

Input to the spin-off group on 11 on compliance

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Article 11 (FACILITATING IMPLEMENTATION AND COMPLIANCE)

Option I

1. (Establishment) [A] [Implementation] [and] [Compliance] [mechanism][process][Committee] [, including a Committee [as a standing subsidiary body under the CMA]][compliance mechanism for developed countries and a facilitative mechanism for developing countries][applicable to all Parties] is hereby established.

2. (Objective and scope) The objective of the [mechanism][process][Committee] referred to in paragraph 1 of this Article is to:

Option 1:

[promote and] facilitate [and incentivize][effective] implementation of [and promote [and enforce] compliance with] [the [applicable] provisions of] [commitments under] [Articles [3][, 4, 6, 7, 8] and [9] of] this Agreement [and to assess and address questions of implementation arising from each Party's performance in accordance with those provisions]

Option 2:

promote compliance by developed countries and to facilitate implementation by developing countries through provision of adequate financial resource and transfer of technology

Option 3:

address cases of non-compliance by developed country Parties, including through the development of an indicative list of consequences, taking into account the cause, type, degree and frequency of non-compliance and facilitate implementation by developing country Parties

3. (Nature)

Option 1:

[The [Committee][mechanism][process][, including the Committee,] shall be [expert based,] [facilitative] [in nature] [and shall act in a manner that is transparent], [non-punitive], [non-adversarial] and [non-judicial]. [It shall pay particular attention to the respective national capabilities and circumstances of Parties.]

Option 2:

For developing country Parties, the nature should be facilitative, non-punitive, non-adversarial and non-judicial

4. (Structure)

It [shall function through a plenary and] shall consist of [two separate [branches] [forums] [mechanisms]] [:]

Option 1:

[X] members serving in their individual capacity, nominated by Parties and elected by the CMA, with due consideration to equitable geographical representation based on the five regional groups of the United Nations, ensuring the representation of small island developing States. The members shall be elected at the first session of the CMA.

The Committee shall make every effort to adopt its decisions by consensus. If all efforts at consensus have been exhausted and no consensus is reached, the decisions shall, as a last resort be adopted by a [X] majority vote of the members present and voting, based on a quorum of two-thirds of the members.

Option 2:

(a) An enforcement branch for developed country Parties and a facilitative branch for developing country Parties. The Compliance Mechanism may establish technical panels to assist them in their task.

(b) The role of the enforcement branch is to review compliance with commitments made by developed country Parties and [the role of the facilitative branch is to facilitate the implementation by developing countries of enhanced action on mitigation, adaptation, and transparency of action in such a way that it shall be facilitative, non-punitive and non-adversarial] [those developing country Parties that have made economy wide quantified emission reduction commitments, with respect to their commitments on mitigation and support as established under this Agreement].

(c) The enforcement branch may recommend actions that a developed country Party should take to ensure it fulfills its commitments under this Agreement.

(d) The role of the facilitative branch is to review the implementation of the national determined mitigation commitment made by developing country Parties and to assist them in finding ways to incentivise their efforts to meet these commitments.

Option 3:

a compliance branch and an implementation forum [, each with equitable and balanced representation of Parties]. The members of the Committee shall have competence in a field relevant to this Agreement and reflect an appropriate balance of expertise.

Option 4:

A compliance mechanism to address cases of non-compliance of the commitments of developed country Parties on mitigation, adaptation, provision of finance, technology development and transfer and capacity-building and transparency of action and support.

A facilitative mechanism to facilitate implementation by developing country Parties for enhanced action on mitigation, adaptation and transparency of action.

5. (Triggers)

Option 1:

The Committee may consider issues on the basis of:

- (a) Written submissions from any Party [or group of Parties] with respect to [itself][its own or other Parties' compliance with or implementation of the provisions of the Agreement];
- (b) Reports [by Parties in accordance with Article X of this Agreement][and questions of implementation arising from the transparency and accountability system under Article [9]][reports from Technical Expert (Review) teams]; or
- (c) Information derived from Annex [X] with regard to a situation where a Party fails to communicate and inscribe its NDMC[; and
- (d) Requests from the CMA].

Option 2:

No text on triggers

6. (Consequences)

Option 1:

Where it has determined that a Party is not in compliance, [the Compliance Branch] shall apply the following consequences, taking into account the cause, type, degree and frequency of the non-compliance of that Party and pay attention to the respective national capabilities and circumstances of Parties as appropriate:

- (a) Declaration of non-compliance; and
- (b) Request of the development of a compliance action plan.

Option 2:

The measures to be adopted by the CMA shall range from offering advice and assistance to the issuance of a statement of concern][to [be applied or actions to be taken to] [facilitate implementation]][and [address cases of non-compliance]][promote compliance]].

7. (Relationship to the CMA) [The Compliance Mechanism shall report annually to the CMA and shall operate under modalities and procedures agreed by the CMA at its first session] [The [process][mechanism][Committee] [, including the Committee] shall be under the authority of and report annually to the CMA]. [It shall elaborate its rules of procedure which shall be subject to approval by the second session of the CMA.]

Option II:

An International Tribunal of Climate Justice as is hereby established to address cases of non-compliance of the commitments of developed country Parties on mitigation, adaptation, provision of finance, technology development and transfer and, capacity-building, and transparency of action and support, including through the development of an indicative list of consequences, taking into account the cause, type, degree and frequency of non-compliance.

Option III:

No reference to facilitating implementation and compliance (no Article 11)