

# ESSENTIAL ELEMENTS OF THE PARIS ‘RULEBOOK’



The Paris Agreement represents a decisive turning point in the global response to climate change. Through an innovative hybrid structure blending “top-down” and “bottom-up” elements, the Agreement has achieved near-universal participation, and has the potential to facilitate rising global ambition. The Agreement’s success will hinge in part on further decisions to be taken by Parties to elaborate the Paris architecture. This report outlines the emerging contours of key elements of this Paris ‘rulebook.’ The report is informed by a series of informal discussions among senior climate negotiators from a diverse group of countries. It was prepared and is presented by the Center for Climate and Energy Solutions (C2ES) on its own behalf.

After adopting the Paris Agreement in 2015, governments set themselves the goal of adopting a series of implementing decisions, comprising the Paris Agreement Work Programme (PAWP), at the Twenty-Fourth Conference of the Parties to the UNFCCC (COP 24), to be held December 2-14, 2018, in Katowice, Poland.

Parties agreed in Paris on a set of respective obligations. Through their decisions on the PAWP, they will more clearly delineate their expectations of one another. In so doing, they must respect and preserve the careful balances struck in the Paris Agreement.

An essential feature of the Agreement is the nationally-determined nature of Parties’ individual contributions. Complementing this “bottom-up” element is a set of “top-down” elements. These include long-term goals on mitigation, adaptation and finance, and commitments and processes addressing transparency, implementation and collective stocktaking.

The decisions elaborating these elements are to be taken by the governing body of the Paris Agreement (known as the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement, or CMA). These decisions must be consistent with the Agreement and with the COP decision adopting it (decision 1/CP.21, hereafter referred to as the Paris COP decision). In each area, Parties must consider the level of specificity, rigor

and flexibility needed to promote the Agreement’s objectives, and to appropriately balance national discretion and international guidance.

An important measure of success for the Paris rulebook is the degree to which it instills confidence that progress is being made—and will continue to be made—toward each of the long-term goals of the Paris Agreement.

The following sections address key elements of the PAWP, in each case providing brief contextual information, followed by the outlines of a suggested outcome. These are not intended to address all of the issues related to a given element. Rather, they focus on the features most essential to achieving agreement.

## **INFORMATION FOR CLARITY, TRANSPARENCY AND UNDERSTANDING**

In communicating its NDC, each Party has a binding obligation under Article 4.8 to provide the “information necessary for [its] clarity, transparency, and understanding” (ICTU) in accordance with the Paris COP decision and any future decisions of the CMA.

The Paris COP decided that the information necessary for clarity, etc., “may” include, “as appropriate,” various specified categories of information. (The same

categories were included in the earlier Lima COP decision guiding Parties’ submission of their intended NDCs.) Further elaborating these categories would help Parties implement their ICTU obligation and ensure that future NDCs are more transparent.

Having Parties provide these elaborated categories of information as applicable or relevant to their particular NDCs would strike an appropriate balance between international guidance and national discretion, and would respect the diversity and nationally-determined nature of NDCs.

Mitigation co-benefits of adaptation actions put forward by a Party under Article 4.7 should be reflected (e.g., as emissions avoided or reduced) in its ICTU, while the adaptation aspects of those actions could be reflected in an adaptation communication. ICTU might also include the extent to which a Party’s nationally determined contribution (NDC) represents a progression under Article 4.3 and meets the expectations of developed and developing countries under Article 4.4.

Although a Party’s ICTU will be relevant in the review of its subsequent reporting on implementation and achievement, it is not itself subject to technical expert review (TER) under the Article 13 transparency framework.

The guidance should:

- Recall each Party’s obligation in Article 4.8 to provide, when communicating its NDC, “the information that is necessary for clarity, transparency and understanding.”
- Set forth a list of information that elaborates the categories in paragraph 27 of the Paris COP decision, including quantified mitigation co-benefits under Article 4.7 and, potentially, the extent to which a Party’s NDC reflects Articles 4.3 and 4.4.
- Indicate that the information listed is necessary for CTU, as applicable or relevant to a Party’s particular NDC.

