

Reflections note on the second part of the first session of the Ad Hoc Working Group on the Paris Agreement

Note by the Co-Chairs

8 February 2017

I. Introduction

1. The Ad Hoc Working Group on the Paris Agreement (APA) completed the second part of its first session on 14 November 2016, in Marrakech, Morocco.
2. We thank Parties for their constructive engagement and commend them for the good progress made. Parties' dedication and hard work resulted in the APA meeting the objectives set out for Marrakech, of reaching an understanding on the scope of its work and broad options for fulfilling its mandate. The achievements of the APA are captured in: (a) conclusions that include a detailed plan for follow-up work¹ to May 2017, (b) a draft decision on the rules of procedure of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA), recommended to the CMA through the Conference of Parties (COP),² and (c) informal notes prepared by the co-facilitators on each substantive agenda item.³ In addition, in response to the COP request, the APA took on board a new substantive matter, the Adaptation Fund, which was considered under agenda sub-item 8(b). The APA also agreed that, in view of the entry into force of the Paris Agreement, no further work is required on agenda sub-item 8(a). We would like to extend our sincere gratitude to all co-facilitators of informal consultations on substantive items on the APA agenda for their efforts.
3. The APA is now on a solid footing to progress work in all areas in a balanced and coherent manner, with the foundation laid for our work to be concluded in time to meet the 2018 deadline established, through the COP, by the CMA at the first part of its first session. To do so, however, the APA will need to move to the next phase, by focusing on the development of specific elements of text and textual proposals wherever possible in 2017.
4. In this note, we provide our reflections on the outcome achieved in Marrakech and our thoughts on how work could progress further. This note has been prepared under our own responsibility, and is intended to assist Parties in their preparation for the APA intersessional work and its resumed session, which will be held in conjunction with the forty-sixth sessions of the subsidiary bodies at the World Conference Center Bonn, Germany, from 8 to 18 May 2017.

II. Work ahead

5. Through its conclusions, the APA agreed on work to be undertaken in the intersessional period running up to its next session to be convened in May 2017,⁴ which is captured in figure 1 below.

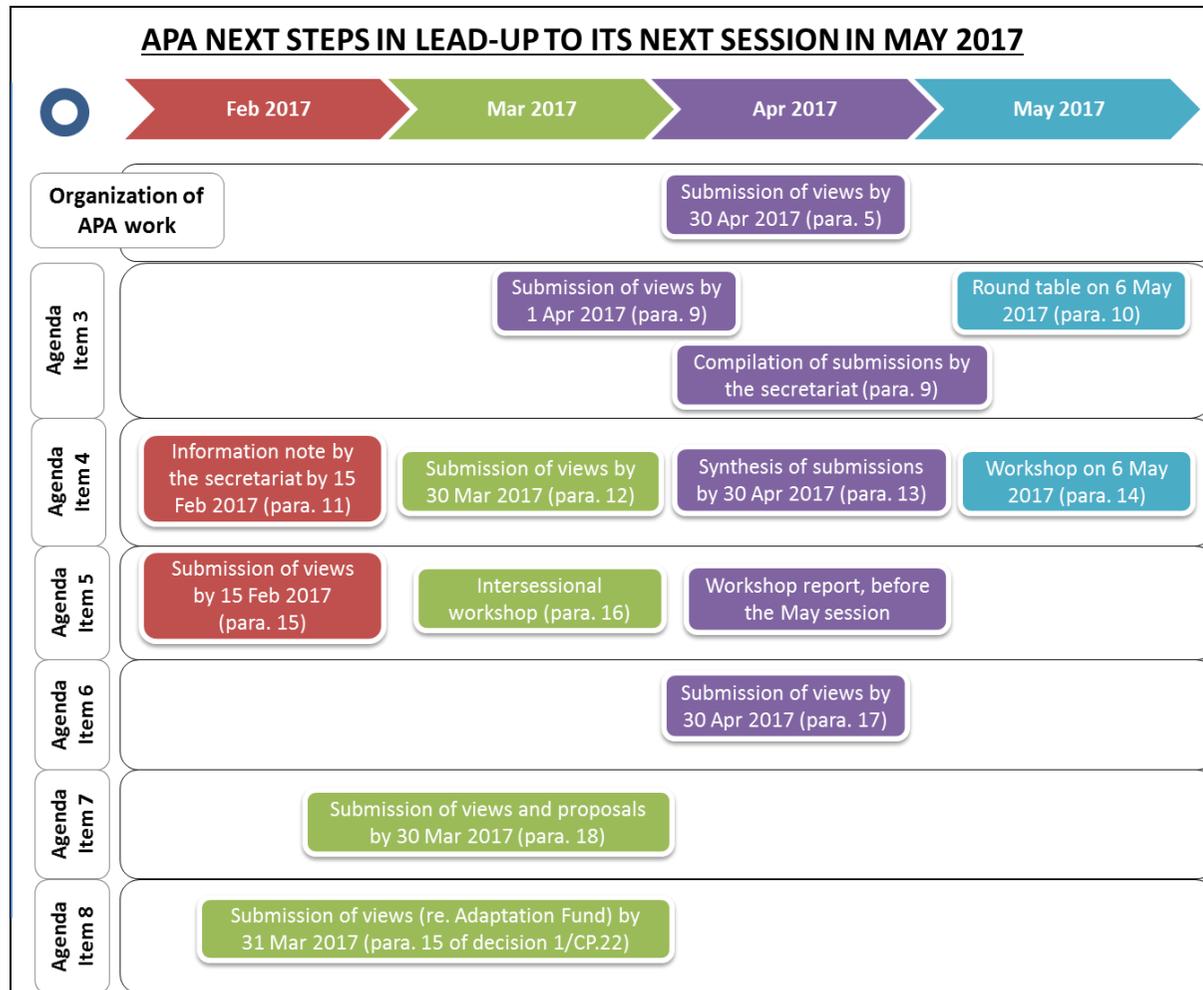
¹ FCCC/APA/2016/4, paragraphs 9–32.

