

Legal Dimensions of the Evolving Paris Regime

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Issues

- Entry into force
 - Early entry into force
- National approval
- National implementation
 - What
 - When
- International implementation and elaboration

Entry into Force

- Requirements
 - 55 countries
 - 55% of global emissions
 - US (17.89), Russia (7.53), Japan (3.79), China (20.09), India (4.1), Brazil (2.48)
- Implications of early entry into force for non-parties

National Approval

- How?
 - US: President acting alone?
- When?
 - For some countries, do rules need to be elaborated first?
- Submission of final NDCs

National Implementation

- Cancun
 - Implementation of 2020 targets/NAMAs
 - Mobilization of support
- Submission of final NDC
- Reporting obligations under Paris Agreement
- Mid-century strategies:
 - Canada-US by the end of this year
- Adaptation planning
- Developed countries: provision of support
- Policies and measures to implement NDC
- Submission of successive/updated NDC

International Implementation and Elaboration

- What:
 - What implementation/elaboration is required/allowed?
- By whom:
 - APA
 - Subsidiary bodies
 - Secretariat
 - CMA
- When:
 - CMA-1
 - Specific date
 - Unspecified

Rules to Be Elaborated

NDCs	
Market mechanisms	
Adaptation	
Financial support	
Capacity building	
Transparency	
Global stocktake	
Impl./compliance	

Rules to Be Elaborated

NDCs	<ul style="list-style-type: none"> • Up-front information: possible CMA decision (art. 4.8) • Features: guidance by CMA (para. 26) • Communication of NDCs: possible CMA decision (art. 4.9) • Common time frames: CMA shall consider (art. 4.10) • Adjustments: guidance by CMA (art. 4.11) • Accounting: guidance by CMA(-1) (art. 4.13, para. 31)
Market mechanisms	<ul style="list-style-type: none"> • Avoidance of double-counting: guidance by CMA (art. 6.2) • Ensure share of proceeds for adaptation (art. 6.6) • SDM: rules, procedures and modalities by CMA (art. 6.7)
Adaptation	<ul style="list-style-type: none"> • Recognition of efforts of DCs: modalities by CMA-1 (art. 7.3)
Financial support	<ul style="list-style-type: none"> • Accounting: modalities, procedures and guidelines adopted by CMA-1 (art. 9.7)
Capacity building	<ul style="list-style-type: none"> • Institutional arrangements: decision by CMA-1 (art. 11.5)
Transparency	<ul style="list-style-type: none"> • Emissions inventories methodologies (art. 13.7(a)) • Modalities, procedures and guidelines adopted by CMA-1 (art. 13.13)
Global stocktake	<ul style="list-style-type: none"> • Sources of input identified and modalities adopted by CMA-1 (paras. 100, 102)
Impl./compliance	<ul style="list-style-type: none"> • Modalities and procedures adopted at CMA-1 (art. 15.3)

Key Variables/Issues

- To whom do rules apply?
 - Parties
 - FCCC/PA institutions
- Must CMA act?
 - Required
 - Optional
- Default if CMA fails to adopt rules?
 - Anything goes
 - Nothing goes
- Legal status of rules
 - Mandatory/binding
 - Guidance
- Precision
 - How much discretion is left to the parties?

Typology of Future Rules I

	Apply to Parties	Internal Institutional Arrangements
Required: PA requires CMA to adopt	<ul style="list-style-type: none"> Accounting of action and support (art. 9.7, 13.3) 	<ul style="list-style-type: none"> Ensure share of proceeds from SDM for adaptation (art. 6.6) Rules, modalities and procedures for SDM (art. 6.7) Institutional arrangements on capacity building (art. 11.5) Modalities and procedures for Implementation and Compliance Committee (art. 15.3)
Optional: PA authorizes CMA to adopt rules	<ul style="list-style-type: none"> Periodicity of NDCs, common time frames (art. 4.9 and 4.10) 	<ul style="list-style-type: none"> Guidance to WIM (art. 8.2)

Typology of Rules II: Dimensions of Bindingness

	Precise > Little Discretion	Imprecise > Greater Discretion
Legally-Binding		
Non-Binding		

- Unspecified (CMA “decision”)
- Rules
- Guidance/guidelines
- Modalities
- Procedures

- In accordance with
- Consistent with