



Revised additional tool under item 7 of the agenda

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

Informal document by the co-facilitators

Second iteration 07/09/2018 @ 20:45 hrs

1. This note captures the progress of Parties' work under agenda item 7, "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" at the sixth part of the first session of Ad Hoc Working Group on the Paris Agreement. The note was prepared, under their own responsibility and under the guidance of the APA Co-Chairs, by the co-facilitators of the negotiations on this item, Ms. Janine Felson (Belize) and Ms. Christina Voigt (Norway).

2. The content of the note is without prejudice to the further negotiations by Parties on these matters. It is understood that Parties may express their views thereon at any time, including through submissions to be considered in the further deliberations under this agenda item.

3. The text of sections C and J–L below is replicated from the 'Additional tool under item 7 of the agenda' (dated 2 August 2018).¹ All changes to the text of the 'Revised additional tool – First iteration 06/09/2018 @ 20:30 hrs' are highlighted in grey.

Elements of relevant guidance²

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¹ <https://unfccc.int/sites/default/files/resource/APA1.6.Informal.1.Add.5.pdf>.

² Headings, subheadings and formatting are without prejudice to the eventual modalities and procedures and are intended as a tool to collect and organize issues for the purposes of this document.

A. Purpose, principles, nature, functions and scope

1. The mechanism to facilitate implementation and promote compliance with the provisions of the Paris Agreement (hereinafter ‘the Agreement’), established pursuant to Article 15 of the Agreement, consists of a Committee which is expert-based and facilitative in nature, which shall function in a manner that is transparent, non-adversarial and non-punitive and shall pay particular attention to the respective national capabilities and circumstances of Parties.
2. The Committee is to exercise its functions in accordance with the principles of the Agreement and the guidance contained in the present modalities and procedures as well as any additional guidance that may be provided by the CMA.
3. The Committee’s work is to be guided also by equity and the principles of common but differentiated responsibilities and respective capabilities.

A.1 Purpose

4. Facilitate implementation and promote compliance (Art 15.1).³

~~Encourage, assist and enable Parties to implement provisions and comply with their obligations~~

~~Prevent situations of non implementation or non compliance~~

~~Preventive role is inconsistent with the facilitative and non adversarial nature of the Committee~~

~~Thereby:~~

~~Enhance effectiveness and durability of the Agreement~~

~~Enhance credibility, confidence, consistency and effectiveness of actions, and trust among Parties~~

~~Complement other processes and mechanisms under the PA and the Convention~~

~~Avoid politicization.~~

A.2 Principles

5. Established under the Paris Agreement (PA)

~~Nothing in the design or operations of the Art 15 Mechanism can change the content or legal character of the PA’s provisions.~~

6. Paris Agreement and Convention principles:

~~**Option A:** Art 15 Mechanism must reflect equity and the principle of common but differentiated responsibilities and respective capabilities (CBDR-RC) in line with the Convention~~

~~The modalities need to respect and be informed by the principles, including with regard to nature, scope, functions, commencement, measures/outputs, and procedures~~

~~This includes differentiation between developed and developing countries~~

~~**Option B:** The PA already reflects CBDR-RC in the light of different national circumstances: no further reflection in the modalities~~

~~Differentiation is already embedded in the PA provisions, and is embedded in Article 15 in a particular way.~~

~~Art 15 mechanism is applicable to all Parties~~

~~**Option C:** Reference to Articles 2 and 15.~~

7. Other relevant principles:

~~(Options, not necessarily mutually exclusive):~~

~~transparency~~

~~non duplication of effort/complementarity~~

~~effectiveness~~

~~independence~~

~~inclusiveness.~~

A.3 Nature

8. Functioning in a facilitative, transparent, non-adversarial, non-punitive manner (Art 15.2),

³ References to articles (Art) are to those of the Paris Agreement (PA).

~~Expert based and facilitative (Art 15.2),~~

~~Paying particular attention to the respective national capabilities and circumstances of Parties (Art 15.2),~~

~~Transparent (see below: Procedural matters) (Art 15.2),~~

~~Non punitive (Art 15.2), i.e.:~~

~~○ No enforcement~~

~~○ No penalties or sanctions,~~

~~Non adversarial (Art 15.2), i.e.:~~

~~○ Not a mechanism to settle disputes~~

~~○ Respecting national sovereignty,~~

~~Consultative,~~

~~Advisory.~~

B. Functions

9. ~~Facilitate implementation and promote compliance (Art 15.1):~~

~~**Option A:** Two distinct functions:~~

~~With differences based on scope, triggers, and/or measures:~~

~~○ **Option 1:** As a dual function; distinct but complementary; may not be mutually exclusive;~~

~~○ **Option 2:** Two distinct roles, reflecting differentiated approach throughout PA and national circumstances;~~

~~**Option B:** A continuum within the spectrum of functions:~~

~~○ With the difference being determined by the legal nature of the provision in question:~~

~~▪ Facilitation and compliance for legally binding provisions; only facilitation for non-legally binding~~

~~○ With the difference being determined by what is the appropriate measure/output in each case~~

~~**Option C:** One function: with no difference in measures/outputs as its outcomes are advisory and non-binding.~~

~~National circumstances and capabilities (NCC): to be taken into account in the exercise of its functions / Whether and how to operationalize this element under this section to be explored.~~

C. Institutional arrangements

Composition (1/CP.21, para 102)

10. The Committee to be comprised of twelve members with recognized competence in relevant scientific, technical, socioeconomic or legal fields to be elected by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA) on the basis of equitable geographical representation, with two members each from the five regional groups of the United Nations and one member each from the small island developing States and the least developed countries, while taking into account the goal of gender balance.

