

Informal Consultation on APA Agenda Item 7 on 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

Wednesday, 5 December 2018, 3-4pm, Meeting Room 3

COP24/CMP14/CMA1-3/SBI49/SBSTA49/ APA1-7

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The informal consultation started at 3.10pm.

Additional tool available on the UNFCCC Website:

- For APA agenda item 7 iteration informal document, Version 05/12/2018 00:10 hrs [here](#) (Document no: APA1-7.DT.i7)

Co-Facilitator noted the [Joint Reflections Note](#) and [Add.8](#) (Document no: APA-SBSTA-SBI.2018.Informal.2.Add.8).

Continuation from 10-11am informal consultation.

- Collecting views on the first iteration
- Co-Facilitator suggestion Part C and invited Parties to give feedback on initiation.

Costa Rica (AILAC)

- Thanked Co-Facilitators for work on this first iteration.
- Focus only on Section C
- On initiation, reiterate comment made this morning on 23(c) on “pay particular attention to NC&C...”
- Para 24 & 26 in Add.8 reference to implementation and compliance – in square brackets, suggest to add “and” in square brackets since many Parties have stated that we would like to see implementation and compliance... and since this is written this way in other parts of the document
- Para 30 stress AILAC’s position that the Committee shall not seek consent of Party concerned
- Para 28 not making specific comments but reference to yesterday night’s distribution of proposal for a streamlined text to colleagues that assisted in inf-inf – open to sharing with other colleagues, will share after this informal for consideration of colleagues to find some landing zone. We have tried to include colleagues’ concerns e.g. related to compliance with [individually legally binding...] or [mandatory provisions of the agreement based on info received through the Secretariat], [including but not limited to] etc.
 - Concern of Parties about the Committee using info from TER – duplication of work, we added another paragraph to explain this and clarify
 - AILAC’s view that consistency of info with MPGs is an essential element of the overall implementation of the PA

Co-Facilitator sought clarification on the duplication. Costa Rica clarified.

Co-Facilitator said that they will make sure on consistency in language on NC&C.

Tuvalu (LDCs)

- Thank you for text.
- Logic by paragraphs – para 23(c) note removal of reference to LDCs and want to understand why this was done / other ref in para 38
- Para 26 – “ill-founded” wording might be too interpretive and asked why it is placed in this paragraph
- Para 27 – Party concerned shall provide responses – suggest language that is more in dialogue between the Committee and Party concerned
- Para 28 – support the observation that has been made by AILAC, especially on consistency of info reported and exclusion of Art. 6; wrt options 3 and 4 – merging two options to have clearer option 3
- Para 30 – LDCs positions is to remove this paragraph
- ...

Co-Facilitator noted that “ill-founded is in other similar committees” language.

Australia

- Thank you for text. Like decision text at start a lot.
- On section C, para 28 – preference, don’t want to mention Art. 7 because only “as appropriate”
- May have slightly revised language to provide information, a bit awkward
- Will come back to that

Argentina (ABU)

- Thank you for first iteration. Good progress.
- Para 28 – change word “mandatory for legally binding” and if not clear, add footnote on legally binding/shall provisions
- Para 30 – keep para with slight change – gave suggestion and will send in writing after this meeting

St Kitts and Nevis

- Thank you for iteration of the text. Did a good job on the streamlined version.
- Reinsert LDC reference
- Para 28 – prefer Option 1 and have strong preference on mandatory in Option 1
 - Proposal from ABU to amend this – slight different option – want to be sure that what is there remains in some form
- On AILAC’s proposal on Option 2 – now a bit different than what we’d expect but prefer to see what AILAC has suggested but strong preference on Option 1
- Para 30 – Not necessary addition to MPGs but heard what ABU said look forward to seeing their suggestion in writing and look forward to idea about consent
- Self-trigger only is insufficient
- Streamlining opportunities exist due to duplication

- Encourage Co-Facilitators to look again at this section to see if there are opportunities for further streamlining

Mali (African Group)

- Thank you for work
- Reflecting language in 15.3
- Also need to discuss at this stage and keep f as it relates to flexibility provided to developing countries
- On para 24 – framed as Committee may consider – stronger language / must that the Committee provide support for implementation
- AGN has suggested no need preliminary examination at this stage. If Parties see the need, then some clarity needed on how – para 26 cited. Understanding is that the Party may... committee shall take a preliminary examination with a view to...
- Para 26 – ... don't support Option 2 at this stage, will complicate our work. Registry for 4 and 12 and 17 and once Parties have communicated, then obligation of communicating and updating. Need to see Art 7 reflected there. On b – BTR something we have been supporting but Parties have said it would open a door to generalization or lack of clarity of Committee. Discussion coming from other places but.. General reflection at this stage will suffice. Option 3 reflects this clearly. Can even see Art. 6 there.
- Para 30 support
- Para 31 – Guidance on general timeline. Need timelines to consider also on para 29. Could be a need to continue to para 36 but see guiding necessary.
- Para 32 – Participation of party – depending on whether meeting is open or closed. Party shall participate.