## NDC ACCOUNTING

Parties have a binding obligation under Article 4.13 to account for emissions and removals corresponding to their NDCs; to promote environmental integrity; to promote transparency, accuracy, completeness, comparability and consistency (TACCC); and to ensure

the avoidance of double counting.

Paragraph 31 of the Paris COP decision calls for further guidance to ensure that Parties: use methodologies and common metrics assessed by the IPCC and adopted by the CMA; ensure methodological consistency between the communication and implementation of their NDCs; strive to include all emissions and removals in their NDCs; and explain any exclusions. This guidance is to apply to second and subsequent NDCs.

Parties’ accounting under Article 4.13, encompassing information from their inventories, will provide essential information for their reporting on progress in implementing and achieving their NDCs under Article 13.7(b). As inventories contain the information needed for the accounting of absolute economy-wide targets, the guidance will need, in particular, to set out parameters for the accounting of other NDC types.

For parties transferring internationally transferred outcomes (ITMOs) under Article 6.2 or emission reductions under Article 6.4, the accounting guidance under Article 6.2 will also apply. Parties engaging in such transfers during their initial NDC periods should apply the Article 4.13 guidance starting then. The Article 4.13 guidance also needs to address transfers from within the scope of a Party’s NDC for purposes outside the Paris Agreement, such as the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA), to ensure no double counting.

The guidance should:

- Recall Parties’ binding obligation under Article 4.13 to account for their NDCs, and the guidance provided under paragraph 31 of the Paris COP decision.
- Establish parameters for how Parties are to apply TACCC principles in areas not addressed in IPCC guidelines, such as: estimating business-as-usual (BAU) or other baselines; ensuring methodological consistency with a Party’s ICTU for different NDC types; and quantifying the mitigation co-benefits of adaptation action.
- Require Parties to elaborate the methodologies used in their land use accounting to address harvested wood products and natural disturbances.
- Require that Parties transferring mitigation outcomes or emission reductions under Article 6

apply the accounting guidance under Article 6.2; and note that Parties engaging in transfers during their first NDC period should apply the Article 4.13 accounting guidance starting then.

- Address how Parties should account for transfers for purposes outside the Paris Agreement, such as CORSIA.
- If necessary, establish a work programme and clear deadline to elaborate common accounting approaches for harvested wood products and emissions from natural disturbances.

## ACCOUNTING FOR COOPERATIVE APPROACHES

Parties engaging in cooperative approaches involving the use of internationally transferred mitigation outcomes have a binding obligation under Article 6.2 to apply robust accounting to ensure, among other things, the avoidance of double counting. The Paris COP decision calls for guidance to avoid double counting on the basis of corresponding adjustments by Parties for emissions and removals covered by their NDCs.

Cooperative approaches under Article 6 may provide Parties more cost-effective avenues for implementing their NDCs, and may thereby enable stronger ambition. The Article 6.2 guidance can help to promote both environmental and market integrity by ensuring sufficient clarity and consistency in accounting for transfers across a range of NDC types.

Parties' ITMO accounting should be reflected in their NDC accounting under Article 4.13, and in their reports on progress in implementing and achieving their NDCs under Article 13.7(b), and should be reviewed as part of the technical expert review under Article 13.12.

The guidance should:

- Provide for Parties to measure mitigation outcomes using the IPCC methodologies and common metrics most recently adopted by the CMA, and to account for transfers in carbon dioxide equivalent (CO<sub>2</sub>e).
- Provide for Parties engaging in transfers under Article 6.2 to select and consistently apply a basis for corresponding adjustments, and to have, or have access to, a means of uniquely identifying and tracking transfer and use of mitigation outcomes.
- Provide for Parties, through their Article 13 biennial

transparency reports, to:

- Describe their basis for corresponding adjustments; their means of tracking transfer and use of mitigation outcomes; and how they will ensure environmental integrity.
- Provide summary data on their transfers and corresponding adjustments.
- Reflect that technical expert reviews under Article 13 will include a review of a Party's consistency with the Article 6.2 guidance.
- Address whether and, if so, how to account for transfers generated via the Article 6.4 mechanism, and from outside the scope of an NDC; and how to account for transfers in the case of single-year NDCs.
- Provide for the secretariat to maintain a database of Parties' reported information on transfers and corresponding adjustments.
- If necessary, establish a work programme and clear deadline to further elaborate Article 6.2 accounting.