Members / alternates and expert based nature

11. **Option A:** Members of the Committee:

Option B: Members and an alternate for each member of the Committee:

- to be elected by the CMA
- taking into account the expert-based nature of the Committee in accordance with Article 15 of the Paris Agreement
- giving consideration to diversity of the relevant fields of expertise.

Term of office, staggered election for continuity

12.

- (a) Members / and alternate members / to be elected to serve for a period of three years and be eligible to serve a maximum of two consecutive terms
- (b) Six members / and six alternate members / to be elected at CMA [x] initially for a term of two years and six members and alternate members for a term of three years

-
- (c) Thereafter, the CMA to elect at each of its regular sessions six members / and alternate members / for a period of three years
- (d) The members / and alternate members / to remain in office until their successors are elected.

Resignation / replacement

13. If a member / or an alternate member / resigns or is otherwise unable to complete the term of office or to perform the functions of that office, the Committee may decide, bearing in mind the proximity of the next session of the CMA, to appoint a member / or an alternate member / from the same group or constituency to replace said member for the remainder of that member's / alternate member's / mandate. Such term of office to count as one term.

Individual vs expert capacity

14. Members of the Committee / and their alternate members / to serve in their

Option A: individual capacity

Option B: expert capacity

Option C: individual, expert capacity.

Bureau

Election, term of office and geographical representation

15. **Option A:**

- The Committee to elect from amongst its members for a period of two/three years the Chair and Vice-Chair as well as three other Bureau members to serve as the Bureau of the Committee
- In electing the Bureau, the Committee to ensure equitable representation of the five regional groups of the United Nations
- The positions of the Chair and Vice-Chair, taking into account the need to ensure equitable geographical representation.

Option B: *No bureau provisions in the modalities*

Option C: The Committee to elect

- from amongst its members
 - Option 1:** the Chair and Vice-Chair
 - Option 2:** two Co-Chairs
- for a period of two/three years,
- taking into account the need to ensure equitable geographical representation.

Role of the Bureau

16. Role of the Bureau with regards to admissibility, question of implementation and systemic issues.

Frequency of meetings

17. Unless otherwise decided, the Committee to meet

Option A: at least once a year

Option B: at least twice a year

Option C: X times a year,

- beginning in
 - Option A:** 2019
 - Option B:** 2020.

Open or closed meetings

18. Meetings of the Committee to be

Option A: {open as default}

-
- held in public
 - unless the Committee, of its own accord or at the request of the Party concerned, decides for part or all of the meeting to be held in private
 - only members / and alternate members / of the Committee and secretariat officials to be present during the elaboration and adoption of a decision of the Committee

Option B: *{closed as default}*

- held in a closed session, subject to the provisions of the present modalities and procedures on the participation of the Party concerned
- the Committee of its own accord, at the request of the Party or otherwise concerned, may invite the Party concerned to participate in a part of its meeting
- only members / and alternate members / of the Committee and secretariat officials to be present during the elaboration and adoption of a decision of the Committee.

Quorum

19. Adoption of decisions by the Committee requires a quorum of at least

Option A: three fourths of the members to be present

Option B: ten members to be present.

Decision-making

20. The Committee to

Option A: *{consensus}*

- reach agreement on any decision by consensus

Option B: *{consensus, with voting as last resort}*

- 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 decisions to be adopted by
 - **Option 1:** a majority of the members present and voting
 - **Option 2:** at least two-third of the members present and voting
 - **Option 3:** at least three-fourth of the members present and voting
 - **Option 4:** at least nine of the members present and voting.

Conduct of work and decision-making through electronic means of communication

21. **Option A:**

- Possibility to conduct its work, including with regard to elaboration and adoption of decisions, using electronic means of communication, subject to provisions of these modalities and procedures with respect to participation of the Party concerned
- Such decisions to be deemed taken at the headquarters of the secretariat

Option B:

- The Committee may elaborate and adopt its decisions using electronic means
- Such decisions to be deemed taken at the headquarters of the secretariat.

Reasoning

22. Any decisions of the Committee concerning facilitation of implementation and promotion of compliance by Parties to be made in writing and supported by reasoning.

Conflict of interest

23. Members / and alternate members / to

- disclose any interest in any matter under discussion before the Committee which may constitute a conflict of interest or which might be incompatible with the requirements of independence and impartiality expected of a member / or alternate member / of the Committee
- refrain from participating in the work of the Committee in relation to such matter.

24. **Option A:** Members / and alternate members / are considered to have a conflict of interest when their country is the Party concerned.

Option B: Members / and alternate members / are not automatically considered to have a conflict of interest when their country is the Party concerned.

