

SUGGESTIONS FROM THE EUROPEAN UNION AND ITS 28 MEMBER STATES TO IMPROVE THE STRUCTURE OF THE GENEVA TEXT

SECTION K – FACILITATING IMPLEMENTATION AND COMPLIANCE

The most effective way of identifying the different options contained in section K would be to separate the main alternative models and structure more detailed aspects by high-level themes.

Note: the Geneva text numbers are used below

Five alternative models:

- **Model 1: Implementation/compliance regime:** across [Option I \(coloured green\)](#), [Option II \(coloured red\)](#), [Option III \(coloured blue\)](#)
- **Model 2: Multilateral consultative processes:** [Option I, para 194](#), [Option 7](#)
- **Model 3: Climate justice tribunal:** [Option I para 196](#)
- **Model 4: New institutional arrangements:** [Option I para 197](#)
- **Model 5: No provisions** on facilitating implementation and compliance, [Option I para 194](#) [Option 8](#)

For the first model (**implementation/compliance regime**), the Geneva text contains a range of more detailed ideas and concepts. The relevant paragraphs could be structured in line with high-level themes.

<i>Cluster of issues</i>	<i>Paragraph number</i>	<i>Geneva text paragraphs</i>
Model 1	Option I , Option II , Option III	
Establishment and purpose of the regime		
Chapeau text	Option I: Para 194 Option 1 Chapeau, Option 2 Chapeau	OPTION I <i>Option 1 (chapeau):</i> In order to assist Parties in implementing their commitments / contributions and/or to address compliance issues in a manner that is expert-based, non-confrontational and non-judicial: <i>Option 2 (chapeau):</i> In order to facilitate, promote and enforce compliance with commitments under this agreement:
Establishment in the agreement	Option I: Para 194 Option 3 Chapeau,	OPTION I <i>Option 3 (chapeau):</i> A compliance system that is preventative and cooperative is hereby established to facilitate the

	Option 5-6	<p>implementation of commitments under this agreement:</p> <p>Option 5: A compliance mechanism or committee / implementation committee / a standing body responsible for promoting implementation and compliance and assessing Parties' performance is established;</p> <p>Option 6: The compliance committee is hereby established. The composition of the compliance committee shall be based on equitable geographical representation, ensuring representation of small island developing States. The body shall comprise [X] members. Decisions of the compliance committee shall be made by consensus where possible and, as a last resort, by a [two-thirds/three-fourths] majority;</p>
Mandate for COP/governing body	<p>Option I: Option 1-4, Option II: para 194</p>	<p>OPTION I</p> <p>Option 1: The governing body shall adopt procedures and/or mechanisms;</p> <p>Option 2: The governing body shall, at its first session, approve appropriate and effective procedures and mechanisms to facilitate the implementation and enforcement of the provisions of this agreement, including through the development of an indicative list of consequences, taking into account the cause, type, degree and frequency of non-compliance, building on experience under the Convention and its instruments;</p> <p>Option 3: The governing body shall adopt procedures and/or mechanisms, including the strengthening of transparency arrangements in support of implementation and compliance;</p> <p>Option 4: The governing body shall adopt appropriate and effective procedures to promote compliance;</p> <p>OPTION II</p> <p>194. In order to ensure compliance of developed countries and facilitate implementation for developing countries, the COP/governing body shall further elaborate the modalities of the mechanism/committee in accordance with the differentiated commitments of developed and developing countries under the Convention and on the basis of the experience with the compliance mechanism under the Kyoto Protocol. These arrangements shall include:</p> <p>a. A mandatory compliance mechanism for the commitments of developed countries on mitigation, adaptation, finance, technology development and transfer, capacity-building, and transparency of action and support;</p> <p>b. A voluntary facilitative forum for developing countries for enhanced action on mitigation, adaptation and transparency of action.</p>
Mandate/scope and structure of the	<p>Option I: Para 194 a),b),c); Option 4</p>	<p>OPTION I</p> <p>a. Regarding commitments / contributions (substantive scope):</p>