China

- Thanks for the text produced
- Para 3 – fine with this para but change f, not in favor of e as not so sure about publically available information – duplication with para 35, 49 in information section, suggest deleting sub-para
- Discussed flexibility in timeline – like to see this included in general guiding principles in c or f
- Para 26 – caveat to add – verifying 3 issues. Logic for preliminary examination – sufficient information... whether approach 1? just verifying the latter two parts
- Para 28 – support ABU for Option 1
- Mistake on option 2 – applies to all options; not applied to option 2 only
- Understanding that para 31-36 applies to self-initiation and committee initiation – need further language to clarify this part

European Union

- Thank you for first iteration
- Para 28 – need to indicate that text does not capture fully. 3 and 4, suggestions on wording

- We can understand need to refer para 23 to additional wording and guidance but don't see need to include e and f and source of information section down to single paragraph – maybe find appropriate place then move it to streamline further
- Streamline
- Helpful exchange on para 26 – we are open to discussing wording and perhaps call it something other than “preliminary examination” but that allows Committee to assess information with Head of Party to see if it is a valid case going forward
- Para 28 – thank AOSIS for suggesting helpful approach to focus; see merged option 3 and 4, happy to provide additional language in writing
 - AILAC suggestion helpful on source of information
 - Link to specific source – registry Art 4.12
 - If party has not provided mandatory report on Art 13 do not need additional reference at this point.
 - FMCP – information to the Secretariat.
 - See structure that AILAC suggested in Option 3 but see committee having limited discretion, provide Parties – comfortable on uniform application – shall or will provision
 - See the need for some grace period; don't see involvement of NDCs submitted one-day late
 - Option 4 – open to providing wording. Consistency. Based on info on TER and keep language as simple as possible. There would be need for Committee to have some discretion. Mandatory info 13, FMCP – shall. Significant and consistent... may.
- Para 30 – Agree with AOSIS that we may be going backwards if we insist on the consent of Party concerned
- Para 35 – link to additional information. Section F a single para left- can streamline

United States

- Para 23 – largely ok with what's here. Don't see the need for sub-para b. don't support inclusion of f – not clear what this would mean/where this is coming from
- Para 26 – support retaining structure as it is. Have heard suggestions. Suggest adding language. Just that committee is checking something is not using self-initiation to get at another Party.
- Para 27 – currently framed as Party shall provide responses – suggests obligations to provide responses – don't see source of this obligation in Art 15 particularly when talking about a self-initiation. Odd if the Party initiating it does not respond.
- Para 28 – EU's suggestion of Option 3 and 4 combination. Raised this last night and this morning. Committee would not be determining what is legally binding and initiating conversation on what's legally binding and not. Even among lawyers, hard to. Not legally binding committee. Better approach is not to determine what obligations are but identifying things where Committee can play the best role in facilitating implementation and promoting compliance.
 - Option 3 – change the failure to communicate... delete mandatory info, submit mandatory report, add communications (encompassing multiple things); not see the need to reflect Art. 4 (covered in first part) or 7 (for the same reason that Australia noted)
 - Option 4 can support without square bracket at the end; some Parties have concerns over this type of trigger. Change verb, frame differently... facilitative exchange

- Para 34 – in general ok with idea

Norway

- Text good start forward
- Para 23 – supportive, but like to add letter a include PA Decision 1/CP.21; language should be aligned with Art 15 c
- Do not see need for e and f
- Para 28 – support Option 2, 3, 4. But do not see 4 as an alternative. Can be merged with Option 3 or set out as different para
- Open to work on proposal made by AILAC
- Maybe a way forward could be combining option 1, 2 with 3 to have both broad scope but pointing the committee to direction of particular situation it should look
- Mandatory info – would like to see it in there, but clarify it is under Art. 13. Don't need listing of the Articles in Option 3
- Para 30 – agree with AILAC, AOSIS – support to delete

Co-Facilitator noted that they were not clear in the “and/or” for Option 3 and 4.

New Zealand

- Thanks for preparing first iteration
- Many comments have been made by others
- Para 23 – don't have explicit suggestions to Chapeau – seems unwieldy (?), repetition of concepts, not sure if Chapeau is very elegant in expressing it; not sure if e and f are required, express reservation toward them
- Para 26 – purpose of preliminary examination is to assess 3 things. Keep in there. Substantive measures those elements represent in themselves.
- Para 28 – many comments on that. Different ideas on how to amalgamate. Whether there is a place like others on US suggestion to build sources of info suggested by AILAC. Clarity, information. Breadth on option 4 (?).
- ...
- Moving towards a very good place, thank you for assistance

Saudi Arabia

- Para 23 e – share concern about redundancy and wide range of publically available info. And on Para 23 and Committee trigger
- Para 26 – streamlining further along lines of US and others on Parties implementation of compliance... PA
- Ill-founded concept – recognize this came from elsewhere but this Compliance Committee is quite unique to other treaties or protocols and there may be negative connotation on that wording
- Adherence to certain timelines. Not concrete requirements to do so, especially with self-trigger. Agree with notion of flexibility on timelines.
- Para 28 – believe that the level of clarity is quite essential.
- Legally binding provisions.

- Concerned with Option 3. Vague element – Art. 6. Negotiations still going on and don't want to pre-judge on vagueness with providing mandatory information.
- Option 4 – significant or recurrent inconsistency – might go beyond the mandate of this Committee
- Para 30 – see consent as an essential element of Committee trigger
- Para 31 – same concern on timeline with para 27
- Para 40 – default state public meetings – need to be discussed when we get to that part.

Kazakhstan

- Para 28 – support Option 3 and 4 combination. Provide clearer picture of Committee initiation.
- In option 3, good to clarify what is meant by communication of NDC as there may be different wave, ref to public registry. Delete Art 7 reference.

Co-Facilitators shared next steps:

- Room allocation: 7-8.30pm, Room 5
- Propose looking at document to look at Section D: Measures and Output tonight
- Tomorrow – collect comments on other parts of first iteration and address principles (Section A)
- Acknowledge pressure on Parties to be precise
- Come back on ways to streamline, indicate if there is any specific issue that has been missed, will be helpful
- Friday 2 hours – 11am-12pm and 3-4pm
- Hopeful we could have done a lot today to get something tomorrow but a bit ambitious. Will do our best to have second iteration by end of Thursday.

The informal consultation ended at 4.11pm.