

DRAFT TEXT

on

CMA 3 agenda item 13

Report of the committee to facilitate implementation and promote compliance referred to in Article 15, paragraph 2, of the Paris Agreement (for 2020 and 2021)

Version 07/11/2021 00:13

Draft CMA decision on the rules of procedure of the committee to facilitate implementation and promote compliance referred to in Article 15, paragraph 2, of the Paris Agreement

The Conference of the Parties serving as the meeting of the Parties to the Paris Agreement,

Recalling Article 15 of the Paris Agreement and decision 1/CP.21, paragraphs 102–103,

Also recalling the 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 Paris Agreement (hereinafter the Committee), as contained in the annex to decision 20/CMA.1, in particular paragraphs 17–18,

Welcoming the annual reports of the Committee to the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement for 2020 and 2021,¹

Noting with appreciation the work undertaken by the Committee to date,

1. *Adopts* the rules of procedure of the committee to facilitate implementation and promote compliance referred to in Article 15, paragraph 2, of the Paris Agreement (hereinafter the Committee), as contained in the annex to this decision;²
2. *Invites* the Committee to continue and accelerate its work with urgency in developing its remaining rules of procedure in accordance with paragraphs 17–18 of the annex to decision 20/CMA.1, with a view to recommending them for consideration and adoption by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its fourth session (November 2022);
3. *Encourages* the Committee to make efforts to start its work on receiving information from the secretariat in relation to the submission of reports and communications from Parties according to its mandate under decision 20/CMA.1.

¹ FCCC/PA/CMA/2020/1 and FCCC/PA/CMA/2021/6.

² Rule 3.3 of the rules of procedure is to be applied to members and alternate members of the Committee in a manner that respects their duties and conduct as civil servants, as applicable, and the Code of Ethics for elected and appointed officers (available at <https://unfccc.int/sites/default/files/resource/Code%20of%20Ethics%20for%20elected%20and%20appointed%20officers.pdf>), as endorsed by the Bureau of the Conference of the Parties on 30 November 2018, is subject to further consideration and adoption by the governing bodies.

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ANNEX

Rules of procedure of the committee to facilitate implementation and promote compliance referred to in Article 15, paragraph 2, of the Paris Agreement

I. Rule 1: Objective and scope

1. The objective of these rules of procedure is to facilitate implementation of and promote compliance with the provisions of the Paris Agreement.
2. These rules of procedure shall apply to the committee to facilitate implementation and promote compliance referred to in Article 15, paragraph 2, of the Paris Agreement (the Committee), as defined in the annex to decision 20/CMA.1, entitled “Modalities and procedures for the effective operation of the committee referred to in Article 15, paragraph 2, of the Paris Agreement” (the modalities and procedures). These rules of procedure shall be read together with and in furtherance of the modalities and procedures and will be implemented to reflect all provisions of the Paris Agreement, including its Article 2.

II. Rule 2: Definitions

(placeholder)

III. Rule 3: Members and alternate members

A. Rule 3.1: Term of service

1. The term of service of each member and alternate member shall begin on 1 January of the calendar year immediately following their election and end on 31 December of the last year of their term.
2. For each new term pursuant to paragraphs 5 and 8 of decision the modalities and procedures the selection and notification to the secretariat of a member or alternate member shall be made by the nominating regional group or constituency, as applicable, for election by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA).
3. When a member or alternate member resigns or is otherwise unable to complete the assigned term or functions, an expert from the same Party shall be named by that Party to replace that member or alternate member for the remainder of the term. That Party may also, after consultation with its regional group or constituency, as applicable, name an expert from another Party in the same regional group or constituency, as applicable, to replace the member or alternate member. The Party shall notify the secretariat, in writing, of the name and contact details of the nominated member or alternate member, which will be subsequently communicated to the Committee by the secretariat.
4. If a member or alternate member is temporarily unable to serve in the Committee, the Committee shall, at the request of that member or alternate member, invite the naming of an expert from the same Party by that Party in consultation with the regional group or constituency, as applicable, to replace the member or alternate member in an ad interim capacity for a period of up to one year from the date of that request.