Rules of procedure of the Committee

25. **Option A:** {Committee to develop proposal for CMA}

The Committee to develop its rules of procedure for consideration and adoption by the CMA 2/ CMA in 2020

- informed by the principles of transparency, facilitation, the non-adversarial and non-punitive function, and taking into account national capabilities and circumstances.⁴

Option B: {Rules of procedure to be elaborated in this text}

The elements may need to include the following issues (indicative, non-exhaustive list):

- Dates for start and end of terms of office of members
- Details on the role of alternate members, if alternate members are included
- Oath of service provisions
- Further details on how conflict of interest issues could be addressed
- Elaboration on the replacement of Bureau officers
- Elaboration on the tasks of the Bureau, including with regard to admissibility, question of implementation, including systemic issues
- Details on the timing of document circulation
- Process of elaboration of meeting agenda
- Timelines for circulation for reports, information on question of implementation and information on systemic issues
- Sets of procedures for timelines for circulation of specific documents and other notifications to Parties,
 - **Option 1:** including guidelines for differentiated timelines to afford necessary flexibility to Parties and to account for the nature of provisions of the Paris Agreement concerned
 - **Option 2:** No text on differentiated timelines
- Details on how timeframes are to be calculated, e.g. taking into account working days and holidays and the nature of provisions of the Paris Agreement concerned
- Detailed procedures for the use of electronic means of decision-making: what types of decision, what procedures, etc.
- Place of meetings
- Attendance requirements
- Working language.

D. Scope

26. **Options:**

~~A. Comprehensive~~

~~B. Scope in light of function~~

~~C. In relation to specific obligations~~

~~C.1 Specific obligations under Articles 4, 6, 7, 9, 10, 11 and 13~~

~~C.2 All “shall” provisions~~

~~C.3 Legally binding provisions on individual obligations of Parties~~

⁴ Note: Such rules of procedure may also include some of the elements included above in this section (e.g. replacement of members, electronic modes of work, conflict of interest procedures).

~~D. In line with the differentiation in the Paris Agreement provisions~~

~~E. One of the above as well as relevant provisions of CMA decisions~~

~~F. Scope in the context of initiation (see section E).~~

E. Initiation of consideration

{Parties have made proposals for alternative ways to structure and reframe of sections on Initiation of consideration, Process, and Measures and outputs}

27.

Option A *{Self-referral only}*:

24.1. The Committee may consider issues related to, as appropriate, a Party's implementation of and compliance with the provisions of the Paris Agreement on the basis of written submissions from any Party with respect to its own implementation of [and][or] compliance with the provisions of the Paris Agreement.

Option B *{Self-referral and other means of initiation}*:

24.1. (...) *{as paragraph 24.1 above}*.

{Options B.1-B.5 in paragraphs 24.2–24.6 below are not mutually exclusive. Parties may choose to select all, some or none.}

24.2. Option B.1 *{referrals by a third Party}*:

In addition, the Committee may consider written referrals by a Party or group of Parties with respect to implementation of [and][or] compliance with

Option B.1.1: Articles 4, 7 and 9 by another Party or a group of Parties;

Option B.1.2: all provisions of the Paris Agreement.

24.3. Option B.2 *{Initiation by the Committee}*:

- In addition, the Committee may initiate the consideration of issues related to, as appropriate,

- a Party's /a Party's or a group of Parties'/ implementation of and compliance with

Option B.2.1: the provisions of the Paris Agreement applicable to a Party or a group of Parties

Option B.2.2: the obligations contained in Articles 4, 6, 7, 9, 10, 11 and 13 of the Paris Agreement and applicable to a Party or a group of Parties

Option B.2.2 bis: on communication of the most up to date status of the obligations contained in Articles 4, 6, 7, 9, 10, 11 and 13 of the Paris Agreement and applicable to a Party or a group of Parties on the communication of the most updated reports

Option B.2.2 ter: the obligations contained in Articles 4, 6, 7, 9, 10, 11, 13 and 14 of the Paris Agreement and applicable to a Party or a group of Parties on the communication of the most updated reports

Option B.2.3: obligations related to objectively identifiable binary issues contained in Article 4, paragraph 2, 8, 9, Article 7, paragraph 11, Article 9, paragraphs 5 and 7, and Article 13, paragraphs 7 and 9

Option B.2.3 bis: obligations related to objectively identifiable binary issues contained in Articles 4, 6, 7, 9, 10, 11 and 13 of the Paris Agreement and applicable to a Party or a group of Parties

Option B.2.3 ter: legally binding, individual, objectively assessable obligations

Option B.2.3 quat: legally binding obligations

Option B.2.4: individual, objectively assessable procedural obligations contained in Article 4, paragraphs 2 and 9, and Article 9, paragraph 5 and Article 13, paragraphs 7 and 9

Option B.2.5: obligations contained in Article 4, paragraphs 2 and 9, Article 9, paragraph 5, Article 13, paragraphs 7 and 9,

Option B.2.6 *{additional to options B.2.1–B.2.5 above and B.2.7–B.2.9 below}*:

as well as provisions expressed through language of a mandatory nature contained in

Option B.2.6 (a): decisions of the CMA related to these obligations

Option B.2.6 (b): decisions of the CMA related to these obligations on the communications under Articles 4, 7 and 9.5

Option B.2.6 (c): modalities, procedures and guidelines adopted under Article 13 of the Paris Agreement as contained in the relevant decisions of the CMA

- and/or a situation where

Option B.2.7: a Party has failed to communicate an NDC, to provide the mandatory information or a mandatory report, or to participate in the facilitative, multilateral consideration of progress

Option B.2.8: a Party has failed to submit an NDC under Article 4 or a required report under Article 13 by a deadline established by the CMA

Option B.2.8 bis: a Party has failed to submit communications under Article 4, 7, 9 and 13 by a deadline established by the CMA