## INVENTORIES

Each Party has a legally binding obligation under Article 13.7(a) to regularly provide a national inventory report "prepared using good practice methodologies accepted by the [IPCC] and agreed upon by the [CMA]."

Reliable greenhouse gas inventories are an essential tool for managing emissions and for tracking Parties' progress. The latest inventory guidelines, adopted by the Intergovernmental Panel on Climate Change (IPCC) in 2006, provide substantial discretion to Parties, both with respect to capacity (e.g., by allowing a Party to choose among methodological "tiers" for estimating emissions in any given sector) and with respect to national circumstances more broadly (e.g., by allowing a Party to substitute its own approach when necessary, with an explanation).

Although transitioning to the 2006 guidelines may pose capacity challenges, they are generally easier to apply than earlier guidelines, and many developing countries are already employing them. Any flexibilities needed for capacity-based reasons beyond those built into the 2006 guidelines should be limited to narrow aspects of the guidelines. They should also be of limited duration, and be phased out as the CMA adopts updated

IPCC guidelines. Capacity-building assistance should continue to be provided to support developing countries’ transition to the latest guidelines and continued improvement over time.

The modalities, procedures and guidelines (MPGs) should:

- Recall each Party’s obligation in Article 13.7(a) of the Agreement to provide a national inventory report, to be prepared using good practice methodologies accepted by the IPCC and agreed upon by the CMA.
- Indicate that the good practice methodologies to be used by Parties are, initially, the 2006 IPCC guidelines – and, subsequently, those most recently adopted by the CMA – noting the substantial flexibility the 2006 guidelines provide to Parties.
- Identify, with respect to one or more specified aspects of the 2006 guidelines, additional flexibility that a developing country Party may use for a specified period of time, provided the Party explains why it needs that flexibility on the basis of capacity.
- Reaffirm the importance of donor countries providing support through the Capacity-Building Initiative for Transparency (CBIT) and other channels for purposes of improving inventory reporting.

### REPORTING OF PROGRESS

Each Party has a legally binding obligation under Article 13.7(b) of the Agreement to regularly provide “[i]nformation necessary to track progress made in implementing and achieving” its NDC. More detailed guidance would give Parties a clearer sense of what to report to meet their obligation and would help technical expert review teams be more complete and consistent in their reviews.

The Article 13.7(b) modalities, procedures and guidelines should address the information a Party needs to provide: 1) to describe its NDC; and 2) to describe its progress in implementing and achieving its NDC. With respect to the NDC, if a Party’s ICTU gives a sufficient description, the MPGs should allow the Party to simply refer back to it, coupled with any additional informational updates. With respect to the implementation and achievement of an NDC,

the necessary information should include both quantitative and narrative elements. Some elements would apply to all NDC types, while others may depend on the particular NDC.

To help both Parties and expert review teams, the guidance should provide for the use of a standardized table to summarize key quantitative elements of a Party’s reporting on progress, including its NDC accounting. The Secretariat or a subsidiary body could be tasked with developing the table’s format based on agreed elements set out in the MPGs.

The MPGs should:

- Recall each Party’s obligation in Article 13.7(b) of the Agreement to regularly provide information necessary to track progress in implementing and achieving its NDC.
- Call for each Party to provide adequate information to describe its NDC, referring, if it chooses, to its ICTU, coupled with any additional informational updates.
- Specify the quantitative and narrative types of information that are in all cases (and additional types that, for some NDCs, may also be) necessary to track progress, including: progress indicators; how the Party is implementing the accounting guidance under Articles 4.13 and 6.2; updates on domestic policy development/implementation; anticipated impacts of policies on future emissions; and mitigation co-benefits pursuant to Article 4.7.
- Recognize that not all types of information will necessarily be relevant to all NDCs.
- Call for Parties to apply consistent indicators in any given NDC cycle.
- Provide for each Party to use a standardized table to summarize the key quantitative elements of its reports and, if necessary, for the Secretariat or a subsidiary body to prepare the table for the use of both Parties and technical expert review teams.
- Reaffirm the importance of donor countries providing support through CBIT and other channels for the purposes of improving reporting on tracking progress.