B. Rule 3.2: Role of alternate members

1. Subject to these rules, alternate members are entitled to participate in the proceedings of the Committee, without the right to vote.
2. An alternate member may cast a vote only if acting as the member.
3. In the absence of a member from all or part of a meeting of the Committee, their alternate shall act as the member.
4. If a member's seat is vacant, or a member resigns or is otherwise unable to complete their assigned term or functions, their alternate shall act as the member of the Committee, ad interim, until the member is formally elected or replaced in accordance with paragraph 9 of the modalities and procedures and rule 3.1.3 above.

C. Rule 3.3: Duties and conduct

1. Members and alternate members shall perform any duties and exercise any authority in an honourable, independent, impartial and conscientious manner, abiding by the Code of Conduct for UNFCCC conferences, meeting and events³ and the Code of Ethics for elected and appointed officers,⁴ including amended, revised and replaced versions of the same, which would be applicable mutatis mutandis to the Committee.
2. Members and alternate members of the Committee shall respect the obligation to preserve the confidentiality of information received in confidence or identified as such by the Committee, in accordance with paragraph 14 of the modalities and procedures.
3. At the beginning of their service, each member and alternate member shall confirm, in writing, that they will perform their duties and exercise their authority honourably, independently, impartially and conscientiously and declare, subject to their responsibilities within the Committee, that they will not disclose, even after the termination of their functions, any information determined by the Committee to be confidential that they have obtained by reason of their duties in the Committee, and shall disclose immediately any interest in any matter under discussion before the Committee that may constitute a real or apparent, personal or financial conflict of interest or that might be incompatible with the objectivity, independence and impartiality expected of a member or alternate member of the Committee and shall refrain from participating in the work of the Committee in relation to such matter.

D. Rule 3.4: Conflict of interest

1. Members and alternate members must promptly disclose and recuse themselves from any deliberations or decision-making where their personal or financial interests may be affected, in order to avoid a conflict of interest or the appearance of one.

IV. Rule 4: Election, roles and functions of the Co-Chairs

1. The Committee shall elect from among its members one Co-Chair from a developed country Party and one Co-Chair from a developing country Party.
2. Each Co-Chair shall serve as Co-Chair for the entire three years of their term⁵ and shall serve as Co-Chair during and between Committee meetings.
3. The Co-Chairs shall coordinate the agreed work of the Committee during and between meetings.
4. If a Co-Chair ceases to be able to carry out their functions, or ceases to be a member, a new Co-Chair shall be elected for the remainder of the term.

³ Available at https://unfccc.int/sites/default/files/resource/Code_of_Conduct_English.pdf.

⁴ Available at <https://unfccc.int/sites/default/files/resource/Code%20of%20Ethics%20for%20elected%20and%20appointed%20officers.pdf>.

⁵ For a Co-Chair elected in 2020 with a two-year seat on the Committee that term as Co-Chair shall be two years.

5. The Co-Chairs shall share and allocate between themselves responsibility for chairing Committee meetings.
6. If one of the elected Co-Chairs is not able to serve in the capacity of Co-Chair for a meeting or in relation to a particular matter, the other Co-Chair shall serve as Chair. If both Co-Chairs are unable to serve in their respective capacities, the Committee shall elect a member from among those present to serve as Chair for that meeting or in relation to that matter, as applicable.
7. In carrying out their functions, the Co-Chairs shall be guided by the best interests of the Committee, in accordance with paragraph 11 of the modalities and procedures.
8. The Co-Chairs shall be responsible for opening, conducting, suspending, adjourning and closing Committee meetings and for dealing with all procedural matters, in accordance with paragraphs 15–16 of the modalities and procedures and these rules of procedure.
9. The Co-Chairs are responsible for ensuring the observance of these rules of procedure and the adopted agenda for each meeting of the Committee.
10. The Co-Chairs shall rule on points of order and any such determination will be final unless a Committee member objects. In that case, the Committee shall consider the course of action to be taken.
11. The Co-Chairs shall present a draft report on each meeting, containing, inter alia, the decisions taken at the meeting, for consideration and approval by the Committee.
12. The Co-Chairs may represent the Committee at external meetings and report back to the Committee on those meetings. They may agree to delegate that function to other members or alternate members.
13. The Co-Chairs shall carry out any other functions assigned to them through these rules of procedure or a decision of the Committee.

