

DRAFT TEXT

from

Presidency consultations on modalities, procedures and guidelines under the Paris Agreement with a focus on compliance

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Draft text

[*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 and 103,

1. *Adopts* the modalities and procedures for the effective operation of the committee referred to in Article 15, paragraph 2, of the Paris Agreement, as contained in the annex;
2. *Decides* to undertake, at the seventh session of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (2024), the first review of the modalities and procedures referred to in paragraph 1 above on the basis of the experience gained with their implementation and taking into account any recommendations of the committee referred to in paragraph 1 above, and to consider conducting further reviews on a regular basis;
3. *Takes note of* the estimated budgetary implications of the activities to be undertaken by the secretariat pursuant to the provisions contained in the annex.
4. *Requests* that the actions of the secretariat called for in this decision be undertaken subject to the availability of financial resources.

Annex

Modalities and procedures for the effective operation of the committee referred to in Article 15, paragraph 2, of the Paris Agreement

A. Purpose, principles, nature, functions and scope

1. The mechanism to facilitate implementation of and promote compliance with the provisions of the Paris Agreement established under Article 15 of the Agreement consists of a committee (hereinafter referred to as the Committee).
2. The Committee shall be expert-based and facilitative in nature and function in a manner that is transparent, non-adversarial and non-punitive. The Committee shall pay particular attention to the respective national capabilities and circumstances of Parties.
3. [The Committee's work shall [be guided by the provisions of the Paris Agreement, including its Article 2][reflect equity and the principle of common but differentiated responsibilities and respective capabilities, in the light of different national circumstances].]
4. In carrying out its work, the Committee shall strive to avoid duplication of effort, shall neither function as an enforcement or dispute settlement mechanism, nor impose penalties or sanctions, and shall respect national sovereignty.

B. Institutional arrangements

5. The Committee shall consist of 12 members with recognized competence in relevant scientific, technical, socioeconomic or legal fields to be elected by the CMA on the basis of equitable geographical representation, with 2 members each from the five regional groups of the United Nations and 1 member each from the small island developing States and the least developed countries, taking into account the goal of gender balance.

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6. The CMA shall elect members of the Committee as well as an alternate for each member, taking into account the expert-based nature of the Committee and striving to reflect the diversity of expertise referred to in paragraph 5 above.
 7. Members and alternate members shall be elected to the Committee to serve for a period of three years and for a maximum of two consecutive terms.
 8. Six members and six alternate members shall be elected to the Committee for an initial term of two years 2 (November 2019) and six members and six alternate members at CMA 2 for a term of three years. Thereafter, the CMA shall elect at its relevant regular sessions six members and six alternate members for a term of three years. The members and alternate members shall remain in office until their successors are elected.
 9. If a member of the Committee resigns or is otherwise unable to complete the assigned term or to perform the functions in the Committee, an expert from the same Party shall be named by that Party to replace said member for the remainder of the unexpired term.
 10. Members and alternate members of the Committee shall serve in their individual expert capacity.
 11. The Committee shall elect from among its members two Co-Chairs for a period of three years, taking into account the need to ensure equitable geographical representation. The Co-Chairs shall perform the functions to be elaborated in the rules of procedure of the Committee referred to in paragraphs 17 and 18 below.
 12. Unless otherwise decided, the Committee shall meet at least twice a year, beginning in 2020. In scheduling its meetings, the Committee should take into account the desirability of holding its meetings in conjunction with sessions of the subsidiary bodies serving the Paris Agreement, as appropriate.
 13. Only members and alternate members of the Committee and secretariat officials shall be present during the elaboration and adoption of a decision of the Committee.
 14. The Committee, any Party or others involved in the process of the consideration by the Committee shall protect the confidentiality of information received in confidence.
 15. The adoption of decisions by the Committee shall require a quorum of ten of the members to be present.
 16. The Committee shall make every effort to reach agreement on any decision by consensus. If all efforts at reaching consensus have been exhausted, as a last resort, the decision may be adopted by at least three quarters of the members present and voting.
 17. The Committee shall develop rules of procedure with a view to recommending them to the CMA for consideration and adoption at CMA 3 (November 2020), informed by the principles of transparency, facilitation, the non-adversarial and non-punitive function, and paying particular attention to the respective national capabilities and circumstances of Parties.
 18. The rules of procedure referred to in paragraph 17 above will address any matters necessary for the proper and effective functioning of the Committee, including the role of the Committee's Co-Chairs, conflict of interest, any additional timelines related to the Committee's work, procedural stages and timelines for the Committee's work, and reasoning in decisions of the Committee.