<p>body/committee</p>	<p>chapeau; Option III: para 194, 195, 196, 197; para 200</p>	<p>Option (a): All commitments / contributions in the agreement, including reporting; Option (b): Specified commitments / contributions, excluding adaptation, including reporting; Option (c): Implementation of Parties' schedules and the submission of biennial communications; Option (d): Mitigation, MRV and accounting commitments only.</p> <p>b. Regarding Parties: Option (a): All Parties; Option (b): [Developed country Parties][Parties included in annex X] regarding their commitments / contributions on mitigation, finance, transfer of technology and capacity building.</p> <p>c. Structure of the mechanism / committee: Option (a): Separate branches – an enforcement branch for Parties that have a quantified emission reduction commitment in annex A / to review compliance with commitments made by [developed country Parties][Parties included in annex X] and those [developing country Parties][Parties not included in annex X] that have made economy-wide quantified emission reduction commitments, with respect to their commitments on mitigation, as well as commitments on adaptation, finance, technology transfer and capacity-building, and a facilitative branch for commitments and strategies in annex B / to review the implementation of contributions made by [developing countries][Parties not included in annex X] and to assist them in their efforts to implement these contributions; the compliance committee may establish technical panels to assist it in its task; Option (b): Separate branches – an enforcement branch and a facilitative branch; Option (c): A standing, non-political, expert body of members who serve in their individual capacity, responsible for facilitating and promoting compliance with the obligations under this agreement; Option (d): One body for facilitation; Option (e): Platforms to deal with early warning, facilitation and enforcement.</p> <p>Option 4: (chapeau): The Compliance Committee shall have two branches, namely an enforcement branch and a facilitative branch:</p> <p>Para 195 Further details of the compliance mechanism shall be adopted no later than at the first session of the governing body.</p> <p>OPTION III: 194.[The compliance committee shall have two branches, namely an enforcement branch and a facilitative branch.</p>
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<p>Modalities of the arrangements</p>	<p>Option I: Para 194d) i), ii), iii), iv), v) Option III: para 198, 199 Option III: 201</p>	<p>OPTION I:</p> <p>d. Modalities such as:</p> <ol style="list-style-type: none"> i. Membership; ii. Triggers to commence a procedure: <ul style="list-style-type: none"> - Early warning for potential non-compliance; - Technical expert teams triggering questions of implementation; - Parties may trigger with respect to themselves or with respect to other Parties questions of implementation under articles [X, Y & Z]; iii. Procedures: <ul style="list-style-type: none"> - The nature of the proceedings of the compliance regime should be primarily facilitative, transparent, non-judicial and non-adversarial; iv. Use of economic instruments: <ul style="list-style-type: none"> - Use of economic instruments such as market mechanisms as a way to promote compliance. v. Measures and/or consequences: Option (a): Facilitative measures only Option (b): Facilitative measures and sanctions for recurring non-compliance Option (c): Facilitative measures and sanctions Option (d) Facilitative measures for [non-Annex][Parties not included in annex X] and sanctions for Annex I Parties [Parties included in annex X] Option (e): Expert groups that support developing country Parties in the preparation and implementation of contributions; Option (f): Facilitative and other adequate measures; Option (g): A differentiated system of consequences to be

		<p>applied in a graduated manner depending on the nature of the commitment and in proportion to the nature and extent of non-compliance with the commitment.</p> <p>OPTION III</p> <p>198. The enforcement branch may recommend actions to be taken against Parties that fail to make progress towards fulfilling commitments taken on under annex A and commitments with respect to adaptation, finance, technology transfer and capacity-building.</p> <p>199. The facilitative branch may recommend actions to assist Parties that have commitments inscribed in annex B to fulfil these commitments.</p> <p>OPTION I, 194 d</p> <p>vi. The compliance committee shall report annually to the Conference of the Parties to this agreement.</p> <p>OPTION III</p> <p>201. The compliance committee shall report annually to the Conference of the Parties to this agreement.</p>
Model 2	Option I, para 194, Option 7	Option I, para 194, Option 7: Implementation shall be strengthened through enhanced transparency, including through the consideration of the multilateral consultative process under article 13 of the Convention.
Model 3	Option I para 196	Option I para 196 Establishes the international climate justice tribunal to oversee, control and sanction the fulfilment of and compliance with the obligations of Annex I and Annex II Parties under this agreement and the Convention.
Model 4	Option I para 197	Option I para 197 New institutional arrangements or strengthened institutional arrangements may be needed to serve this agreement.
Model 5	Option I para 194 Option 8	Option I para 194 Option 8 No specific provisions required.