V. Rule 5: Dates, notice and location of meetings

1. In accordance with paragraph 12 of the modalities and procedures, the Committee shall meet at least twice every year. At the first Committee meeting of each calendar year, the Co-Chairs shall propose a schedule of meetings for that calendar year taking into account the desirability of holding meetings in conjunction with sessions of the subsidiary bodies serving the Paris Agreement, as appropriate.
2. At each meeting, the Committee will confirm the dates, duration and venue of the following meeting.
3. If changes to the schedule or additional meetings are required, the Co-Chairs shall, after consultation with the Committee, request the secretariat to give notice of any changes in the dates of scheduled meetings and/or of the dates of additional meetings to members and alternate members, and, to the extent possible, notice of a meeting shall be given at least four weeks before the opening of that meeting.
4. The Committee shall endeavour to hold its meetings in Bonn, as appropriate, and may consider holding meetings virtually on an exceptional basis and when required to advance its work, as proposed by the Co-Chairs after consultation with the Committee.
5. In arranging virtual meetings, the Committee shall pay particular attention to the working modalities of such meetings, including the fair and balanced choice of time zones of members and alternate members, with the aim of ensuring inclusive and effective participation of all members and alternate members.
6. The secretariat shall notify members and alternate members of the date, duration and venue of the meetings and circulate the agenda for the meeting at least five weeks before the opening of the meeting.

VI. Rule 6: Development, transmission and adoption of meeting agendas

1. The Co-Chairs, assisted by the secretariat, shall draft the provisional agenda for each meeting of the Committee and transmit it to the Committee no less than five weeks before the opening of the meeting.
2. The provisional agenda for each meeting shall include, as appropriate:
 - (a) Items in accordance with the functions of the Committee as provided in Article 15 of the Paris Agreement, the modalities and procedures and these rules of procedure;

- (b) Items in accordance with the agreed outcomes of the previous meeting of the Committee;
 - (c) Items in accordance with paragraph 6 of this rule;
 - (d) Items in accordance with the workplan of the Committee and the arrangements for the subsequent meeting(s) of the Committee;
 - (e) Items proposed by any member or alternate member subject to paragraph 3 of this rule;
 - (f) A standing agenda item on budget and finance;
 - (g) A standing agenda item on information from the secretariat in relation to the submission of reports and communications from Parties to guide the Committee in its functions in accordance with paragraphs 20, 22(a–b) and 32–34 of the modalities and procedures.
3. Additions or changes to the provisional agenda for a meeting may be proposed to the Co-Chairs and the secretariat by any member or alternate member and will be incorporated into the provisional agenda provided that the member or alternate member gives notice thereof to the Co-Chairs and the secretariat within one week after the transmission of the provisional agenda.
 4. The agenda shall be proposed for adoption by the Committee at the beginning of each meeting.
 5. Prior to the adoption of the agenda at a meeting, the Committee may, by consensus, decide to add items to, delete items from, or defer or amend items in the provisional agenda for that meeting or the provisional agenda for the subsequent meeting, as appropriate.
 6. Any item on the agenda the consideration of which has not been completed at the meeting shall be included in the provisional agenda for the subsequent meeting, unless otherwise decided by the Committee.

VII. Rule 7: Documentation

1. Documentation for meetings of the Committee shall be made available to the Committee at least four weeks before the meeting.
2. The provisional agenda, the adopted meeting report and any other documentation as agreed by the Committee, as appropriate, shall be made publicly available on the UNFCCC website, subject to the confidentiality requirements set out in paragraph 14 of the modalities and procedures.
3. The Committee may use electronic means of communication for the transmission and sharing of documentation, without prejudice to other means of communication, as appropriate.
4. The secretariat shall ensure that a secure and dedicated web interface is established and maintained to facilitate the work of the Committee.

