with other issues, for e.g. with the global stocktake? What does that mean for the scope of the guidance needed?
- How can a balance be achieved between the need for guidance for adaptation communications with the need for flexibility?

Delivered by Victor, DRC

Madam Co-chair, as we stated in our yesterday's interventions, this issues is important, relevant and needed for countries of our group. Because of least capacity to respond to climate change, the least developed countries are the most vulnerable to the adverse effect of climate change. For this reason, we believe, that the discussions on this agenda item will help us to address some of our specific needs.

Madam Co-chair, your guiding questions are again helpful to structure this discussion. The main goal of communicating adaptation needs is 1) to share experience and lesson learnt, 2) to have clarity on adaptation needs and support required, and 3) helps to enhance adaptive capacity, strengthen resilience and reduce vulnerability to climate change.

As stated in article 7.1 of the Paris Agreement, any interventions on implementing adaptation actions should also contribute to sustainable development and ensure an adequate adaptation response in the context of the temperature goal referred to in Article 2 of the Paris Agreement.

Madam Co- chairs, as we stated yesterday, this agenda item 4, recognize that adaptation communications are not limited to NDCs adaptation component, while recognizing the importance for many countries of this component and supporting the need for the recognition of adaptation component of NDCs as agreed in the Paris Agreement. We are in a view that all adaptation communications must have equal value and treated as such.

Specific to the linkages with other issue, as others we also believe that this matter has strong linkages with global stocktake and transparency. As we stated this morning during our deliberation on Global Stocktake, we are in a view that source of inputs to the Global Stocktake should consider adaptation component from Parties National Communication and National Adaptation Plan (NAP). As stated earlier and recognizing the importance for many countries, we are also flexible to consider inclusion of adaptation component arising from other vehicles of communication.

Provisions reflected on Article 7.10 and 7.11 provides general guidance on what and how to communicate. The flexibility for Parties in terms of different vehicle of communication and its timeframe provides confidence in moving forward. Our countries experience on working on National Adaptation Programme of Action (NAPA) shows that it is extremely difficult to expect all countries to communicate such plan on specific time period.

Further on linkage, we also recognize that this agenda item has linkage with APA agenda item 5, 6 and 8c and need to ensure coherence on these matters. The work of the Adaptation Committee and LDC Expert Group (LEG) that are mandated to develop modalities to recognize the adaptation efforts and methodologies for assessing adaptation needs provides valuable inputs in taking this discussion forward.

Thank you Madame co chairs.

Item 5: Transparency

- What are some of the experiences and lessons learnt from existing MRV arrangements, and how could they provide a basis for an enhanced transparency framework on action and support?
- What constitutes flexibility for developing countries and how could it be applied through modalities, procedures and guidelines in a way that supports full and effective participation in the transparency framework?

Statement delivered by Victor, DRC

Lesson learnt:

- Existing MRV arrangements provides useful experience and inputs experience that can provide basis for enhanced transparency. It needs to be further strengthened to address the new arrangements arising from the Paris Agreement. It also generates useful information for domestic purposes, helps national and local government to track progress as well as plan better.
- Information that is reported for the enhanced transparency framework need to be consistent and comparable; so that it helps to assess the progress made with regards to action and support.
- The lack of clarity and consistency of information on support provided has been inadequate in the past but progress has been made on how to make it more transparent and consistent by having a common tabular formats as part of the BRs.
- The provisions related to flexibility and establishment of CBIT should address on the special circumstances and difficulties faced by developing country, particularly LDC and SIDS.
 - Some of the difficulties being faced by our countries are because of lack of capacity to meet the standards of the reporting requirements on support needed and received and action; ad hoc project based that is unsustainable; lack of comprehensive data and information; and Lack of capacity to access support;

Going forward:

- There needs to be a clear guideline on what should be reported, measured and verified and accounted for in the MRV system. For instance there needs to be an agreed operational definition of climate finance.
- Link the capacity needs to the enhanced MRV system;
- Need to develop reporting requirement on support received as well;
- Need to revise the guidelines for reporting reflecting evolving situation coherent to the Paris agreement;

What constitutes flexibility for developing countries and how could it be applied through modalities, procedures and guidelines in a way that supports full and effective participation in the transparency framework?