Option B.2.9: the significance or recurring nature of inconsistencies with the modalities, procedures and guidelines referred to in Article 13.13 give rise to questions of compliance with Article 13

- on the basis of

- **Option (a):** *{options in sub-paragraphs a–g below not necessarily mutually exclusive and one or more can be read together with the relevant options B.2.1–B.2.6 above. Parties may choose to select all, some or none}:*

(a) information contained in the registry of nationally determined contributions (NDC registry),

(b) information contained in the registry of nationally determined contributions (NDC registry), and up to date status of communication of obligations under Articles 7 and 9;

(c) information received through the secretariat, including, but not limited to:

(i) Information on the most up-to-date status of communication of nationally determined contributions by Parties as reflected in reports to be prepared by the secretariat, based on information contained in the public registry referred to in Article 4, paragraph 12, of the Agreement;

(ii) ... *{for each sub-paragraph, the information and the source of information should be specified}*

(d) information contained in any relevant registries established under the Paris Agreement,

(e) any status reports by the secretariat prepared in accordance with Article 13 of the Paris Agreement,

(f) technical expert review reports under Article 13 of the Paris Agreement, and/or

(g) information provided by other bodies and arrangements under or serving the Paris Agreement;

- **Option (b):** factual information from the relevant sources under the Paris Agreement compiled by the secretariat;

- *{For any of the options B.2.1–B.2.6 above}:*

Option (a): provided that the Party concerned consents to such a consideration by the Committee.

Option (b): *No text.*

24.4. **Option B.3** *{Initiation by the CMA}*: In addition, the Committee may consider a referral by the CMA with respect to

Option B.3.1: issues of implementation of and compliance with the Paris Agreement.

Option B.3.2: systemic issues

24.5. **Option B.4** *{Initiation by other bodies/arrangements}*: In addition, the Committee may consider a referral by another body or arrangement under or serving the Paris Agreement with respect to issues of implementation of and compliance with the Paris Agreement.

24.6. **Option B.5** *{Differentiated: Self-referral (paragraph 24.1 above) applicable to all Parties; in addition, other ways of initiation may be applicable to developed country Parties}*:

In addition, the Committee may consider, with respect to developed country Parties,

Option B.5.1 *{Third Party referrals}*:

- written referrals by a Party or group of Parties with respect to implementation of /compliance with (...) *{scope to be further elaborated}* by a developed country Party.

Option B.5.2 *{Initiation by the Committee}*:

- information contained in the NDC registry
 - information contained in any relevant registries established under the Paris Agreement
 - any status reports by the secretariat prepared in accordance with Article 13 of the Paris Agreement
 - technical expert review reports under Article 13 of the Paris Agreement
 - information provided by other bodies or arrangements funder or serving the Paris Agreement
- with respect to (...) *{one or more of the options in subparagraphs a–e above to be read together with any of the options B2.1–B2.6 above}*.

F. Process

{Parties have made proposals for alternative ways to structure and reframe of sections on Initiation of consideration, Process, and Measures and outputs}

28. *{Guidance generally applicable to the functioning}*:

The Committee is to exercise its functions in line with Article 15/ the provisions of the Paris Agreement, including with respect to the nature and the manner of functioning of the Committee to facilitate implementation and promote compliance as established by the Agreement and the need to pay particular attention to the respective national capabilities and circumstances of Parties at all stages of the process.

Option A *{Exercise of functions through bound discretion (paragraph 26)}*:

29. In the exercise of its functions and subject to these modalities and procedures, the Committee is to determine how to apply such guidance in view of each matter brought before it for consideration.

26bis. In the exercise of its functions, the Committee to be guided by the following:

- The Committee to operate in manner that is transparent, facilitative, non-adversarial and non-punitive.
- Work of the Committee not to alter the legal nature of the provisions of the Paris Agreement.
- National capabilities and circumstances to be considered throughout the Committees' work, in accordance with the provisions of the Paris Agreement, specifically in the determination of: the process of consultations of the Party, the assistance given to the Party in responding to the requests of the Committee, and the measures applied. The national capabilities and circumstances of SIDS and LDCs to be particularly taken into consideration.
- The Committee to be mindful of the work being undertaken by other institutions of the Paris Agreement and not duplicate the mandated work of these other bodies.
- Parties to be comprehensively involved in the issues being considered by the Committee that concern them. In addition to dialogues between the Party concerned and the Committee, Party involvement to include written submissions during the process and in response to the preliminary conclusions.
- Option 1:** The Committee to make every effort to engage the concerned Party, but their work to not be hindered where the Party chooses not to engage.
Option 2: The Committee to engage the concerned Party in a matter that is non-intrusive and respectful of national sovereignty.
- The Committee to consider a wide body of information. This could include official documents of the Convention and Paris Agreement, and information created by other Paris Agreement bodies.
- The Committee to recognize that developing country Parties to be provided flexibility in the implementation of the provisions of the Parties Agreement
- The Committee to take into consideration the impact of response measures.

Option B *{Steps/phases – not necessarily consecutive (comprising paragraphs 30–53 below)}*:

30. The Committee is to consider any matters referred to it under section E above in accordance with the following procedures.

I. Initiation and preliminary examination

*Where the procedure is initiated through Party's self-referral: **Option A in section E, paragraph 24.1** above:*

31. Any submission made by a Party under paragraph {cross reference to the paragraph on self-referral, currently paragraph 24.1} above with respect to itself is to be addressed in writing to the Committee and transmitted through the secretariat.