² Decision 2/CMA.1.

³ Available at http://unfccc.int/meetings/marrakech_nov_2016/items/9974.php.

⁴ FCCC/APA/2016/4, paragraphs 9–32.

Figure 1. Follow-up work after the Marrakech session of the APA.



III. Moving forward on agenda items

6. Marrakech was the first APA session fully devoted to substantive work, and we were pleased to see good progress made on all items. The calls for submissions and the decision to convene workshops and round tables on several issues will allow us to move to more granular discussions of possible technical solutions to the critical questions identified for each substantive item.

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

7. The COP, by decision 1/CP.21, requested the APA:⁵

- (a) To develop further guidance on features of the nationally determined contributions (NDCs);
- (b) To develop further guidance for the information to be provided by Parties in order to facilitate clarity, transparency and understanding of NDCs;
- (c) To elaborate, drawing from approaches established under the Convention and its related legal instruments as appropriate, guidance for accounting for Parties' NDCs.

8. Work under this item remains key to maintaining trust and confidence among Parties in the implementation of the Paris Agreement, as well as in providing clarity for operationalizing and implementing provisions relevant to NDCs.

9. The guidance to be developed under this agenda item will need to respect the nationally determined character of NDCs and take into consideration their diversity, as well as different national circumstances and capacities. At the same time, guidance should be flexible and not represent an additional burden, in particular to developing countries. In the minds of some, the sub-items of this item are interlinked, but for others they are discrete. Whatever the relationship, however, it will be essential for the work on agenda item 3 to develop guidance in a way that helps build consistency, trust and confidence, without de facto turning the content of NDCs into legally binding commitments.

10. On features, many Parties indicated that the Paris Agreement already specifies features of NDCs, with "national determination" being one of the most important. Some Parties also referred to progression, highest possible ambition, flexibility and support. Parties will need to determine how to identify or compile features in a manner that is useful for the purpose of NDCs and, if further guidance is considered to be necessary, what it should be and how it would respect the national determination of NDCs.