Flexibilities:

- As per the Para 89 (scope, frequency, level of reporting, scope of the review). Flexibilities should also consider application of “completeness” on the need of information to be provided.

- Further paragraph 90 states that LDCs and SIDS may submit their information at their discretion.
- The Capacity Building Initiative on Transparency (CBIT) that is established to build the institutional and technical capacity should have adequate resources for developing countries particularly LDCs to be able to meet the reporting requirements;
- LDCs are of the view that with the technical and financial support through the CBIT, our reporting and institutional capacities will be enhanced to be able to submit information frequently through time.

Item 6: Global Stocktake

- What **input** is needed for conducting the global stocktake, by when and from whom? What mechanism/channels could be used to feed this input into the global stocktake?
- **How** will the global stocktake be conducted, keeping in mind the need for simplicity and relevance, ownership and inclusiveness?
- What is the relationship, if any, between the global stocktake and the **facilitative dialogue** to be conducted in 2018?

Statement delivered by Amb. Beck, Solomon Island Co- Chair,

- I have the honour of delivering this intervention on behalf of the LDCs and align this statement with the statement issued by Kuwait on behalf of G77 and China. The LDC Group appreciated yesterday's discussion on the issue of Global Stocktake. We welcome today's guiding questions in elaborating further to our submitted inputs.
- The mandate on the scope of the Global Stocktake is clearly spelt out in Article 14 of the Paris Agreement. The global stocktake as others referred to yesterday, is, a collective assessment of the adequacy of implementation of our action on mitigation, adaptation, means of implementation and support in achieving the ultimate purpose of the Paris Agreement.

Turning now to your question 1.

- On inputs: some sources are already noted in the decisions 1/CP21. These include (1) information on overall effect of NDCs; (2) adaptation communications and reports; (3) Information on mobilization and provision of support; (4) Latest IPCC reports; (5) Reports by subsidiary bodies.

- Also, we should look at the outputs of the Technical Expert Review and Multilateral consultations that will be held under Article 13 and relevant sections of the decision 1/CP.21 as inputs to the global stocktake.
- In addition, we can look at the reports coming from constituted bodies. For example:
 - On mitigation, Parties NDCs, GHGs inventories, National Communication, Biennial reports (BRs) and Biennial Update reports (BUR).
 - On adaptation the same could be done from, AC, LEG, NAPs and NC.
 - On Finance SC and Finance operating entities GCF and GEF
 - On technology TNA, TEC, CTCN
 - On capacity building inputs from PCBB.
- Co-Chairs, recent Structured Expert Dialogue can further contribute to having our stocktake scope be in tune with the latest science.

On your question 2:

- **We go along with Grenada, Africa and EU that the** experience and design of the 2013-2015 review, which involved a joint working group of the Subsidiary Bodies and several “structured expert dialogues” as useful basis in shaping the Global Stocktake
- Co-Chairs, we call for the Parties do everything possible to work on a comprehensive terms of reference of the Global Stocktake, which can improve arrangements we have for the 2018 stocktake.
- For the 2023 Global Stocktake, to make it inline with timeline set in paragraph 25 of decision 1/CP.21, NDC needs to be communicated at least 9-12 months in advance of the CMA, it is important that the Global Stocktake finishes in 2023, so that it helps parties in reflecting, updating and enhancing their respective NDC.
- co-chairs if the Paris Agreement enters into force early, we’ll have an excellent opportunity to agree on terms of reference for the global stocktake early, in effect having a full review of the collective action in 2018 rather than 2023.

Co- Chair, on your 3rd question: What is the relationship, if any, between the global stocktake and the facilitative dialogue to be conducted in 2018?

