

IEWS OF ARGENTINA, BRAZIL AND URUGUAY ON APA 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”

The Governments of Argentina, Brazil and Uruguay welcome the opportunity to submit their views regarding the modalities and procedures (MP) for the effective operation of the committee to facilitate implementation and promote compliance referred to in Article 15 of the Paris Agreement (PA), in response to APA invitation at the second part of its first Session (APA 1-2).

(a) Specify the modalities and procedures required for the effective operation of the committee referred to in Article 15, paragraph 2, of the Paris Agreement.

Argentina, Brazil and Uruguay are of the view that the MPs should aim at seeking balance within the mandate of the committee referred to in Article 15. In other words, Article 15.1 sets the objective of the Committee in that it shall *“facilitate implementation of and promote compliance with the provisions of this Agreement”*. Parties should, therefore, allocate enough attention and efforts in designing a mechanism that helps meet the mandate; including both elements and functions of the Committee referred to in Article 15.2 of the PA.

MPs for the Committee should take the form of a single document which specifically addresses at least, the elements identified in the end of this section. The components of the MPs should be as detailed as possible, with a view to leaving less room for interpretation by the different actors involved.

Furthermore, MPs should be designed in a way they guarantee the Committee functions in a manner that is facilitative, transparent, non-adversarial and non-punitive. There is a close relation between these general principles and the definition of the specific content of the elements of the MPs. In consequence, these principles should be considered at all times and they should be the starting point in the negotiations within each of these elements, while at the same time paying particular attention to the respective national capabilities and circumstances in the context of the principles of the Convention and the Paris Agreement, in particular common but differentiated responsibilities and respective capabilities (CBDR-RC).

Moreover, it should be noted that there are clear linkages between Article 15 and Articles 13 (transparency) and 14 (stock taking of implementation). In this context, only individual needs and gaps should be addressed by the Committee under Article 15, whereas provisions of a collective nature would be addressed through other mechanisms, such as global stock-take).

Even though the *facilitation of implementation and the promotion of compliance*, might include the use of Article 6 mechanisms, this submission does not consider those at this stage, since those cases require a much detailed and specific rules.

Argentina, Brazil and Uruguay believe MPs should cover, at least, the following elements:

1. Purpose and nature
2. Composition
3. Scope and Functions of the Committee
4. Triggers and Rules of Procedure (including measures to be taken and related outputs)
5. Relation to the CMA (report to CMA; recommendations to CMA for action)
6. Relation to other arrangements and bodies of the Convention, including linkages to Articles 4 (mitigation), 7 (adaptation), 9 (finance) and 13 (transparency), and Article 14 (global stocktake) of the Paris Agreement; linkages to support arrangements, including capacity-building arrangements, Technology Mechanism, Financial Mechanisms, etc.)

(b) Elaborate elements that could be addressed through such modalities and procedures.

1. Purpose and nature

Article 15.1 sets the objective of the Committee in that it shall “*facilitate implementation of and promote compliance with the provisions of this Agreement*”. As for the nature of the Committee, Article 15.2 establishes it shall:

- Be expert based and facilitative.
- Function in a transparent, non-adversarial and non-punitive manner.
- Pay attention to the respective national capabilities and circumstances of Parties.

Moreover, Parties should take into account the specific nature of the Committee under the Paris Agreement. Consequently, MPs should be tailored-made and reflect that the Committee should be established and operate in the overall context of the Paris Agreement.

In particular, Argentina, Brazil and Uruguay would like to highlight the importance of the language contained in Article 15.2, in particular with regard to the national capabilities and circumstances. It is important to ensure that national capabilities and circumstances are considered by the Committee in its consideration of individual Party’s issues and taken into account when deciding on measures and outputs in each specific situation. In that regard, the Committee should consider the particular common but differentiated responsibilities and respective capabilities between developed and developing countries.

2. *Composition*

Decision 1/CP.21 paragraph 102 establishes that the Committee shall “*consist of 12 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 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*”. It is important to request Parties in nominating members to ensure that the composition of the Committee reflects diverse expertise in all the fields mentioned, with a view to allowing it to fulfill its functions to facilitate implementation and promote compliance in all elements of the Paris Agreement. In other words, the composition should avoid concentration of experts of one particular field.

3. *Scope and Functions of the Committee*

Outcomes of the Committee’s work should be aimed at facilitating implementation and promoting compliance, taking particularly into account the national capabilities and circumstances of developing countries.