Option 1: Such submission is to set out the matter of concern, the relevant provisions of the Paris Agreement, the specific circumstances that the Party concerned considers to be the cause of the challenges with implementation [and][or] compliance, any need for assistance, as well as any information on the Party's efforts to make use of the existing arrangements and mechanisms under the Paris Agreement in order to facilitate its implementation [and][or] promote compliance with the provisions in question.

Option 2: *No additional text.*

32. The secretariat is to transmit such submission within [x] weeks to the Committee, which is to commence its consideration of the matter at the latest at its next meeting.
33. The Committee is to undertake a preliminary examination of the submission with a view to verifying whether it contains sufficient information, including information as to whether the matter relates to the implementation of [and][or] compliance with the Paris Agreement,

Option 1: and information on the efforts by the Party concerned to make use of the existing arrangements and mechanisms under the Paris Agreement to facilitate its implementation and promote compliance with the provisions in question.

Option 2: and is not de-minimis or ill-founded.

Option 3: *No additional text.*

34. The Party concerned is to provide responses to any questions the Committee may pose to it in the course of the preliminary examination within [x] months from the date of receipt of such questions unless

Option 1: the circumstances of the particular case or the national capabilities and circumstances of the Party concerned require an extended period of time.

Option 2: the national capabilities and circumstances of the developing country Party concerned require an extended period of time.

*Where the procedure is initiated through means other than self-referral (**Option B in section E, paragraphs 24.2–24.6** above):*

*(a) For referrals by a third Party and referral by other bodies and arrangements (**Options B.1, B.4 and B.5.1 in section E, paragraphs 24.2, 24.4 and 24.5** above):*

35. Referrals to the Committee other than by the CMA or by a Party with respect to its own implementation [and][or] compliance are to be made in writing through the secretariat and are to set out the matter of concern and the relevant provisions of the Paris Agreement, and be supported by corroborating information.
36. Within [x] weeks of it receiving such referral, the secretariat is to send a copy to the Party concerned and to the Committee for consideration, at the latest, at its next meeting.
37. The Committee is to undertake a preliminary examination of such referrals with a view to establishing that the question before it:
- (a) is supported by sufficient information;
 - (b) is not de-minimis or ill-founded; and
 - (c) is based on the provisions of the Paris Agreement.
38. Any decision of the Committee on whether to proceed with the consideration of such referral is to be made in writing and notified through the secretariat to the Party concerned and to the referee.
39. **Option 1** (*on the consent of the Party concerned*):

The Committee is to seek the consent of the Party concerned on whether to proceed with the consideration of a referral.

Option 2 (*on the consent of the Party concerned*): *No text.*

(b) *For initiation by the Committee (Options B.2 and B.5.2 in section E, paragraphs 24.3 and 24.6 above):*

40. Where the Committee becomes aware of specific issues of implementation of and compliance with the provisions of the Paris Agreement, brought to its attention through the consideration of the information referred to in paragraph (24.3) above, the Committee is to request the Party concerned to provide necessary information about the matter.

41. **Option 1** (on the consent of the Party concerned):

The Committee is to seek the consent of the Party concerned to proceeding with the consideration of the matter.

Option 2: Except for issues of compliance with legally binding provisions, the Committee is to seek the consent of the Party concerned to proceeding with the consideration of the matter.

Option 3: (on the consent of the Party concerned): No text.

(c) *For referrals by the CMA (Option B.3 in section E, paragraph 24.4 above):*

42. Within [x] weeks of any referral being made by the CMA with respect to implementation [and][or] compliance by one or more Parties, the secretariat is to inform the Party or Parties concerned of the referral and to transmit the referral to the Committee for its consideration, at the latest, at its next meeting.

II. Participation of the Party concerned

Possibility to comment

For all initiation options:

43. (a) Further to the provisions of paragraphs {cross reference to the paragraphs on any responses to be provided by the Parties concerned or input during the preliminary examination, currently paragraphs 31, 34 and 40 above} and taking into account the relevant timelines set out therein / as defined in the rules of procedure, the Party concerned may present responses [and][or] comments at every step of the process described in the present modalities and procedures.

(b) The Committee to recognize that developing country Parties to be provided flexibility at every step of the process. This flexibility to be nationally determined by developing country Parties based on their national circumstances and capacities.

For Option B in section E (initiation other than self-referral), paragraphs 24.2–24.6 above:

44. The Party concerned, with recourse to the Committee for assistance, if required, may make a written submission to the Committee to provide relevant information, including with respect to causes, challenges and constraints.

Option 1: Such written submission is to be made within [x] months from the date of receipt of the notification of a referral by the CMA under paragraph {cross reference to the notification of the Party concerned of a referral by the CMA, currently paragraph 42}, or the notification of the procedure being initiated by the Committee in accordance with paragraph {cross-reference to the paragraph on Committee initiation, currently paragraph 40} above, as appropriate.

Option (a): Where the circumstances of the particular case or the national capabilities and circumstances of the Party concerned necessitate additional time for the written submission, the Party concerned is to notify the Committee and to indicate the additional time required and the relevant reasons for any delay.

Option (b): Where the national capabilities and circumstances of the developing country Party concerned necessitate additional time for the written submission, the Party concerned is to notify the Committee and to indicate the additional time required and the relevant reasons for any delay.