- We think both the Facilitative Dialogue and the global stocktake aim to assess pre and post implementation period of Paris Agreement.
- While the 2018 facilitative dialogue aims at considering of our current INDC and provide opportunity and encouragement to Parties that wish so, to enhance the ambition of their INDC. The Global Stocktake will allow ex-ante consideration of our collective effort and to inform Parties of what is require before they communicate their NDC for the second and subsequent cycles.
- In our understanding, the Global Stocktake, which is mean to be comprehensive and aim to assess collective efforts of Parties in relation to progress towards the long-term mitigation goal and to inform the preparation of NDC pursuant to Article 4, paragraph 9 of the Agreement and paragraph 25 of Decision 1/CP.21 so as to inform the five-year review and support ratchet-up of ambition.
- We understand that the Provisions related to the facilitative expert dialogue contains no explicit mention of resubmission of NDCs. But it declares that the

purpose is to “inform the preparation of the nationally determined contributions.” This clearly implies revision and resubmission in conjunction with the 2018 facilitative dialogue.

Item 7: Compliance

- What key features of a mechanism to facilitate implementation and promote compliance would be appropriate in light of the provisions of the Paris Agreement?
- What would trigger the work of the committee in the exercise of its functions consistent with its dual role to facilitate implementation and promote compliance? What actions could the committee take?

Madame co-chair, I am speaking on behalf of the LDC Group.

On your first question on features of the mechanism:

- Some of the features are already defined by the Article 15 and the paragraphs 102 and 103.
- We understand that the mechanism shall consist of a committee, which is expert based and facilitative in nature.

It shall pay particular attention to the respective national capabilities and circumstances of Parties.

On identifying further features for the compliance mechanism, we believe that the compliance mechanism has two clear functions

- 1: facilitating implementation
- 2: Promoting compliance

Facilitating implementation

On facilitating implementation feature, the committee may address both legally binding and aspirational obligations. In this regard, the committee may analyze a case where a party is facing difficulties to meet its obligations, and may recommend and assist to develop a facilitative workplan that includes measures to improve implementation. The committee can facilitate engagement with other bodies under the Convention and provide the necessary support to the concerned party in meeting its obligations.

The Committee can address cases with a view to facilitate the implementation of other relevant provisions in the Agreement, such as the implementation and achievement of NDCs.

The idea is that facilitation be an incentive for parties to disclose early any potential issues that can lead to non-compliance so that this can be avoided.

In relation its feature to promote compliance, the Committee will addresses cases of non-compliance with legally binding obligations. The Committee can acknowledge, by any of the trigger to be agreed upon, that a party is not complying with its obligations and it may request further information from the party concerned. In the cases of failing to comply, it may receive

the Committee's assistance to get back to compliance, depending on the cause, type, degree and frequency of such compliance difficulty, as well as the capacity of the Party whose compliance is in question.

Co-Chairs, the committee may issue a finding of non-compliance where a party is found not to be in compliance with a legally binding and time-bound obligation such as turning it in its NDC on time.

On your second question on triggers:

We have few suggestions. The triggers could be

- self-referral,
- referral by other individual Parties,
- referral by groups of Parties
- decisions by the committee on the basis of defined criteria or their discretion.
- Considering the linked nature of the transparency framework and implementation and compliance mechanism, the trigger could further be linked to the reviews under Article 13.
- In accordance with paragraph 12 of the Article 13 of the Paris Agreement, the technical expert review shall identify areas of improvement for the party. This could lead to an output in the form of a recommendation issued directly to the Party, but also in a report to be sent over to the compliance committee. In such cases, parties' ability to meet expectation under Art.13 could be strengthened.

On the question on what actions the committee can take:

For both facilitating implementation and promoting compliance, the actions could include:

- A meeting on the case.
- Issuing a Committee report
- Providing advice on identifying and overcome barriers to compliance.
- Issuing a finding of non-compliance.
- A letter of recommendations for activities and measures to address the causes of non-compliance. This may include reference to other convention bodies or sources of support including capacity building, finance, or technology.
- The committee can also recommend a process for tracking the progress on the implementation of such facilitative measures.

Agenda item 8: Implementation of the Paris Agreement

- What procedural and administrative arrangements could CMA1 put in place in the event of early entry into force of the Paris Agreement, to ensure that all Parties to the Convention continue to fully participate in the development and completion of the Paris Agreement work programme? What should be the timeline of such arrangements?
- What are the procedural, institutional and administrative issues that will require decisions to be taken at CMA 1? What preparatory work is required on these issues for consideration at CMA 1?
- In Marrakech, what could be the modalities for the subsidiary and constituted bodies to report on progress made in relation to their mandated work under the Paris Agreement?

