

ELABORATING THE PARIS AGREEMENT: POTENTIAL LINKAGES BETWEEN ARTICLES 13, 14, AND 15



Susan Biniaz, United Nations Foundation

As parties shape decisions fleshing out the new global climate architecture established by the Paris Agreement, an important consideration is the linkages, both explicit and potential, among Articles 13, 14, and 15 of the agreement. These articles provide for, respectively: reporting and review of individual parties' efforts; the assessment of collective progress toward the agreement's purpose and long-term goals (the global stocktake or "GST"); and a committee to facilitate implementation and promote compliance. This brief outlines certain features of these three key elements of the Paris architecture and cross-cutting issues in considering linkages among them. It also outlines specific issues and options regarding potential linkages between the transparency framework and the GST (Articles 13 and 14), the transparency framework and the committee (Articles 13 and 15), and the GST and the committee (Articles 14 and 15).

RELEVANT FEATURES OF THE THREE ARTICLES

Article 13's "enhanced transparency framework" for action and support involves inventory reporting, reporting on progress in implementation, technical expert review, and a facilitative, multilateral consideration of progress.

Article 14's global stocktake (GST) involves periodically taking stock of the agreement's implementation in order to assess collective progress towards achieving the agreement's purpose and its long-term goals. It is to inform parties in updating/enhancing their actions, support, and international cooperation.

Article 15 establishes a new mechanism to "facilitate implementation" and "promote compliance." It will consist of a committee that is expert-based and facilitative in nature.

While these mechanisms share certain related objectives, such as promoting the effective implementation of the agreement, they have several distinct features that are relevant to considering potential linkages:

Substantive scope: The GST's scope is broad, covering mitigation, adaptation, and the means of implementation and support, among other things. The transparency framework's scope is potentially narrower, given that not all elements are mandatory. The committee's scope is open to interpretation and is still the subject of discussion among parties.

Coverage of parties: The transparency framework focuses on individual parties, while the GST focuses on "collective" progress. The committee's focus is not specified; it could be exclusively individual parties or could also include a systemic function.

Frequency: The transparency framework provides for biennial reporting, with frequency of review to be determined. The GST begins in 2023 and occurs every five years thereafter. Invocation of the committee's work will depend upon its scope and trigger(s).

Bodies/institutions: The Conference of the Parties serving as the meeting of the parties to the Paris Agreement (CMA) conducts the GST. A standing committee is responsible for implementing the implementation/compliance mechanism. The

transparency framework involves both technical experts and a to-be-determined body for the facilitative, multilateral consideration of progress.

CROSS-CUTTING ISSUES

As discussed more specifically below, consideration of potential linkages will need to take account of, among other things, issues related to:

- scope—in light of the similarities and differences in the respective scopes of the three articles.
- synchronicity—in light of the differences in the elements' operational timing and possibilities for alignment.
- inputs/outputs—whether and how an output from one element can serve as an appropriate and useful input to another element.

How these linkage issues are addressed will depend on how parties choose to refine the objectives and the designs of the respective elements.

TRANSPARENCY AND THE GST (ARTICLES 13 AND 14)

Articles 13 and 14 have a similar scope, both encompassing mitigation, adaptation and support. Moreover, Article 13 expressly states that one of the purposes of the transparency framework is to inform the global stocktake (GST) in relation to all three of these areas.

However, as adaptation reporting is neither mandatory under the transparency framework nor subject to review, the transparency framework's actual output may be narrower in scope than the GST in relation to adaptation.

Concerning how Article 13-related information might be carried forward as a source of input into the GST, there are at least two issues:

- First, because both reporting and review under the transparency framework relate to individual parties, and the GST relates to “collective” progress, there may be a desire to convey aggregate transparency information, rather than raw individual reports/reviews.
- Second, even if timing of reports is to be on a biennial schedule, it is unclear how long it will

take to complete the technical and other reviews. Thus, it may be challenging to synchronize the transparency framework's outputs with the GST's five-year cycles.

