

WORK OF THE CONTACT GROUP ON ITEM 3

Section L

10 February 2015 @ 22.45 h

L. [[Facilitating implementation and compliance]^{1,2}]

Option 1:

[88.

Option 1: (*chapeau*): In order to assist Parties in implementing their commitments / contributions and/or to address compliance issues in a manner that is expert-based, non-confrontational and non-judicial:

Option 2: (*chapeau*): In order to facilitate, promote and enforce compliance with commitments under this agreement:

Option 3: (*chapeau*): A compliance system that is preventative and cooperative to facilitate the implementation of commitments under this agreement is hereby established:

Option 4: (*chapeau*): The Compliance Committee shall have two branches, namely an enforcement branch and a facilitative branch:

Option 1: The governing body shall adopt procedures and/or mechanisms;

Option 1bis: The governing body shall, at its first session, approve appropriate and effective procedures and mechanisms to facilitate the implementation and enforcement of the provisions of this agreement, including through the development of an indicative list of consequences, taking into account the cause, type, degree and frequency of non-compliance, building on experience under the Convention and its instruments;

Option 1ter: The governing body shall adopt procedures and/or mechanisms, including the strengthening of transparency arrangements in support of implementation and compliance;

Option 1quater: The governing body shall adopt appropriate and effective procedures to promote compliance;

Option 2: A compliance mechanism or committee / implementation committee / a standing body responsible for promoting implementation and compliance and assessing Parties' performance is established;

Option 2bis: The Compliance Committee is hereby established. The composition of the Compliance Committee shall be based on equitable geographical representation, ensuring representation of small island developing States. The body shall comprise X members. Decisions of the Compliance Committee shall be made by consensus where possible and, as a last resort, by a [two-thirds/three-fourths] majority;

Option 3: Implementation shall be strengthened through enhanced transparency, including through the consideration of the multilateral consultative process under Article 13 of the Convention;

Option 4: No specific provisions required. For option 1 and option 2, arrangements shall cover:

a. Regarding commitments / contributions (substantive scope):

Option (a): All commitments / contributions in the agreement, including reporting;

Option (b): Specified commitments / contributions, excluding adaptation, including reporting;

Option (c): Implementation of Parties' schedules and the submission of biennial communications;

Option (d): Mitigation, MRV and accounting commitments only.

b. Regarding Parties:

Option (a): All Parties;

Option (b): [Developed country Parties][Parties included in annex X] regarding their commitments / contributions on mitigation, finance, transfer of technology and capacity-building.

¹ Headings and subheadings used throughout these elements for a draft negotiating text are provisional and only intended to orientate the reader.

² Some Parties consider that it is premature to discuss this section.

c. Structure of the mechanism / committee:

Option (a): Separate branches – an enforcement branch for Parties that have a QERC in Annex A / to review compliance with commitments made by [developed country Parties] [Parties included in annex X] and those [developing country Parties] [Parties not included in annex X] that have made economy-wide quantified emission reduction commitments, with respect to their commitments on mitigation, as well as commitments on adaptation, finance, technology transfer and capacity-building, and a facilitative branch for commitments and strategies in Annex B / to review the implementation of contributions made by [developing countries] [Parties not included in annex X] and to assist them in their efforts to meet these contributions; the Compliance Committee may establish technical panels to assist them in their task;

Option (a)bis: Separate branches – an enforcement branch and a facilitative branch;

Option (b): A standing, non-political, expert body of members who serve in their individual capacity, responsible for facilitating and promoting compliance with the obligations under the agreement;

Option (c): One body for facilitation;

Option (d): Platforms to deal with early warning, facilitation and enforcement.

d. Modalities such as:

- Membership;
- Triggers to commence a procedure:
 - Early warning for potential non-compliance;
 - Technical expert teams triggering questions of implementation;
 - Parties may trigger with respect to themselves or with respect to other Parties' questions of implementation under Articles [X, Y & Z];
- Procedures:
 - The nature of the proceedings of the compliance regime should be primarily facilitative, transparent, non-judicial and non-adversarial;
- Use of economic instruments:
 - Use of economic instruments such as market mechanisms as a way to promote compliance.
- Measures and/or consequences:
 - **Option (a):** Facilitative measures only;
 - **Option (b):** Facilitative measures and sanctions for recurring non-compliance;
 - **Option (b) bis:** Facilitative measures and sanctions;
 - **Option (c):** Facilitative measures for [non-Annex I Parties] [Parties not included in annex X] and sanctions for Annex I Parties [Parties included in annex X];
 - **Option (d):** Expert groups that support developing country Parties in the preparation and implementation of contributions;
 - **Option (e):** Facilitative and other adequate measures;
 - **Option (f):** A differentiated system of consequences to be applied in a graduated manner depending on the nature of the commitment and in proportion to the nature and extent of the non-compliance with the commitment.
- The Compliance Committee shall report annually to the Conference of the Parties to this agreement.]

[88bis. Further details of the compliance mechanism shall be adopted no later than at the first session of the governing body.]

[88ter. Establishes the International Climate Justice Tribunal in order to oversee, control and sanction the fulfilment of and compliance with the obligations of Annex I and Annex II Parties under this agreement and the Convention.]

Option II:

[88. In order to ensure compliance for developed countries and facilitate developing countries in their implementation, the COP/governing body shall further elaborate the modalities of the mechanism/committee in accordance with the differentiated commitments between the developed and developing countries under the Convention and based on the experience from the compliance mechanism under the Kyoto Protocol. These arrangements shall include:

- a. A mandatory Compliance Mechanism for the commitments of developed countries on mitigation, adaptation, finance, technology development and transfer, and capacity-building, and transparency of action and support; and
- b. A voluntary Facilitative Forum for developing countries for enhanced action on mitigation, adaptation and transparency of action.]

Option III:

[88. The Compliance Committee shall have two branches, namely an enforcement branch and a facilitative branch

88bis. The role of the enforcement branch is to review compliance with commitments made by developed country Parties and those developing country Parties that have made economy wide quantified emission reduction commitments, with respect to their commitments on mitigation, as well as commitments with respect to adaptation, finance, technology transfer and capacity-building.

88ter. The role of the facilitative branch is to review the implementation of contributions made by developing countries and to assist in them in their efforts to meet these contributions.

88quater. The enforcement branch of the Compliance Committee shall review:

- a. Biennial reports;
- b. Reports of technical expert teams that have undertaken reviews as part of the international assessment and review process.

88quinquies. The enforcement branch may recommend actions to be taken against Parties that fail to make progress towards commitments taken under Annex A and commitments with respect to adaptation, finance, technology transfer and capacity-building.

88sexies. The facilitative branch may recommend actions to assist Parties that have made commitments in Annex B to fulfil these commitments.

88septies. The Compliance Committee may establish technical expert panels to assist it in its task.

88octies. The Compliance Committee shall report annually to the Conference of the Parties to this agreement.]]