### TECHNICAL EXPERT REVIEW

Article 13.11 requires that the information provided

by each Party (including its inventory, reporting of progress and, in the case of developed countries, reporting of support provided) undergo a technical expert review (TER). This review is to: consider the Party's implementation and achievement of its NDC and, as relevant, its provision of support; identify areas of improvement; review its consistency with the reporting MPGs; and, in the case of developing countries, identify capacity-building needs. It also is to pay particular attention to the national capabilities and circumstances of developing countries.

With respect to identifying capacity-building needs and evaluating consistency with the MPGs, additional CMA guidance does not appear necessary. With respect to identifying areas of improvement, the MPGs should clarify that this relates to the implementation of the MPGs, not to the content or implementation of NDCs.

Regarding the consideration of implementation and achievement, it would be helpful, for both clarity and consistency's sake, for the MPGs to identify elements that such consideration does and does not include. Such elements might, for example, include whether a Party has correctly applied its chosen accounting methods, how much it has reduced its emissions by that point, etc. Excluded elements might, for example, include the content of an NDC or subjective judgments as to whether a Party is "on track" to achieve its NDC.

With respect to the form of review, experience has demonstrated the value of direct exchanges between a Party and a review team in strengthening a Party's capacity and implementation. In-country reviews may afford the best opportunities for such exchanges, but may also strain the capacity of the Secretariat or review teams. They should be encouraged, and available to all Parties, but not mandatory.

Reviewers can pay particular attention to the respective capabilities and circumstances of developing countries by, for example, according a Party more time to answer questions.

The MPGs should:

- Recall the functions of TERs identified in Article 13.
- Clarify that "areas of improvement" refers to improvement in the implementation of the MPGs, not to the content or implementation of NDCs.
- Identify factors relevant to the "consideration" of "implementation and achievement" of NDCs,

including a non-exclusive list of quantitative and qualitative elements; as well as illustrative exclusions, such as commentary on the content of an NDC or subjective judgments as to whether a Party is on track.

- Encourage Parties to consider in-country reviews, noting both the benefits for parties and potential cost implications for the regime.
- Provide that in-country review should be available to any Party that seeks one.

## FACILITATIVE, MULTILATERAL CONSIDERATION OF PROGRESS

Article 13.11 sets forth a legally binding obligation for each Party to participate in a facilitative, multilateral consideration of progress (FMCP) with respect to: 1) efforts under Article 9 (finance); and 2) its implementation and achievement of its NDC.

The FMCP affords Parties the opportunity to publicly engage directly with one another to understand and ascertain their respective progress. Its procedures should largely draw on existing practice, with Parties exchanging questions and answer in written form and in open session.

As a general matter, the FMCP should follow, and be informed by, the technical expert review of a Party's inventories and other reporting. In the case of a Party that has failed to submit one or more of its required reports, the FMCP should proceed nonetheless. To be of maximum value to a Party, the FMCP be conducted as soon after its TER as practical.

With respect to scope, the MPGs should clarify that the FMCP encompasses mitigation (including mitigation co-benefits pursuant to Article 4.7), and efforts reported under Article 9.7, but not adaptation actions.

The FMCP is an inherently flexible process, providing substantial discretion to Parties. To ease burdens on the system, the guidance could provide for FMCPs of appropriate groupings of Parties (for instance, in the case of countries with few emissions). The MPGs could, in addition, provide flexibility to developing country Parties that need it in the light of their capacities in terms of the frequency of the FMCP and the time allotted to respond to questions.