Co- Chair, Thank you for your guiding questions on Agenda item 8. I speak on behalf of the LDC Group.

Co-Chair, on your first question:

- Article 21 of the Paris Agreement is clear on entry into force requirements. As we all know, there is no timeline in the Article 21 beyond the two triggers we agreed.
- 17 Countries have already completed their parliamentary processes and ratified the Paris Agreement. Almost all of these countries are SIDS and LDCs. As the political momentum of Paris continues, many countries are ready to come on board and ratify the Paris Agreement.
- As such, we understand that there is a high possibility for the agreement to enter into force soon. This serves as a strong incentive for all Parties to the Convention to ratify the Agreement as soon as possible to ensure universal participation in its implementation.
- Co-Chairs, once the agreement enters into force, it will become legally binding for those Parties that have ratified it. And only those Parties that have ratified will be part of the CMA decision making process. Only the Parties that have ratified will exercise governance, oversight, leadership and the legal, procedural and substantive rights and obligations of the Paris Agreement.
- We understand that some parties that have already started their discussions on ratifying the Paris Agreement may not be able to do so in time, when the Agreement enters into force hence may not be able to be part of the initial decision making process of the CMA.
- We would like to thank the secretariat for the excellent presentation as well as identifying some of the options ahead of us to deal with the eventuality of an entry into force
- For LDCs, we already have an arrangement under Article 16.2 of the Paris Agreement. That is “Parties to the Convention that are not Parties to this Agreement may participate as observers in the proceedings’
- However, we also understand that the negotiations on the rulebook of the Paris Agreement would positively benefit from universal participation. We understand that there is a proposal to suspend the CMA and request the COP to adopt a decision to the effect that the APA could further continue its work.

- Co-Chairs, we are very much concerned that such arrangement would become a negative incentive for those of us who are eager and ready to ratify soon.
- We are also mindful of the fact that the second commitment period of the Kyoto Protocol has not yet entered into force.
- We would also like to remind Parties that they can also provisionally apply all of the provisions of the Agreement pending its entry into force.
- Both provisional application of the Paris Agreement and the prompt ratification of the Doha amendments will actually send a positive signal. Our group would consider such arrangements before we agree to any other arrangements, such as suspending the CMA1 to allow the APA to continue its work.

Madam Co- Chair, on your second question: What are the procedural, institutional and administrative issues that will require decisions to be taken at CMA 1? What preparatory work is required on these issues for consideration at CMA 1?

- Decision 1/CP.21 identifies the preparatory work relating to the Agreement to be undertaken by the COP, the APA and other subsidiary bodies and constituted bodies for adoption at CMA 1.
- Co-Chair, we believe that the Parties should try our utmost to finish our work as soon as possible. We understand that there may be some areas of work that needs further negotiations.
- We believe that the CMA1 can take over the unfinished work of the APA to complete the work under its authority.
- Further, the CMA could mandate the work to the Subsidiary bodies and constituted bodies on related outstanding issues. The Subsidiary bodies and constituted bodies should report to the CMA as requested by the provisions of the Agreement and the decision 1/CP21.
- Co-Chair, we thank the UNFCCC secretariat for their briefing on legal requirements and implications of entry into force.

Madam co chairs, on your third question: what could be the modalities for the subsidiary and constituted bodies to report on progress made in relation to their mandated work under the Paris Agreement?

We understand the challenge that all bodies entrusted with a mandate to prepare for the entry into force of the Paris Agreement are all of the same importance and none of them with an oversight role. We believe that the COP in Marrakech should provide us with further detail on the modalities and approach for this important agenda, allowing all the bodies to engage in updating Parties on their on-going work on a more regular basis.

The COP in Marrakech could adopt a specific agenda on this matter to recommend appropriate modalities, including consideration of a mandate to presiding and upcoming COPs presidencies to help Parties facilitating this stocktaking with all the relevant bodies pursuant to the APA agenda 8c, during future SBs session when the COP is not meeting, prior to entry into force of the Paris Agreement.