11. On information, there is a general agreement that paragraph 27 of decision 1/CP.21 specifies the information to facilitate the clarity, transparency and understanding of NDCs and, therefore, should be a starting point to developing further guidance. Several Parties stated that guidance should be aimed at helping countries with operationalizing this paragraph, bearing in mind the diversity of NDCs and the need for flexibility. Suggestions included, on the one hand, identification of common information elements and, on the other hand, differentiated elements, as they relate to different aspects and types of NDCs. Parties that have identified areas where elaborated guidance is needed are encouraged to put forward specific proposals.

12. On accounting, Parties referred to the provisions of the Paris Agreement, which call for the promotion of environmental integrity, transparency, accuracy, completeness, comparability and consistency, and the avoidance of double counting. Parties also mentioned the elements⁶ specified in paragraph 31 of decision 1/CP.21, which represent a starting point for discussions to elaborate guidance for accounting. The need for flexibility to accommodate different national circumstances and capacities, as well as the diversity of NDCs, was reiterated by many Parties. Work on this issue will be facilitated by a common understanding of the term "accounting"

⁵ Decision 1/CP.21, paragraphs 26, 28 and 31. See also Article 4, paragraphs 8 and 13, of the Paris Agreement.

⁶ These elements include methodologies and common metrics; methodological consistency, including on baselines; inclusion of all categories of anthropogenic emissions or removals; and explanation of the exclusion categories of anthropogenic emissions or removals.

itself, including the areas to which it applies, such as Intergovernmental Panel on Climate Change (IPCC) methodologies, the land sector, and international transfers. Parties will also need to clarify the purpose of the guidance to be developed, its applicability to Parties using it, and how guidance can take account of differences in Parties' capacities and level of experience. Options for "building on" existing approaches under the Convention and its related legal instruments should also be explored.

13. A wide range of strongly held views on how to discuss the issues of scope of NDCs and differentiation were shared during the Marrakech session. To facilitate ongoing progress under this agenda item, we encourage Parties to consult among themselves and arrive at an agreed approach on how to address any perceived gap in the scope of agenda item 3. We also encourage Parties to consider, and provide specific examples on, how the guidance on features, information and accounting might reflect differences in development and the diversity of NDCs.

14. Parties were invited to submit views on a list of questions contained in the co-facilitators' informal note,⁷ and these views will be essential for moving the work on this item further. We expect that the submissions will inform the discussions at the pre-session round table on item 3, to take place on 6 May 2017.

Agenda item 4: Further guidance in relation to the adaptation communication

15. Article 7, paragraph 10, of the Paris Agreement states that 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. Article 7, paragraph 11, of the Paris Agreement states that the adaptation communication 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 contribution⁸ and/or a national communication.

16. At the Marrakech session, the CMA invited the APA, through the COP, to continue its work on further guidance in relation to the adaptation communication, including, inter alia, as a component of NDCs, referred to in Article 7, paragraphs 10 and 11, of the Paris Agreement, to conclude this work as soon as possible, and to forward the outcomes, at the latest, to the third part of the first session of the CMA in 2018.^{9,10}

17. Parties made solid progress on this item, in particular through identifying the overall themes and relevant questions, and by identifying a set of options for each theme. The overall themes are:

- (a) The purpose of adaptation communications;
- (b) The elements that could be included in adaptation communications;
- (c) Possible linkages to other issues, agenda items, or arrangements under the Convention (transparency, global stocktake and NDCs);
- (d) Possible vehicles for adaptation communications;
- (e) Flexibilities required of the adaptation communications.

18. The questions identified by Parties that need to be answered as part of further deliberations on the item are included in the co-facilitators' informal note.¹¹

19. Parties also agreed, through the APA conclusions, on four follow-up actions to be undertaken before the next part of the first session of the APA in May 2017: (a) preparation of an information note by the secretariat by 15 February; (b) submission of views from Parties by 30 March 2017; (c) preparation of a synthesis of submissions by 30 April; and (d) conducting of a pre-session workshop on 6 May. These actions provide

⁷ http://unfccc.int/files/meetings/marrakech_nov_2016/in-session/application/pdf/informal_note_item3_v2.pdf.

⁸ As referred to in Article 4, paragraph 2, of the Paris Agreement.