C. Initiation and process

19. In exercising its functions referred to in paragraphs 20 and 22 below, and subject to these modalities and procedures, the Committee shall apply the relevant rules of procedure to be developed pursuant to paragraphs 17 and 18 above and shall be guided by the following:
 - (a) Nothing in the work of the Committee may change the legal character of the provisions of the Paris Agreement;
 - (b) In considering how to facilitate implementation and promote compliance, the Committee shall endeavour to constructively engage with and consult the Party concerned at all stages of the process, including by inviting written submissions and providing opportunities to comment;
 - (c) The Committee shall pay particular attention to the respective national capabilities and circumstances of Parties, recognizing the special circumstances of the least developed countries and small island developing States, at all stages of the process, in accordance with the provisions of the Paris Agreement, including in determining how to consult with the Party concerned, what assistance can be provided to the Party concerned to support its engagement with the Committee, and what measures are appropriate to facilitate implementation and promote compliance in each situation;

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- (d) The Committee should take into account the work being undertaken by other bodies and under other arrangements as well as through forums serving or established under the Paris Agreement with a view to avoiding duplication of mandated work;
- (e) The Committee should take into account considerations related to the impacts of response measures.
20. The Committee should consider issues related to, as appropriate, a Party's implementation of or compliance with the provisions of the Paris Agreement on the basis of a written submission from that Party with respect to its own implementation of and/or compliance with any provision of the Paris Agreement.
21. The Committee will undertake a preliminary examination of the submission within the timeline to be elaborated in the rules of procedure referred to in paragraphs 17 and 18 above, with a view to verifying that the submission contains sufficient information, including on whether the matter relates to the Party's own implementation of or compliance with a provision of the Paris Agreement.
- 22.

Option 1: The Committee, on the basis of factual information from the publicly available sources under the processes and arrangements under or serving the Paris Agreement compiled by the secretariat, may initiate the consideration of issues related to a Party's [or a group of Parties'] implementation of and compliance with mandatory provisions of the Paris Agreement;

{End of Option 1}

22. **Option 2:** The Committee

(a) Will initiate the consideration of issues in cases where a Party has not:

- i. Communicated or maintained a nationally determined contribution under Article 4 of the Paris Agreement, based on the most up-to-date status of communication in the public registry referred to in Article 4, paragraph 12, of the Paris Agreement;
- ii. Submitted a mandatory report or communication of information under Article 13, paragraphs 7 and 9, or Article 9, paragraph 7, of the Paris Agreement;
- iii. Participated in the facilitative, multilateral consideration of progress, based on information provided by the secretariat;
- iv. [Communicated, where relevant, mandatory information under Article 6 of the Paris Agreement;]
- v. Submitted a mandatory communication of information under Article 9, paragraph 5, of the Paris Agreement;

(b) [[Will][May], with the consent of the Party concerned, engage in a facilitated consideration of issues in cases of significant and persistent inconsistencies of the information submitted by a Party pursuant to Article 13, paragraphs 7 and 9, of the Paris Agreement with the modalities, procedures and guidelines referred to in Article 13, paragraph 13, of the Paris Agreement. This consideration will be based on the final technical expert review reports referred to in Article 13, paragraphs 11 and 12, of the Agreement, together with any written comments by the Party that is being reviewed].

23. The consideration of issues in paragraph 22 (a) above will not address the content of the contributions, communications, information and reports referred to in paragraph 22 (a) above.