Option (c): Where the national capabilities and circumstances of the developing country Party concerned necessitate additional time for the written submission, the Party concerned is to notify the Committee and to indicate the additional time required.

Option 2: No further text.

Representation at meetings

For all initiation options:

45. The Party concerned may participate in the discussions of the Committee with respect to its own implementation [and][or] compliance.

Option 1: The Party concerned may not take part in the elaboration and adoption of any measures/recommendations/ findings of the Committee in accordance with {cross-reference to the language on open/closed meetings, section C, currently paragraph 18 above}.

Option 2: No additional text.

For Option B.1 in section E (Third Party' referrals), paragraph 24.2 above:

46. The Party that made the submission under paragraph {cross reference to paragraph on third Party's referrals, currently 24.2 above}, may participate in the consideration of the submission by the Committee, but not take part in the elaboration and adoption of any measures/recommendations/ findings of the Committee in accordance with {cross-reference to the language on open/closed meetings, section C, currently paragraph 18 above}.

Consultation

47. If so requested in writing by the Party concerned, the Committee is to hold a consultation during a meeting at which the matter with respect to that Party is to be considered.

~~48. The Party concerned is to have the opportunity to make representations and have the opportunity to respond.~~

Resources for participation

49. Option 1:

Option (a): Subject to availability of financial resources, assistance may be provided, on request, for Parties that cannot access the financial resources to attend the meetings or consultations.

Option (b): Assistance may be provided, on request, for Parties that cannot access the financial resources to attend the meetings or consultations.

Option 2:

Option (a): Subject to availability of financial resources, assistance to be provided, on request, for developing country Parties that cannot access the financial resources to attend the meetings or consultations.

Option (b): Assistance to be provided, on request, for developing country Parties that cannot access the financial resources to attend the meetings or consultations.

Information gathering and participation of other bodies

50. In considering how to facilitate implementation [and][or] promote compliance by the Party concerned, the Committee may obtain additional information from the sources referred to in section I {Sources of information} or, as appropriate and in consultation with the Party concerned, to invite representatives of the relevant bodies and arrangements under or serving the Paris Agreement to participate in the meetings,

Option 1: with consent of the Party concerned.

Option 2: No additional text.

Commenting on draft findings

51. The Committee is to send a copy of its draft findings, draft measures and any draft recommendations to the Party concerned, and is

Option 1: to take into account any comments made by it in the finalization of those findings, measures and recommendations.

Option 2: to adopt any findings, measures and recommendations subject to approval by the Party concerned.

Party concerned comments on draft measures/ findings/ recommendations

52. The Committee is to invite the Party concerned to provide in its written submission and during the relevant meetings any information on causes, challenges and constraints that may inform the Committee's consideration.

III. Identification of measures/ findings/ recommendations

53. **Option 1:** In identifying the appropriate measures, findings or recommendations, the Committee, in addition to the comments received from the Party concerned, is to take into account the national capabilities and circumstances of the Party concerned.

Option (a): The Committee is also to take into account:

- (a) The legal nature of the provision or provisions concerned;
- (b) Whether the Party concerned is a developed or a developing country;
- (c) The special circumstances of least developed countries and small island developing states;
- (d) Other relevant national circumstances, including force majeure;
- (e) To what extent the lack of capacities contributed to the implementation [and][or] compliance challenges;
- (f) With respect to a developing country Party, the specific financial, capacity-building and technology needs and challenges that the Party concerned may have;
- (g) With respect to the developed country Parties, the obligations related to the provision support in accordance with the provisions of the Paris Agreement;
- (h) With respect to developing country Parties, whether they received appropriate support for the implementation of the provision under consideration;
- (i) Type degree and frequency of the failure to implement or comply with the provisions of the Paris Agreement;
- (j) The impact of response measures.

Option (b): *No additional text.*

Option 2: The Committee in identifying the appropriate measures, findings or recommendations to take into account the provisions of the Paris Agreement, taking into account the respective national capabilities and circumstances of Parties.

Option C *{Differentiated approach}*:

{Modalities and procedures to be elaborated, including with respect to developed and developing countries, having regard to differentiated obligations under Articles 4, 7, and 9 and taking into account Article 15, paragraph 2, including with respect to participation and treatment of the Party concerned and the need to take into account national capabilities and circumstances.}

G. Measures and Outputs

{Parties have made proposals for alternative ways to structure and reframe of sections on Initiation of consideration, Process, and Measures and outputs}

For Options A and B in section E (self-referral and other referrals)

{The measures listed are not mutually exclusive or consecutive}:

54. With a view to facilitating implementation and promoting compliance the Committee may:

- (a) Facilitate the sharing of information, experience and lessons learned with the Party concerned;
- (a bis) Establish a dialogue with the Party concerned, with the participation of other bodies or arrangements under the Paris Agreement;
- (b) Assist in the identification of challenges faced by the Party concerned;
- (c) Make recommendations and provide information to the Party concerned;
- (d) **Option 1:** Initiate the development of an implementation [and][or] compliance action plan
 - **Option (a):** upon request by the Party concerned.
 - **Option (b):** *{at the Committee's own initiative}*

Option (b.1): with consent of the Party concerned.