⁹ Decision 1/CMA.1, paragraph 5.

¹⁰ Decision 1/CP.22, paragraph 10.

¹¹ See the annex, pages 4–5, in the note available at http://unfccc.int/files/meetings/marrakech_nov_2016/in-session/application/pdf/apa_item_4_informal_summary_note_final_version_14112016_1920.pdf.

opportunities for clarifying the outstanding issues and should result in rich feedback for the continuation of the discussions and for developing solid proposals.

20. An overarching question for this item is how to get the evolving system of adaptation communications working coherently, with good alignment and taking full account of the range of vehicles available – including as a component of NDCs. Parties may also wish to consider how a list of voluntary features or elements could be helpful for the purpose of adaptation communications, and what should be included in such a list.

Agenda item 5: Modalities, procedures and guidelines for the transparency framework for action and support

21. The COP requested the APA to develop recommendations for modalities, procedures and guidelines (MPGs) in accordance with Article 13, paragraph 13, of the Paris Agreement, and to define the year of their first and subsequent review and update, as appropriate, at regular intervals, for consideration at COP 24, with a view to forwarding them to CMA 1 for consideration and adoption.¹² The COP also requested the APA to report on the progress of work on these MPGs to future sessions of the COP, and for this work to be concluded no later than 2018.¹³

22. Given the complexity and breadth of the issues under this item, in Marrakech Parties worked intensively to arrive at a common understanding of the scope and nature of the issues, and, in particular, of how to organize work. It was confirmed that work should proceed in a balanced, holistic, and logical manner in order to address all elements of Article 13 of the Paris Agreement and paragraphs 84–98 of decision 1/CP.21. Reporting could be the ‘entry point’ for discussion, while remembering its close linkage with technical expert review and facilitative, multilateral consideration of progress.¹⁴ The workplan for this item, developed by Parties during the session and contained in section II of the informal note by the co-facilitators, is a significant step forward.¹⁵

23. The follow-up work for this agenda item consists of the submission of Parties’ views on the questions included in the co-facilitators informal note and an intersessional workshop, to be organized subject to the availability of resources.¹⁶ The submissions and the workshop, including its report, should help to advance the work significantly prior to and at the May session of the APA in Bonn.

24. As the focused and in-depth technical work begins, it is important to ensure that the work is fully guided by the overall objective set out in Article 13 of the Paris Agreement, which states that “in order to build mutual trust and confidence and to promote effective implementation, an enhanced transparency framework for action and support, with built-in flexibility which takes into account Parties’ different capacities and builds upon collective experience is hereby established.” We therefore invite Parties to start thinking about the options for optimizing the consistency of information and its presentation, while still recognizing the diversity of that information and countries’ different capacities/circumstances.

25. Figure 2 below represents a simplified mapping of different concepts contained in Article 13, paragraphs 7–11, of the Paris Agreement. Each of these concepts will require further operational details.

¹² Decision 1/CP.21, paragraph 91.