VIII. Rule 8: Quorum

1. A quorum shall be established, in accordance with paragraph 15 of the modalities and procedures, prior to the commencement of the meeting, taking into account that in the absence of a member from all or part of a meeting of the Committee their alternate shall act as the member.
2. A quorum shall be confirmed immediately prior to the adoption of any decision, taking into account that an alternate member may cast a vote only if acting as the member.
3. A member or alternate member may ask for a confirmation of quorum prior to the commencement of the meeting or prior to the adoption of any decision by the Committee.

IX. Rule 9: Decision-making and voting in accordance with paragraph 16 of the modalities and procedures

1. The Committee shall make every effort to reach agreement by consensus. When proposing a draft decision for adoption, the Co-Chairs shall ascertain whether consensus has been reached.
2. Efforts by the Co-Chairs to facilitate the reaching of consensus may include:

- (a) Consulting with members and alternates on draft documents, including draft decisions, prior to the meeting;
 - (b) Consulting with members and alternates on the relevant matter during the meeting;
 - (c) Providing the opportunity for members to state and/or formally record in the report on the relevant meeting their reservations regarding a particular decision without preventing consensus from being reached.
3. The Co-Chairs, acting together and in good faith, and following consultations with all members and alternate members, shall determine whether all efforts at reaching consensus in respect of a particular draft decision have been exhausted.
4. In making such a determination the Co-Chairs shall take into consideration:
 - (a) Whether consultations on the relevant matter have occurred during and/or between meetings, including between the Co-Chairs, without consensus being reached;
 - (b) Whether the subject matter of the draft decision has been considered at prior meetings without consensus being reached;
 - (c) Whether and how many members have indicated that they cannot join consensus on an issue.
5. If all efforts at reaching consensus have been exhausted, as a last resort, the following voting procedures shall apply:
 - (a) Prior to any votes being cast, the Co-Chairs shall provide a final draft decision to each member. Such a draft decision shall be the version of the decision that, in the Co-Chairs' judgment, was supported by the greatest number of members;
 - (b) The Co-Chairs retain their right to vote;
 - (c) Each member shall have one vote;
 - (d) A decision that is voted in favour of by at least three quarters of members present and voting shall be considered adopted.
6. For the purpose of this rule, the phrase "members present and voting" means members and alternate members acting as members present at the meeting at which voting takes place and casting an affirmative or negative vote. Members abstaining from voting shall be considered as not voting for the purpose of determining the three-quarters majority.
7. The Committee may, in writing using electronic means, take decisions between meetings for procedural matters or for matters for which it has during a meeting agreed such decisions are needed.
8. In accordance with paragraph 7 of this rule, rule 3.2 above and paragraphs 15–16 of the modalities and procedures, the Co-Chairs will circulate a proposed written decision for adoption on a no-objection basis within three weeks, after which the proposed written decision will be deemed adopted, unless there is an objection. If an objection is received, the Co-Chairs will work through the objection with the member or alternate member acting for the member, as ascertained by the Co-Chairs. If the objecting member or alternate member acting for a member upholds their objection, the proposed written decision will be considered by the Committee at the following meeting. If the objection is withdrawn or resolved without altering the text of the decision, the decision will be deemed adopted. The secretariat shall circulate to the Committee all written comments and objections.
9. Decisions adopted by the Committee shall be included in the report on the meeting and those decisions adopted pursuant to a vote shall include an indication of the final tally of votes together with any comments from dissenting members. Decisions approved between meetings shall be recorded in the report on the following Committee meeting.
10. Decisions of the Committee shall be reasoned and in writing.

X. Rule 10: Expert advice, and information, in accordance with paragraphs 25(c) and 35 of the modalities and procedures

1. In accordance with paragraph 35 of the modalities and procedures, the Co-Chairs, at the request of the Committee, may, in the course of its work, seek expert advice and information on behalf of the

Committee, and may seek and receive information from processes, bodies, arrangements and forums under and serving the Paris Agreement, including, as appropriate and in consultation with the Party concerned, by inviting representatives of those relevant bodies and making arrangements for them to participate in its relevant meetings.