Option (b.2): *No additional text.*

{Elements and content of the plan, to be read with any of the options (options 1, 2.1 or 2.2) above}:

- i. The plan is to serve as a roadmap to assist the Party with implementation [and][or] compliance, as appropriate, with the Paris Agreement, to be facilitative and advisory in nature and respectful of the nationally determined nature of the NDCs.
- ii. The plan is to contain:
 - A description of the implementation challenges/causes of non-compliance

- A description of measures that the Party intends to take with respect to its implementation [and][or] compliance
- Timelines for the measures intended to be taken
- Follow-up arrangements, including regular information to be provided by the Party concerned to the Committee about the progress made in implementing the measures.

iii. The plan is to be developed:

- **Option (a):** By the Party concerned in consultation with the Committee
- **Option (b):** By the Party concerned with the assistance of the Committee, if so requested by the Party concerned.

Option 2: Assist the Party in developing an implementation [and][or] compliance action plan.

(e) Facilitate dialogue and exchange of information and views between the Party concerned and the appropriate support arrangements, in order to identify possible challenges.

55. Furthermore, the Committee may:

(a) **Option 1:** Provide information on accessing support, for example, on the types of support available.

Option 2: Facilitate access to finance, technology and capacity-building support.

{To be read with any of the options (options 1 or 2) above. – Options (a) and (b) below are not necessarily mutually exclusive}:

- **Option (a)** The provision of information/facilitation of access to be in a manner that does not create an incentive for Parties not to implement [and][or] comply with the provisions of the Paris Agreement.

And/or:

- **Option (b):** The provision of information/facilitation of access to be subject to efforts made by the Party concerned to make use of the existing arrangements and mechanisms under the Paris Agreement to facilitate its implementation and promote compliance with the provisions in question.
- **Option (c):** *No additional text.*

(b) **Option 1:** Refer the Party concerned to appropriate bodies or arrangements for finance, technology and capacity-building support;

Option 2: Refer the matter to appropriate bodies or arrangements for finance, technology and capacity-building support for developing country Parties;

(c) Subject to the availability of resources, provide access to/ refer to/ send technical experts to assist Party concerned;

(d) **Option 1:** Make recommendations to relevant bodies or arrangements related to support

Option 2: Make recommendations to relevant bodies or arrangements to provide finance, technology and capacity-building support to developing country Parties.

56. **Option 1:** The Committee may also issue a statement/declaration/finding on non-compliance.

Option 2: *No text.*

57. **Option 1:**

Option 1.1: Where consideration of the matter is initiated by means other than by a submission by the Party concerned,

Option 1.2: Where consideration of the matter is initiated by means other than by a submission by the Party concerned, if, having made use of measures referred to in paragraphs 54–55 above the Committee considers it necessary to propose further measures,

Option 1.3: Where the issue relates to a legally binding provision of the Agreement,

the Committee may choose to apply any of the following measures, taking into account the causes, degree, nature and frequency of non-compliance:

-
- (a) Notify the Party concerned where it identifies the potential to provide assistance.
 - (b) Issue statements of concern / cautionary statements addressed to the Party concerned.
 - (c) Report to the CMA on individual cases of non-compliance for situations where the Party concerned fails to implement the action plan referred to in paragraph { *cross reference to the implementation or compliance action plan, currently paragraph 54(d)* } above.

(c bis) Report to the CMA on individual cases of non-compliance.

- (d) Send a confidential letter to the Party concerned.
- (e) Issue

Option (a): A declaration/finding/communication in relation to compliance.

Option (b): *No text.*

- (f) Issue findings of fact in relation to compliance with provisions of the Paris Agreement.
- (g) Take

Option (a): Measures related with Article 6 of the Paris Agreement.

Option (b): *No text.*

Option 2: *No text.*

Follow-up by the Committee

58. **Option 1:** The Committee is to follow up on the progress made by the Party concerned in its implementation [and][or] compliance.

- (a) Such follow-up to be facilitative in nature.
- (b) The Committee to develop working methods regarding follow-up (including additional guidelines with further steps and measures for the Committee and in light of the respective measures taken).
- (c) The initiation of a follow-up by the Committee

Option 1.1: To require consent by the Party concerned.

Option 1.2: *No text.*

Option 2: *No text.*

H. Identification of systemic issues

59. **Option 1:** The Committee may examine [systemic] [general] issues of implementation and compliance including recurrent issues and common sources of difficulties for implementation and compliance [in regard to the provisions of the Agreement] faced by a number of Parties [that it may identify in the course of its work] [on the basis of information in section I] [and][or] [upon the request of the CMA]. The Committee upon the consideration of the issue is to report back to the CMA [and where appropriate make recommendations] [including that this report may serve as an input into the GST].

Option 2: The Committee may examine systemic issues of implementation and compliance including with obligations of articles 4, 7, 9 and 13 by a number of Parties identified by the Secretariat or upon the request of the CMA. The Committee upon the consideration of the issue to report back to the CMA and where appropriate make recommendations.

Option 3: At the request of the CMA, the Committee may consider systemic issues of implementation and compliance.

Option 4: *No text.*

60. **Option 1:** At the request of the CMA, including on a recommendation by the Committee, the Committee may consider systemic issues of implementation and compliance,

Option 2: At the request of the CMA or where the Committee becomes aware of systemic issues of implementation and compliance in the course of its work, the Committee may consider systemic issues,

Option 3: At the request of the CMA, including on a recommendation by the Committee, or at the request of a group of Parties, the Committee may consider systemic issues of implementation and compliance,

such as

{options in sub paragraphs (a) and (b) below can be read together with either of the options 1-3 above}

Option (a): common challenges faced by a number of Parties in implementation of and compliance with the provisions of the Paris Agreement.