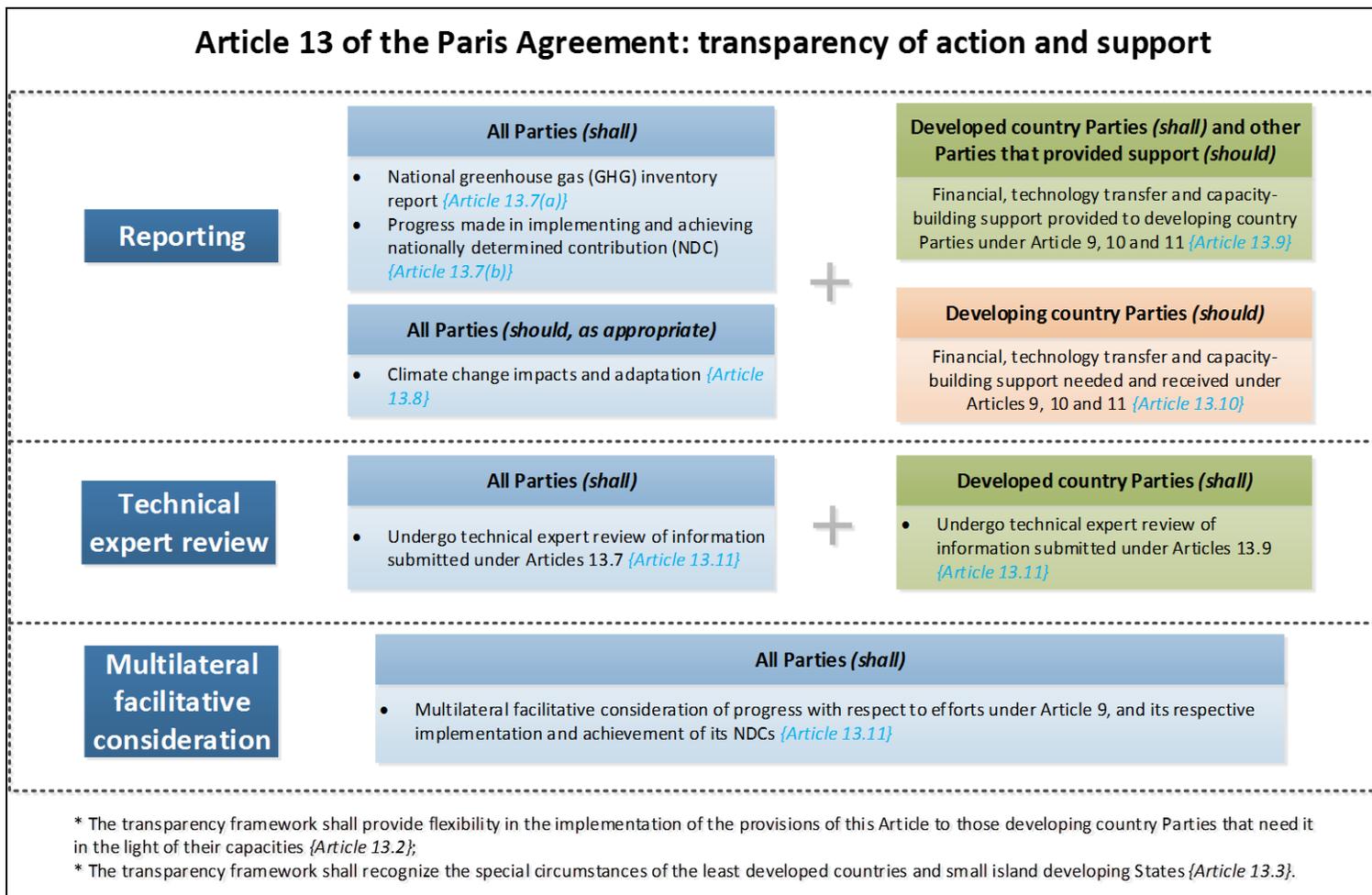
¹³ Decision 1/CP.21, paragraph 96.

¹⁴ Possible linkages with other negotiation items should be identified as soon as possible to ensure appropriate coordination and to avoid duplication of work. Where relevant and necessary, work on certain areas could be temporarily postponed to allow for the linked matters to advance, including corresponding parts of any document that aims to capture progress of the work under this agenda item.

¹⁵ http://unfccc.int/files/meetings/marrakech_nov_2016/in-session/application/pdf/apa_item_5_informal_note_v2.pdf.

¹⁶ At the time when this note was prepared, sufficient resources have been provided by Parties and the preparations for the workshop, to take place from 16 to 18 March 2017, were in progress.

Figure 2. Article 13 of the Paris Agreement: transparency of action and support.



26. Critical to taking the work on this item forward is the acknowledgement that Parties are at different starting points, that the transparency framework should be designed to encourage and incentivize continuous improvement over time, and that one important way of doing this will be through the provision of capacity-building and support for those who need it. To that end, Parties were appreciative that the Capacity-building Initiative for Transparency is operational, but some stressed that it will require adequate funding.