The MPGs should:

- Recall the obligation in Article 13.11 of each Party to participate in a facilitative, multilateral consideration of progress with respect to efforts under Article 9 and its implementation and achievement of its NDC.
- Indicate that the FMCP should be informed by the technical expert review of a Party’s reporting on inventories, progress, etc., as available, and be conducted within a reasonable timeframe following the TER.
- Indicate that the FMCP encompasses mitigation (including mitigation co-benefits pursuant to Article 4.7), and efforts reported under Article 9.7, but not adaptation actions.
- Provide for FMCPs of appropriate groupings of Parties (such as countries with few emissions).
- Provide flexibility to those developing country Parties that need it in the light of their capacities in terms of the frequency of the FMCP and the time allotted to respond to questions.
- Recall that, per Article 15, the committee is facilitative in nature and is to function in a transparent, non-adversarial and non-punitive manner.
- Provide for the committee to:
  - Consider any issue brought to it by a Party regarding its own implementation and compliance.
  - Consider a Party’s failure to fulfil specified binding obligations, such as timely communication of an NDC or timely submission of reports under Articles 13 or 9.
  - Consider, at its discretion, instances of serious and persistent inconsistency with the Article 13 MPGs, as evident from TERs.
  - Refer systemic issues to the CMA.
- Provide for committee outputs that are facilitative in nature, including advice to a Party on improving its implementation and obtaining further assistance.

## IMPLEMENTATION AND COMPLIANCE

Article 15 establishes a mechanism to “facilitate implementation of and promote compliance with” the provisions of the Agreement. The mechanism consists of an expert-based committee that is “facilitative” in nature and is to function in a “non-adversarial and non-punitive” manner.

The committee’s modalities and procedures should address the scope, the manner of initiating, and the potential outcomes of the committee’s deliberations. They should ensure that the committee is able to add value beyond other Agreement processes, while respecting and seeking to fully realize its facilitative capacity.

In addition to any issue brought to it by an individual Party regarding its own implementation and compliance, the committee should be able to consider a Party’s failure to fulfil specified binding obligations, and instances of serious, persistent inconsistency with Article 13 MPGs. It also should be able to call to the CMA’s attention “systemic” issues related to the functioning of the regime (which the CMA may refer back to the committee or to another regime body for further consideration).

The modalities and procedures should:

## FINANCE COMMUNICATIONS

Developed countries have a binding obligation under Article 9.5 to biennially communicate information on their efforts to provide and mobilize climate finance for developing countries, including, as available, projected levels of public finance. Other Parties providing resources are also encouraged to communicate such information.

These “ex ante” communications complement the “ex post” information developed countries are to report under Article 9.7 on the support they have provided and mobilized. They build on and will succeed the biennial submissions now provided under decision 3/CP.19 on countries’ strategies and approaches for scaling up climate finance until 2020. Unlike the ex post reports submitted under Article 9.7, the Article 9.5 communications are not subject to review.

Given the uncertainties inherent in national budgeting, and the broad nature of the information to be provided, these communications will provide neither full predictability of future finance nor a full basis for individual developing countries to accurately gauge resources available to address their needs. However, by signaling progress in scaling up finance, the information communicated can strengthen confidence in future

flows, enabling countries requiring support to more confidently plan their future climate actions.

To enhance understanding of the information communicated, the CMA should, in consultation with the Standing Committee on Finance, organize biennial consultations informed by a report from the Secretariat compiling and synthesizing Parties' communications.

The guidance should:

- Recall the binding obligation of developed countries under Article 9.5 to biennially communicate indicative quantitative and qualitative information on their provision and mobilization of climate finance, including, as available, projected levels of public finance.
- Set out the types of information to be provided with respect to the levels, instruments, channels, types and purposes of expected support, and the factors that providers look for in evaluating funding requests.
- Establish when the first communications are to be provided, consistent with maintaining the current biennial cycle.
- Provide for the information to be communicated in the form of Party submissions and made available by the Secretariat on a dedicated web portal.
- Request the Secretariat to prepare biennial compilation and synthesis reports.
- Encourage other countries providing resources to follow the same guidance.
- Provide for the CMA to convene biennial consultations to enhance understanding of the climate finance opportunities reflected in the submissions and compilation and synthesis reports, and request the Secretariat to organize informal roundtables for this purpose in consultation with the Standing Committee on Finance.