{End of Option 2}

24. Where the Committee decides to initiate a consideration as referred to in paragraph 22 above, it shall notify the Party concerned and request it to provide the necessary information on the matter.

25. With respect to the consideration by the Committee of matters initiated in accordance with the provisions of paragraphs 20 or 22 above and further to the rules of procedure referred to in paragraphs 17 and 18 above:

(a) The Party concerned may participate in the discussions of the Committee, except during the Committee's elaboration and adoption of a decision;

(b) If so requested in writing by the Party concerned, the Committee shall hold a consultation during the meeting at which the matter with respect to that Party is to be considered;

(c) In the course of its consideration, the Committee may obtain additional information as referred to in paragraph 35 below or, as appropriate and in consultation with the Party concerned, invite representatives

of relevant bodies and arrangements under or serving the Paris Agreement to participate in its relevant meetings;

(d) The Committee shall send a copy of its draft findings, draft measures and any draft recommendations to the Party concerned and shall take into account in finalizing those findings, measures and recommendations any comments made by the Party.

26. The Committee will accord flexibility with regard to timelines in the procedures under Article 15 to those developing country Parties that need it in the light of their capacities.
27. Subject to the availability of financial resources, assistance should be provided, upon request, to developing country Parties concerned to enable their necessary participation in the relevant meetings of the Committee.

D. Measures and outputs

28. In identifying the appropriate measures, findings or recommendations, the Committee shall be informed by the legal nature of the relevant provisions of the Paris Agreement, shall take into account the comments received from the Party concerned and shall pay particular attention to the national capabilities and circumstances of the Party concerned. Special circumstances of small island developing States and least developed countries, as well as situations of force majeure, should also be recognized, where relevant.
29. The Party concerned may provide to the Committee information on particular capacity constraints, needs or adequacy of support received for the Committee's consideration in its identification of appropriate measures, findings or recommendations.
30. With a view to facilitating implementation and promoting compliance, the Committee shall take appropriate measures. These may include the following:
 - (a) Engage in a dialogue with the Party concerned with the purpose of identifying challenges, making recommendations and sharing information, including in relation to accessing finance, technology and capacity-building support, as appropriate;
 - (b) Facilitate a dialogue between the Party concerned and the appropriate finance, technology and capacity-building bodies or arrangements under or serving the Paris Agreement, in order to identify possible challenges and solutions;
 - (c) Make recommendations to the Party concerned on the matters referred to in sub-paragraph (b) above and [recognizing that the Party may provide information about such recommendations] to the relevant bodies or arrangements, as appropriate;
 - (d) Recommend the development of an action plan and, if so requested, assist the Party concerned in developing the plan;
 - (e) Issue findings of fact in relation to implementation and compliance [with the matters enumerated in paragraph 22, Option 2, sub-paragraph (a), above].
31. The Party concerned is encouraged to provide information to the Committee on the progress made in implementing the action plan referred to in paragraph 30(d) above.

E. Consideration of systemic issues

32. The Committee may identify issues of a systemic nature with respect to the implementation of and compliance with the provisions of the Paris Agreement faced by a number of Parties and bring such issues and, as appropriate, any recommendations to the attention of the CMA for its consideration.
33. The CMA may, at any time, request the Committee to examine issues of a systemic nature. Following its consideration of the issue, the Committee shall report back to the CMA and, where appropriate, make recommendations.
34. In addressing systemic issues, the Committee shall not address matters that relate to the implementation of and compliance with the provisions of the Paris Agreement by an individual Party.

F. Information

35. In the course of its work, the Committee may seek expert advice, and seek and receive information from processes, bodies, arrangements and forums under or serving the Paris Agreement.

G. Relationship with the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement

36. Pursuant to Article 15 of the Paris Agreement, the Committee shall report annually to the CMA.

H. Secretariat

37. The secretariat referred to in Article 17 of the Paris Agreement shall serve as the secretariat of the Committee.]
