

IEWS OF ARGENTINA, BRASIL 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 on issues discussed under this agenda item, in response to the APA invitation and the questions provided by the co-facilitators, and taking into consideration the progress made by Parties at the third part of its first Session (APA 1-3).

Even though this document attempts to address the questions provided by the co-facilitators, Argentina, Brazil and Uruguay are of the view that discussions under this agenda item during APA 1-4 should address all proposed elements of the modalities and procedures (MPs), in order to advance into text negotiation in the following meetings.

This document should be read as a complement to the previous submission made by Argentina, Brazil and Uruguay¹.

Argentina, Brazil and Uruguay are of the view that MPs for the Committee should take the form of a single document, with differentiation reflecting the differentiated provisions of the Paris Agreement. The MPs should establish general procedures for the Committee to function, while leaving room for it to develop and recommend to the CMA more specific procedural rules based on experience.

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 but also efficient, effective, and coherent with the rest of the Paris Agreement provisions. 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).

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

¹ See http://www4.unfccc.int/Submissions/Lists/OSPSubmissionUpload/243_325_131386661813572828-Argentina,%20Brazil,%20Uruguay-%20APA%20Item%207.pdf:

1. How can potential linkages to other arrangements under the PA be designed to ensure that the Committee operates effectively while still preserving the independence of these arrangements?

It is important that MPs are designed in a way that the linkages between the Committee and other relevant arrangements guarantee both the effectiveness of the Committee's work and, at the same time, avoid duplication of efforts or functions of other bodies.

Argentina, Brazil and Uruguay believe the Mechanism under Article 15 has linkages, at least, with the following arrangements:

Linkages to support arrangements under the Agreement

Given its facilitative, transparent, non-adversarial and non-punitive nature, the Committee should focus on facilitating implementation by addressing technical and finance, technology and capacity-building challenges, thus preventing and addressing cases of non-compliance. In doing so, the Committee should promote positive incentives, working jointly with the Party concerned in identifying areas of improvement and potential difficulties and barriers the Party may identify with respect to itself. Failure, by developed countries, to implement and comply with obligations to provide support and mobilize climate finance to developing countries may create systemic issues that the Committee must prevent.

In order to avoid duplication of work, the Committee should help the Party identify areas of improvement and refer the case to the appropriate arrangements or mechanisms under the Agreement for their consideration (eg: SCF, GCF Board, GEF Council, TEC, CTCN, PCCB, etc). Thus, the identification of the support arrangements to be considered is critical for the facilitative role of the Committee and should be further explored, while leaving space for future linkages with other support arrangements to be defined.

Linkages to the enhanced transparency framework (ETF)

Argentina, Brazil and Uruguay are of the view that the Committee by consensus, in light of the conclusions of the Technical Expert Review (TER) under the Enhanced Transparency Framework, could request to trigger the facilitative, non-adversarial, and non-punitive mechanism and invite the specific Party, in this sense the Party could consider whether to continue such process.

In this case, it is important to define the modalities to guarantee effective participation of the Party concerned and what the information provided for the consideration of the Committee will be.

In order to preserve the independence of arrangements, the Committee or committee members shall refrain 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.

Linkages to the global stocktake (GST)

The annual report of the Committee to the CMA should gather information and assess on the difficulties or barriers Parties face when implementing the provisions of the Paris Agreement,

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 a better tracking of progress towards the elaboration of the successive GSTs. Consequently, though matters related to the GST are currently being debated, these negotiations should consider the need to work and design the various interlinkages between the provisions of the Agreement.

Relationship to the CMA

The Committee will work under the guidance and mandates of the CMA. In addition, Decision 1/CP.21 paragraph 102 states that members of the Committee are to be elected by the CMA.

Furthermore, in accordance with the terms of Article 15.3, the Committee shall report annually to the CMA.