The scope of the mechanism should be broader than the mandatory elements of the Paris Agreement. It should cover all elements of the Paris Agreement, in order to enable Parties to equally resort to the Committee for challenges they face in relation to non-binding provisions. It is important to note that each element of the Paris Agreement should be considered and treated in the Committee with a special consideration of their specific nature and logic within the Agreement, in accordance with the principle of common but differentiated responsibilities and respective capacities.

All provisions under the Paris Agreement should be subject to the Committee’s consideration in relation to its work to facilitate implementation, and each provision should be treated accordingly, depending from their nature and the corresponding arrangements that regulate them under the Agreement. Following this logic, ongoing negotiations to define the operationalization of the provisions of the Agreement should provide inputs to design the ways each element should be treated under the Committee under the discussions on APA agenda Item 7.

On an aggregate level, the Committee, assisted by the secretariat, should gather information on the difficulties or barriers Parties face in implementing the provisions of the Agreement, and include this information in its annual report to the CMA. Information on financial, technology transfer and capacity-building support provided by developed country Parties shall also be included in the report, which would then serve as an input for the GST. Thus, efforts are needed in order to design processes that may be analogous but shall not duplicate efforts or place undue burden on neither Parties nor the Secretariat.

Given its nature, the mechanism would not apply penalties or sanctions or be a dispute resolution or (*quasi*-)judicial mechanism. In facilitating implementation and promoting compliance, focus

should be given on facilitating implementation and addressing technical and finance, technology and capacity-building challenges, upon the request of each Party concerned. The mechanism should not encompass measures with a deterrent effect, such as declarations of non-compliance, but rather concretely support implementation.

So as to promote positive incentives, the Committee should work jointly with the Party concerned in identifying areas of improvement and potential difficulties and barriers the Party may identify with respect to itself.

4. Triggers and Rules of Procedure

Given the facilitative, non-adversarial, and non-punitive nature of the mechanism, the Committee shall receive, through the secretariat, questions of implementation submitted by any Party with respect to itself.

Developing countries undergoing a process to facilitate implementation and promote compliance should be enabled especially by the provision of financial and technical assistance, including technology transfer and capacity building.

The Committee by consensus, in light of the information gathered throughout the Transparency Framework could request to trigger the facilitative, non-adversarial, and non-punitive mechanism to a specific Party, such Party could then answer if it agrees to accept the trigger. The Committee or committee members shall restrain from interfering in any Transparency or any other process under the Paris Agreement that may prejudice the work of the Committee in facilitating implementation and promoting compliance.

The type of information that the secretariat will present to the Committee in order to inform its deliberations is a subject to be discussed by APA.

5. Relation to the CMA and other arrangements and bodies of the Convention

In accordance with the terms of Article 15.3, the Committee shall report annually to the CMA. The annual report of the Committee should gather information and assess on the difficulties or barriers Parties face when implementing the provisions of the Paris Agreement, and it should include ideas and recommendations that would lead to greater and better implementation for the CMA to consider, and which could serve as an input for the GST. Furthermore, the report should include information on compliance at the global level, which would in turn serve as an aggregate input for the Global Stocktake.

Including aggregate level information on implementation and compliance in the Committee's annual report to the CMA, would allow for interlinkages between provisions of the Agreement to be further elaborated, and for a better tracking of progress towards the successive GSTs. Thus, the Committee's relation to CMA would serve the purpose of linking individual action reported under the Enhanced Transparency Framework with the aggregate level information needed for the

development of the GST. Consequently, though MPGs for the ETF the GST are currently under development, these negotiations should consider the need to work and design the various interlinkages between the provisions of the Agreement.

The report should also include a brief of any process the Committee has developed in order to facilitate implementation and promote compliance at any Party's request or acceptance, as well as include all the recommendations made by the Committee in such process.

(c) Share their views on how to take the work further under this agenda item in order to ensure that the APA can fulfill its mandate in accordance with Decision 1/CP.21, paragraph 103. 2.

Argentina, Brazil and Uruguay are of the view that further coordination is needed in order to ensure that the APA can fulfill its mandate in accordance with Decision 1/CP.21.

In particular, negotiations under APA Agenda Items 5 and 6, and the discussions under SBSTA on the modalities for the accounting of financial resources provided and mobilized through public interventions should serve as relevant inputs for developing MPs under APA Agenda Item 7.

The various interlinkages between different components of the Agreement make it necessary for the Parties to set a working schedule or plan in which this is properly assessed.