Options:

- Regarding the format of input from the transparency framework:
 - o It could take the form of the raw reports and reviews (technical expert and facilitative, multilateral consideration of progress) of individual parties.
 - o Alternatively, or additionally, the Secretariat might be requested to prepare an aggregate synthesis report to be forwarded to the GST process, such as after one or more stages of the transparency process (i.e., reporting, technical expert review and/or facilitative, multilateral consideration of progress) or at the process's conclusion.
- Regarding the timing of such input:
 - o The GST could take account of whatever transparency-related input was available at that point, recognizing that Article 13 will not be the only source of such information feeding into the GST.
 - o The transparency framework's reporting/review timelines might be designed so that its outputs are ready before the next GST. (It might not be possible to achieve this sequencing in time for the first GST in 2023, but only for the subsequent ones.)
 - o The CMA could adjust the timing of one or more GSTs, pursuant to its authority to deviate from the normal five-year timeframe.

TRANSPARENCY AND THE COMMITTEE (ARTICLES 13 AND 15)

Articles 13 and 15 do not specifically reference each other. However, a linkage could potentially be established between the transparency framework and the implementation/compliance committee. The issues include, at a minimum:

- whether there is substantive overlap between the transparency framework and the committee's work;

- in the case of overlap, the role of information derived from the transparency framework in relation to the committee's work.

The purpose of the Article 15 committee is to facilitate implementation of, and promote compliance, with "the provisions of this agreement." The committee's scope could encompass all provisions of the agreement or could be defined more narrowly to include, for instance, only certain legally binding obligations that apply to individual parties. To some extent, the scope of the committee's work depends upon its conceptual relationship to transparency, i.e., is it intended to be an additional layer of review on top of the transparency framework, is it intended to fill in gaps not covered by transparency, or another intent?

If the scope encompassed all provisions of the agreement, there would be obvious overlap with the transparency framework. If, on the other hand, the committee's work were very limited in scope (such as legally binding obligations that apply to individual parties), there might be little or no overlap.

If there were substantive overlap of some kind, there would still be a question concerning the way in which transparency-related information was used in relation to the committee's work. It might be used, for example, to trigger (or act as a referral to) the committee's work, or as substantive input into the committee's consideration of a particular case. It might also be possible to link specific aspects of the transparency framework with specific aspects of the committee, such as feeding expert review team reports into the committee's facilitative function.

Potential linkages, therefore, would depend on the committee's substantive scope and the nature of its functions, taking into account the conceptual relationship between it and the transparency framework.

Options:

- In the absence of substantive overlap, the transparency framework's output might play no role in relation to the committee.
- If there were substantive overlap, the transparency framework's output might:
 - o play no role in relation to the committee;
 - o itself "trigger" the committee's work in certain cases;
 - o be automatically forwarded to the committee, where it might potentially form the basis for a trigger by others;
 - o be substantively taken into account by the committee, even when the committee's work has been initiated by a trigger other than the transparency framework;
 - o be brought forward by an individual Party to trigger the committee with respect to itself.

THE GST AND THE COMMITTEE (ARTICLES 14 AND 15)

Articles 14 and 15 do not specifically reference each other. It would nonetheless be possible for committee outputs to factor into the GST.

At least four aspects of the committee's output could potentially limit its utility in relation to the global stocktake's (GST's) review of collective progress:

- First, no matter which trigger(s) is decided upon, Article 15's committee is likely to be invoked with respect to only a limited subset of parties. (In this regard, Article 15 is quite different from the transparency framework in Article 13.)
- Second, even if individual cases were arguably relevant to a collective review, there might be objections from parties to having their individual situations considered as part of a GST.
- Third, some aspects of the committee's work may be quite detailed or technical (for example, assisting a party with getting its reports in on time) and not particularly relevant to the GST's objective of assessing collective progress toward the purpose and long-terms goals of the agreement.
- Fourth, the timing of the committee's output is likely to be sporadic, no matter which trigger(s) is decided upon.

It is conceivable that, in addition to individual party situations, the CMA might decide to include in the committee's charge consideration of one or more systemic implementation/compliance issues. This might involve a particular issue, e.g., reporting, or a broader monitoring and evaluation function. If so, the outcome of the committee's considerations might be appropriate as input to the GST.

Options:

- The committee might have no link to the GST.
- The committee's output involving individual parties might feed into the GST, as appropriate.
- The committee's output might feed into the GST only with respect to systemic issues, assuming the subject matter is appropriate for the GST.



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