The report shall contain a summary of all actions the Committee has undertaken in a given year. It should include a brief of every process the Committee has developed in order to facilitate implementation and promote compliance, as well as include all the recommendations made by the Committee to the Parties in such process. The inclusion of this information in the report should not be subject to the approval of the concerned Party, but should only describe the actions and measures taken by the Committee in the case, without prejudging the Party's capacity or willingness to implement them.

At the same time, the annual report of the Committee to the CMA should gather information and assess on the difficulties or barriers Parties face when implementing the provisions of the Paris Agreement, which could serve as an input for the GST. This would help overcome systemic barriers to implementation and compliance. Establishing general procedures for the Committee to function, while leaving room for it to develop and recommend to the CMA more specific procedural rules based on experience, can help enhance the comprehensiveness of its report.

In order to assure effectiveness in the work of the Committee, the CMA should periodically review its work. If deemed necessary, the CMA may consider reviewing or complementing the modalities and procedures in a manner that the functions remain facilitative, transparent, non-adversarial and non-punitive.

2. What kind of outputs of the Committee's activity would effectively facilitate implementation and promote compliance, and how?

Effective implementation of and compliance with the provisions of the Paris Agreement require a solid mechanism that assists Parties address their needs and difficulties, and which identifies the main barriers to implementation and compliance at the global level.

In order to decide on the most effective measures and outputs for the design of the MPs, it is necessary to take into consideration the scope, nature and functions of the Committee.

The main function of the Committee is established in Article 15.1, in that it shall facilitate the implementation and promote compliance with the provisions of the Paris Agreement. Given its facilitative, non-adversarial and non-punitive nature, Argentina, Brazil and Uruguay are of the view that a continuum of actions within the Committee's scope and main function is possible.

Therefore, though all provisions of the Agreement shall be subject to the Committee's work in facilitating implementation, the work of the Committee regarding the promotion of compliance should be designed only for binding provisions.

Thus, focus should be given on facilitating implementation by addressing technical and finance, technology and capacity-building challenges. In doing so, the Committee should promote positive incentives, working jointly with the Party concerned in identifying areas of improvement and potential difficulties and barriers the Party may identify with respect to itself.

In order to avoid duplication of work, the Committee should help the Party identify areas of improvement and refer the case to the appropriate arrangements or mechanisms under the Agreement.

Promotion of compliance with the mandatory provisions of the Agreement should be mainly thought of as a way to prevent cases of non-compliance. Since the mechanism would not apply penalties, sanctions or be a dispute resolution or (*quasi*-)judicial mechanism, the Committee should work together with the Party concerned in designing an improvement or compliance Plan and following up the case in order to promote effective compliance.

Hence, it would be possible to think of outputs of the Committee's work along the continuum of facilitating implementation and promoting compliance, which are both in line with the nature of the Committee and the principles that shall guide its work, and reflect incremental steps of measures along the continuum.

Such a design would allow for the Committee to work together with the Party concerned in addressing barriers and difficulties and implementing its obligation to pay particular attention to the respective national capabilities and circumstances of Parties.

A non-exhaustive and orientative list of possible measures and outputs is contained in **Annex I**.

3. *How would the consideration of national capabilities and circumstances of Parties be operationalized in the modalities for the operation of the Art 15 Committee?*

Argentina, Brazil and Uruguay are of the view that it is critically important to ensure that national capabilities and circumstances are considered by the Committee when addressing individual Party's issues and fully taken into account when deciding on measures and outputs in each specific situation.

Article 15.2 states that the Committee shall pay particular attention to the respective national capabilities and circumstances of the Parties. Emphasis on this issue means that it is expected that this shall constitute a guiding principle for the Committee's actions and a defining character of its nature and purpose.

Consequently, when deciding on measures and outputs the Committee may provide information on how the respective national capabilities and circumstances of the Parties were taken into consideration.

The need to pay particular attention to the respective national capabilities and circumstances of the Parties should therefore also be reflected in the definition of the procedures of the Committee, including in the considerations regarding the participation of the Party concerned.

Annex I