Option (b): common challenges faced by a number of Parties and recurrent and repetitive issues of implementation by a Party or a group of Parties in relation to communications under Articles 4, 7 and 9 or reporting under Article 13.

61. In considering the issues referred to in paragraph 59 above, the Committee may invite all Parties to submit information and may otherwise gather information from relevant sources.

62. *{In relation to consideration under Options A.1 and A.2 above}*

The Committee should reflect its considerations of any issues considered under paragraph 59 above and any relevant recommendations in its annual report to the CMA. In doing so, it should refrain from referring to any individual Parties without that Party's consent.

{In relation to consideration under Option A.3 above}

With respect to consideration of systemic issues at the request by a group of Parties, the Committee should provide its considerations and recommendations to the group of Parties concerned.

63. In considering the issues referred to in paragraph 59 above, the Committee should aim to avoid duplication of effort and take into account mandates of other constituted bodies and arrangements under or serving the Paris Agreement.

Option B: *No text.*

I. Sources of information

64. **Option 1 of chapeau:** After the initiation of the Committee's work:

Option 2 of chapeau: *No text.*

- (a) The Committee is to take into account relevant information received from the Parties concerned.
- (b) The Committee may seek expert advice.
- (c) The Committee may seek or receive and consider relevant information from sources, such as:
 - i. Registries established under the Paris Agreement;
 - ii. Nationally determined contributions of Parties;
 - iii. Information under Article 13 of the Paris Agreement;
 - iv. Information on the status of submissions under Articles 4, 7 and 9 of the Paris Agreement;
 - v. Information from the subsidiary and constituted bodies and other bodies and institutional arrangements and forums under or serving the Paris Agreement
 - vi. Information made available by the secretariat in accordance with the relevant mandates.
- (d) The Committee, any Party or others involved in its deliberations are to protect the confidentiality of information received in confidence.

{The following element contained under this item in the Informal Note may require further clarification: "In particular, for how to engage with Party concerned, and specific facilitative measures"}

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

65. Pursuant to Article 15 of the Paris Agreement, the Committee is to operate under the overall guidance of and report annually to the CMA on its activities and any decisions taken in the reported period.

Content of reporting:

66. *{options below are not necessarily mutually exclusive}*:

Option 1: {No text may be required further to paragraph 65 (Reports on its work)}.

Option 2: The annual report of the Committee to the CMA is to include information on any decisions adopted by the Committee with respect to implementation or compliance by Parties;

- **Option 2.1:** {No text may be required further to paragraph 65 (Reports on all to CMA)}.
- **Option 2.2:** The Committee is to include in its annual report to the CMA information on any decisions with respect to implementation [and][or] compliance by a Party provided that the Party concerned so requests.
- **Option 2.3:** The annual report of the Committee to the CMA is to include information on any decisions adopted by the Committee, with the exception of any decisions with respect to review initiated by the Party concerned in accordance with paragraph {cross reference to the paragraph on self-referral in section E, currently paragraph 24.1}.
- **Option 2.4:** The Committee is to include in its annual report to the CMA any information related to failure by Parties to implement the implementation [and][or] compliance plan referred to in paragraph {cross reference to the paragraph on implementation [and][or] compliance plan in section G, currently paragraph 53(d)}.

Option 3: {No text may be required further to paragraph 65(A summary of its activities and actions taken)}.

Option 4: The Committee is to include in its annual report to the CMA any information related to

- **Option 4.1:** consideration of systemic issues involving a number of Parties under section H above.
- **Option 4.2:** recurring issues with respect to implementation [and][or] compliance by a Party.

Recommendations to the CMA:

67. The Committee is to include in its reports to the CMA for its consideration any recommendations with respect to:

{options below are not necessarily mutually exclusive}:

- (a) **Option 1:** Any measures that implicate important issues under the Paris Agreement or may affect the mandated work of other bodies or arrangements under or serving the Paris Agreement;
- (b) **Option 2:** Measures in relation to support required to address implementation [and][or] compliance by a Party, including prioritization of technical assistance and capacity-building;
- (c) **Option 3:** Any measures to address cases of repeated non-compliance;
- (d) **Options 4 and 5:** Measures to address any systemic challenges or barriers identified in accordance with section H above;
- (e) **Option 6:** Any measures proposed to address implementation [and][or] compliance by a Party, at the request of the Party concerned {no language is proposed for the CMA not being required to take a decision, since the recommendations are only for its consideration and the CMA is not required to take a decision (...and the CMA is not required to take any decision)}

68. The CMA

Option 1: to take note of the Committee's findings in individual cases.

Option 2: Taking note of Committee's findings in individual cases is inconsistent with the nature of the Article 15 Committee.

K. Review of the modalities and procedures

69. **Option 1:** The CMA is to undertake, at the latest by CMA [x], a review of these modalities and procedures based on the experience gained with their implementation.

Option 2: The CMA is to regularly review the implementation and effectiveness of these modalities and procedures.

Option 3: The Committee is to regularly review the implementation of these modalities and procedures with a view to making recommendations for consideration by the CMA on any revisions to improve their effectiveness.

L. Secretariat

70. The secretariat referred to in Article 17 of the Paris Agreement is to serve as the secretariat of the Committee.