27. Parties will need to hone their thinking (consistent with Article 13 of the Paris Agreement and relevant COP decisions) on the options for “building upon” the current system as well as the possible enhancement of the transparency arrangement under the Convention. Does this mean, for example: identifying what key aspects of the current MRV¹⁷ system (i.e., incorporating ICA and IAR¹⁸) will continue to be applicable; identifying what additional components, such as enhanced reporting on support provided and received, might be necessary; or agreeing to another approach that would inform the shaping of MPGs to be applicable to all Parties?

28. In connection with the paragraph above, Parties will also need to refine their views on how to operationalize flexibility for those developing countries that need it in the light of their capacities in accordance with the Paris Agreement. The ideas proposed to date (not all mutually exclusive) include:

- Flexibility could be applied in a number of ways across the MPGs, e.g. through the use of tiers, methodological tiers, e.g., IPCC methodological tiers, or through a country’s choice of NDC;
- Flexibility could be applied systematically throughout the MPGs, e.g. scope, level and detail of reporting; frequency of reporting and review;
- Flexibility could be based on the legal nature of the reporting requirements, e.g. “shalls” and “shoulds”;
- Flexibility could be determined nationally based on developing countries’ capacities;
- Flexibility could be linked to support needed and provided.

Agenda item 6: Matters relating to the global stocktake referred to in Article 14 of the Paris Agreement

29. The COP requested the APA to identify the sources of input for the global stocktake (GST) and to develop its modalities, and to report to the COP, with a view to the COP making a recommendation to CMA 1 for consideration and adoption.¹⁹

30. In response to this mandate, Parties identified the following starting points and approaches that could be used to conduct this work: (a) identify possible additional sources of input, develop the modalities for the GST, and identify the outputs of the GST that will lead to the outcome of the GST; (b) clarify the outcome of the GST, which will shed light on the modalities of the GST and the sources of input needed; (c) clarify conceptual issues before focusing on identification of sources of input and development of modalities.

31. The deliberations and submissions made by Parties were summarized in the informal note by the co-facilitators,²⁰ grouped under the following categories: linkages and context; sources of input; modalities; and outcome/outputs. This structure, while not being in any way final or agreed, helped in collecting and compiling Parties’ views on many relevant aspects of this agenda item. The structure also helped in organizing key questions, which are included in the APA conclusions.²¹

32. Parties made important progress in their collective understanding of the GST process. There was wide support for a comprehensive GST exercise covering mitigation, adaptation and means of implementation. A preference for the GST to be helpful to governments in their efforts, rather than judgmental of individual actions,

¹⁷ The measurement, reporting and verification (MRV) system established by decision 1/CP.16, paragraphs 40–47 and 60–64, and decision 2/CP.17, paragraphs 12–62.

¹⁸ ICA = international consultation and analysis; IAR = international assessment and review.

¹⁹ Decision 1/CP.21, paragraphs 99 and 101.

²⁰ http://unfccc.int/files/meetings/marrakech_nov_2016/in-session/application/pdf/apa_6_informal_note.pdf.

²¹ FCCC/APA/2016/4, paragraph 25 (a)-(h).

was also clear. Parties will need to confer further on questions such as the management and criteria for a (non-exhaustive) list of inputs; the structure foreseen (phases identified included information gathering, synthesis and analysis, political consideration); and expected duration (many considering that a year would be necessary).

33. A key question remaining is how to ensure the GST is both manageable and genuinely informative, in line with the Paris Agreement's objectives. Putting forward straw proposals that track Parties' thinking about the GST from start to finish could perhaps be helpful in this respect.

34. The COP also requested the Subsidiary Body for Scientific and Technological Advice (SBSTA) to provide advice on how the assessments of the IPCC can inform the global stocktake of the implementation of the Paris Agreement pursuant to its Article 14.²² The advice provided by the SBSTA during the Marrakech session:²³

- (a) Noted that lessons could be learned from past experience;²⁴
- (b) Suggested modalities that could be utilized for considering the IPCC input, including: a dialogue between experts, IPCC experts and Parties; and special events;²⁵
- (c) Stressed that the inputs from IPCC should be considered in an effective and balanced manner, as part of the overall input to the global stocktake;
- (d) Recommended the use of the SBSTA-IPCC Joint Working Group to enhance communication and coordination in the context of the global stocktake.

