

Working document

[Section K - Facilitating implementation and compliance]

Version of 4 September 2015 at 13:45

Establishment clause and related elements

Main observations:

- Many Parties reiterated the importance of including provisions on the establishment of arrangements for implementation and compliance in the draft Agreement.
- Several Parties identified other elements that, in their view, should accompany the establishment clause, including the nature and purpose of arrangements for implementation and compliance.
- Other Parties were of the view that enhancing the current processes, including in particular, those related to reporting and review would fulfill the function of facilitating implementation and compliance.
- In considering what an establishment clause in the draft Agreement might contain, some Parties acknowledged the usefulness of drawing on lessons learned from the compliance mechanism under the Kyoto Protocol and the multilateral consultative process under Article 13 of the Convention (MCP), while some Parties referred to the negotiation of similar arrangements under other multilateral environmental agreements.
- Parties emphasized the importance of arrangements for facilitating implementation and compliance that are appropriate to the nature of the Agreement and the commitments/contributions/actions to be defined in the Agreement.

Facilitative nature and purpose of the compliance mechanism

Main observations:

- Several Parties spoke on the role that arrangements for facilitating implementation and compliance can play in building confidence among Parties to the Agreement by enhancing transparency and accountability.
- There was a general acknowledgment that arrangements for implementation and compliance should be facilitative in nature.
- Several Parties noted the usefulness of the MCP as a starting point for considering arrangements under the draft Agreement. A number of Parties expressed willingness to explore this option while some Parties preferred to take a broader approach that was not limited to one example.
- Some Parties were of the view that in addition to a facilitative function an additional function is needed to ensure implementation such as through a tribunal.
- Parties provided examples of a range of facilitative measures such as those related to capacity building and ensuring that Parties are capable of meeting their obligations. Views were also expressed with regard to functions that would promote compliance and accountability.

Transparency and compliance

Main observations:

- The link between facilitating implementation and compliance and enhancing transparency was noted.

Differentiation and compliance

Main observations:

- Some Parties were of the view that differentiation would arise from differences in the substantive contributions and does not need to be referred to in provisions relating to a compliance mechanism. Other Parties were of the view that differentiation should be reflected in the provisions of a compliance mechanism, including through its scope and structure, namely through facilitative and enforcement branches.

Further observations and notes of the Co-Facilitators:

- Due to the lack of time, Parties began but did not complete their exchange of views on differentiation, enhanced transparency and the facilitative nature of a compliance mechanism.

Work programme

Main observations:

- Several Parties were of the view that arrangements should be ready as part of the Paris package in order for their national stakeholders to fully understand the legal nature of the Agreement. Some noted that the operational details of a compliance mechanism can be elaborated after the Paris Conference but would need to be developed before the first session of the governing body. Some Parties expressed the need for clarity on the details by Paris.
 - Some Parties indicated that, due to the concise nature of some of the options reflected in the Geneva Negotiating Text, these could be used in their entirety as options for clauses in the draft Agreement.
 - Some Parties recalled that the six elements contained in paragraph 5 of the Durban Mandate (decision 1/CP.17) do not include compliance.
 - Parties acknowledged the usefulness of further informal conversations on this matter in preparing for discussions at the October session of the ADP.
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