2. When seeking such expert advice and information, the Committee should, as appropriate, take into account the expertise and experience from the region of the Party concerned, and may invite expert advice from the Party concerned.

3. The Committee may in due course, develop working arrangements on expert advice as appropriate.

XI. Rule 11: Languages

1. The working language of the Committee shall be English.

2. The parts of the meeting of the Committee that are of particular relevance to a Party concerned and open to that Party shall be translated into one of the other five official languages of the United Nations by the secretariat at the request of the Party, subject to the availability of dedicated resources.

3. A representative of a Party concerned may engage with the Committee in the language of his or her choice provided that the Party arranges for the interpretation of the communication, whether written or oral, into English.

4. Submissions from Parties should be made in English. Submissions may be made in one of the other five official languages of the United Nations if the Party also provides a translation into English.

XII. Rule 12: Observers

1. Meetings of the Committee shall be open to Parties and admitted non-Party observers to observe, subject to paragraphs 13–14 of the modalities and procedures, unless the Committee decides to hold the meeting or a part/or parts thereof in a closed session in order to, *inter alia*, protect the confidentiality of information received in confidence in accordance with paragraph 14 of the modalities and procedures. Such a decision by the Committee may be taken on a case-by-case basis, at any time before or during a meeting.

2. The secretariat shall inform the Committee before the meeting of any requests to attend the meeting received from non-Party observers admitted to the UNFCCC process.

3. Admitted non-Party observers shall abide by the guidelines for the participation of representatives of non-governmental organizations at meetings of UNFCCC bodies⁶ and the Code of Conduct for UNFCCC conferences, meeting and events, including amended, revised and replaced versions of the same, which would be applied *mutatis mutandis* to the Committee.

4. Parties and admitted non-Party observers shall leave the meeting if the Committee decides to hold a part of the meeting in a closed session.

5. The parts of the meeting that are open to observers shall be recorded and the recording made available on the UNFCCC website after the meeting, unless the Committee decides otherwise.

6. If, in the course of a meeting, a member or alternate member believes that an observer has violated paragraph 3 of this rule, it may request the Co-Chairs to immediately consult the Committee on this issue in a closed session. If, following the consultations, the Co-Chairs find in favour of the member or alternate member concerned, the observer concerned shall leave the meeting. If the member or alternate member concerned objects to the finding of the Co-Chairs, the Committee shall consider the course of action to be taken.

XIII. Rule 13: Secretariat

1. The secretariat shall support and facilitate the work of the Committee, subject to the availability of resources.

⁶ Available at https://unfccc.int/sites/default/files/guidelines_for_the_participation_of_ngos.pdf.

2. Subject to paragraph 1 of this rule, the secretariat shall:
 - (a) Make the necessary arrangements for the meetings of the Committee, including preparing provisional agendas in consultation with the Co-Chairs, announcing meetings, issuing invitations and making available the documents for the meetings;
 - (b) Maintain meeting records and arrange for the storage and preservation of meeting documents;
 - (c) Make documents available to the public in accordance with rule 7 above and paragraph 14 of the modalities and procedures, unless otherwise determined by the Committee;
 - (d) Perform any other functions requested by the Committee, consistently with any relevant decisions of the CMA;
 - (e) Arrange for interpretation at the meeting, as may be required under rule 11.2 above.

XIV. Rule 14 Conference of the Parties serving as the meeting of the Parties to the Paris Agreement

1. Pursuant to Article 15 of the Paris Agreement, the Committee shall report annually to the CMA and may receive guidance from the CMA.
2. The annual report of the Committee to the CMA shall be made publicly available and shall include information on any decision adopted by the Committee, unless otherwise decided in accordance with these rules of procedure, and systemic issues identified by the Committee, as relevant and appropriate, on the implementation of and compliance with the provisions of the Paris Agreement.
3. The Committee may propose amendments to these rules of procedure for consideration and adoption by the CMA.