35. The APA will need to incorporate this advice, as relevant, in its subsequent work on this agenda item. The follow-up work for this item consists of the submission of Parties' views on issues discussed under this agenda item, taking into consideration the questions referred to in paragraph 31 above.

Agenda item 7: Modalities and procedures for the effective operation of the committee to facilitate implementation and promote compliance

36. Article 15, paragraph 1, of the Paris Agreement establishes a mechanism to facilitate implementation of and promote compliance with the provisions of the Paris Agreement. Paragraph 2 of the same Article provides that the mechanism will consist of a committee that, in accordance with paragraph 3 of the same Article, will operate under the modalities and procedures adopted at CMA 1, while in paragraph 102 of decision 1/CP.21 the COP also decided on the main elements of the composition of the committee.

37. The COP requested the APA²⁶ to develop the modalities and procedures for the effective operation of the committee referred to in the paragraph above with a view to the APA completing its work on such modalities and procedures for consideration and adoption at CMA 1.

38. At Marrakech Parties engaged in a rich exchange of views on the questions that had been formulated by the Co-Chairs before the session²⁷ as well as other related issues raised by Parties and an additional question put forward by the co-facilitators with regard to future work. In their discussions, Parties highlighted many aspects and characteristics of the mechanism under Article 15 and began to identify possible elements for the modalities and procedures for the effective operation of the committee to facilitate implementation and promote compliance, including the following:²⁸

²² Decision 1/CP.21, paragraph 100.

²³ FCCC/SBSTA/2016/4, paragraph 56.

²⁴ In particular, the activities relating to the 2013–2015 review, taking into account successes and shortcomings.

²⁵ Views emerging from the SBSTA-IPCC special event held by the SBSTA on 18 May 2016 could be further considered.

²⁶ Decision 1/CP.21, paragraph 103.

²⁷ http://unfccc.int/files/meetings/marrakech_nov_2016/application/pdf/guiding-questions-co-chairs-apai7.pdf.

²⁸ http://unfccc.int/files/meetings/marrakech_nov_2016/in-session/application/pdf/apa_item_7_informal_note.pdf.

- Purpose and nature of the mechanism;
- Structure (including the composition of the committee set out in paragraph 102 of decision 1/CP.21);
- Scope and functions;
- Triggers;
- General process aspects;
- National capabilities and circumstances;
- Participation of the Party concerned;
- Measures and outputs;
- Relationship with other arrangements (including relation to other bodies);
- Relationship with the CMA.

39. While these discussions proved constructive, much still remains to be clarified and further elaborated. Submissions of views from Parties were therefore invited, including with the focus agreed in the APA conclusions.²⁹

40. Parties' inputs through these submissions will be important for the further elaboration of the elements and their eventual transformation into the required "modalities and procedures" text. Parties may wish to provide worked examples, using the possible elements listed above.

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

Adaptation Fund

41. In Marrakech, COP 22 requested the APA to launch discussions regarding the preparatory work on the matter related to the Adaptation Fund and the Paris Agreement, with a view to reporting on its outcomes no later than the fifteenth session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP). Following this request, the APA launched its consideration of this matter under agenda sub-item 8(b).

42. Also in Marrakech, CMA 1 decided that the Adaptation Fund should serve the Paris Agreement, following and consistent with decisions to be taken at the third part of the first session of the CMA, to be convened in conjunction with COP 24, and by the CMP, that address the governance and institutional arrangements, safeguards and operating modalities of the Adaptation Fund.³⁰

43. In addition, the COP requested the APA, in its consideration of the necessary preparatory work on the Adaptation Fund, to address the governance and institutional arrangements, safeguards and operating modalities for the Adaptation Fund to serve the Paris Agreement. By the same decision, the COP invited submissions from Parties on views on the aforementioned issues.³¹

44. The APA may wish to further consider the relevance of the information contained in the informal note prepared by the Co-Chairs on agenda sub-item 8(b).³² The presentation on past decisions prepared by the secretariat at the request of the APA Co-Chairs may also inform the work of the APA.³³

²⁹ FCCC/APA/2016/4, paragraph 26.