## ADAPTATION COMMUNICATIONS

Article 7.10 states that each Party should, as appropriate, submit and update periodically an adaptation communication, which may include its priorities, implementation and support needs, plans and actions. Article 7.11 says that Parties shall submit these communications as a component of, or in conjunction with, other communications or documents, including a national adaptation plan

(NAP), NDC and/or national communication.

Under Article 7.14, the Agreement's global stocktake process is to take Parties' adaptation communications into account in enhancing the implementation of adaptation action, and is to recognize developing countries' adaptation efforts.

Although inherently national or local in nature, adaptation actions can produce important global benefits such as preserving ecosystems and avoiding instability, conflict and the disruption of supply chains. Communicating regularly on adaptation can help, domestically, to facilitate vulnerability assessment and adaptation planning. Internationally, the communication of both backward- and forward-looking information can help to strengthen collective understanding of successful strategies, future needs and overall progress.

The guidance should:

- Note that, consistent with Article 7.11, a party may provide its adaptation communication as a component of, or in conjunction with, its biennial transparency report under Article 13.8.
- Identify recommended elements of adaptation communications that Parties may include, as appropriate, including information on:
  - national circumstances; expected impacts, vulnerability assessments and adaptive capacity; adaptation priorities, plans and strategies, and expected results; and implementation and support needs; and
  - Implementation of actions, strategies and plans; monitoring and evaluation; developing country efforts for recognition; and lessons learned.

## GLOBAL STOCKTAKE

Article 14 requires the CMA to periodically "take stock of the implementation of th[e] Agreement to assess the collective progress" towards achieving its purpose and long-term goals. This is to be done "in a comprehensive and facilitative manner, considering mitigation, adaptation and the means of implementation and support, and in the light of equity and the best available science."

The stocktake is to be undertaken every five years, starting in 2023, and its outcome is to inform Parties in updating and enhancing their actions, support and

cooperation. Article 4.9 specifies that the outcome is to inform the updated NDCs that Parties are to communicate every five years.

The global stocktake will play a critical function in facilitating the raising of ambition over time, drawing on information and inputs from across the regime to inform Parties' consideration of further steps. While the Agreement provides broad guidance on the nature, purpose, tasks and outcome of the global stocktake, the specific modalities are to be determined by the CMA. Issues under consideration include whether the stocktake is to consider issues such as loss and damage and response measures, and how equity is to be taken into account.

The modalities should:

- Recall that, per Article 14, the purpose of the global stocktake is to assess collective progress towards the Agreement's purpose and long-term goals, and that its outcome is to inform Parties in updating and enhancing their actions, support and cooperation, including their NDCs under Article 4.9.
- Provide for the global stocktake to be conducted by the CMA with the assistance of the Subsidiary Body for Implementation and the Subsidiary Body for Scientific and Technological Advice, supported by three technical workstreams on mitigation, adaptation and the means of implementation and support.
- Allow for loss and damage and social and economic impacts of response measures to be considered as cross-cutting issues within the workstreams, or as issues to be considered within respective workstreams (e.g. loss and damage under adaptation, response measures under mitigation).
- Identify equity and best available science as cross-cutting themes to be considered in all workstreams, as appropriate, in relation to information collection, technical assessment and consideration of outputs.
- Recognize that Parties, in their inputs to the global stocktake, may reference equity indicators or approaches, including those reflected in their respective NDCs.

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*This report, and the discussions informing them, were directed by C2ES Executive Vice President Elliot Diringer with contributions from C2ES International Fellow Jennifer Huang; C2ES Senior Advisers Sue Biniatz (United Nations Foundation) and Daniel Bodansky (Sandra Day O'Connor College of Law, Arizona State University); C2ES consultant Kelley Kizzier; Lavanya Rajamani (Centre for Policy Research); Andrew Howard (Koru Climate); and Irene Suárez Pérez (Progresum).*

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The Center for Climate and Energy Solutions (C2ES) is an independent, nonpartisan, nonprofit organization working to forge practical solutions to climate change. We advance strong policy and action to reduce greenhouse gas emissions, promote clean energy, and strengthen resilience to climate impacts.