³⁰ Decision 1/CMA.1, paragraph 11.

³¹ Decision 1/CP.22, paragraphs 14 and 15.

³² http://unfccc.int/files/meetings/marrakech_nov_2016/in-session/application/pdf/apa_item_8_informal_note_by_co_chairs_v02.pdf.

³³ http://unfccc.int/files/meetings/marrakech_nov_2016/application/pdf/adaptationfundapa1.pdf.

Further matters related to implementation of the Paris Agreement

45. In Marrakech Parties identified a number of possible additional matters relating to the implementation of the Paris Agreement and the convening of CMA 1, which some Parties were of the view may not yet have been addressed. Such possible additional matters are listed in the annex to the informal note by the Co-Chairs.³⁴

46. At the first part of its first session, the CMA, through the COP, requested the APA to continue its consideration of such possible additional matters relating to the implementation of the Paris Agreement and the convening of CMA 1.^{35,36} It is also noted that CMA 1 requested the Subsidiary Body for Implementation, at its forty-seventh session, to consider matters relating to: (a) Article 4, paragraph 10, of the Paris Agreement (common time frames for NDCs); and (b) decision 1/CP.21, paragraph 83 (ways of enhancing the implementation of training, public awareness, public participation and public access to information).³⁷

47. The APA will need to continue consideration of the remaining possible additional matters, with due recognition of the fact that some of the issues may already be addressed under existing agenda items of the COP or the other subsidiary bodies. We reiterate that the consideration of these possible additional matters is without prejudice to any action to be taken by the COP and/or the CMA.

48. In preparing for work at the next session, Parties may wish to answer the following questions:

- (a) Is any preparatory work currently being undertaken on any of the remaining possible additional matters identified by Parties in the list above?
- (b) What work (if any) needs to be done on each of the matters which have not yet been addressed in order to give it effect under the Paris Agreement?
- (c) Which body would be the most appropriate to undertake this work?
- (d) What could be the time frame for completion of this work?

IV. Conclusion

49. The APA's mandated tasks are complex, closely interlinked (including with the work of other bodies), and will require thinking through in considerable detail. With the firm deadline to complete our work now confirmed for 2018, it is our collective responsibility to work efficiently and productively in the remaining time. We are confident that with the strong political will of Parties to successfully implement the APA's mandate, we will be able to achieve the outcome we all strive for in 2018.

50. We look forward to receiving Parties' submissions as the various agreed deadlines are reached, and to the other intersessional and pre-session work we have decided upon. In addition to focused submissions on specific APA agenda items, as referred to elsewhere in this note, Parties and admitted observer organizations are welcome to submit views and proposals on any work of the APA.³⁸ We urge Parties to make the most of these extra opportunities to advance their own and the APA's thinking, whether that is through worked examples, straw proposals and/or specific drafting of text. For our part, we as Co-Chairs will do whatever we can to ensure our various modes of work deliver the results Parties want.

51. We also remind Parties of the invitation to submit, by 30 April 2017, their views on how to progress work in the period after May.³⁹ This will be critical to put us in the best possible shape to advance appreciably on all

³⁴ http://unfccc.int/files/meetings/marrakech_nov_2016/in-session/application/pdf/apa_item_8_informal_note_by_co-chairs_v02.pdf.

³⁵ Decision 1/CMA.1, paragraph 9.

³⁶ Decision 1/CP.22, paragraph 13.

³⁷ FCCC/PA/CMA/2016/3, paragraph 24.

³⁸ FCCC/PA/2016/2, paragraph 23.

³⁹ FCCC/PA/2016/4, paragraph 13.

items at COP 23, to be presided over by Fiji. We would therefore be interested in whether Parties believe tools such as further workshops (including proposals on how to maximise their effectiveness and productivity), additional targeted submissions on fresh questions, straw proposals, technical papers and/or other mechanisms would be most useful, for which items, and in what time frame.

52. We would like to reiterate to Parties our sincere gratitude for the trust and confidence placed in us as well as for their continued support. It is our firm commitment to continue to remain open to Parties in the pre-sessional period and at the session in order to make sure that the process remains focused, balanced and Party-driven.
