

**Submission by the Republic of Mali
on behalf of the African Group of Negotiators on the 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**

30 March 2017

The African Group welcomes the opportunity to share its views on the 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, and paragraphs 102 and 103 of Decision 1/CP.21 and in accordance with paragraph 26 of the conclusions of the Ad Hoc Working Group on the Paris Agreement (APA) on the second part of its first session (FCCC/APA/2016/4).

I. General Remarks

The African Group believes an effective mechanism to facilitate implementation and promote compliance will contribute to ensuring the full implementation of the Paris Agreement. Article 15 paragraph 1 of the Paris Agreement has defined the scope of the mechanism to address the provisions of the Agreement. Therefore, the scope of the mechanism must include Article 4, Article 7, Article 9, Article 10, Article 11 and Article 13, as Parties have obligations under these provisions.

The African group stresses that the operationalization of the mechanism should be in line with Articles 4.3, 4.4, 4.5, 4.15, 9.1, 9.3, 9.4, 9.5 and 9.7 through which a differentiated approach to deal with issues related to the mandate of the mechanism will be developed based on the existing commitments and transparency procedures under the Convention.

Furthermore, Article 15 paragraph 1 provides that the mechanism has a dual role to facilitate the implementation and promote compliance with the provisions of the Agreement. In addition to the clearly defined differentiated obligations of Parties in the Paris Agreement, Article 15 paragraph 2 provides for additional differentiation of Parties by requiring the compliance committee to take into account the respective national capabilities and circumstances of Parties, as reflected in Article 4.3 of the Paris agreement.

The African Group strongly calls for the application of principles provided for in Article 15 paragraph 2, in addition to the relevant provisions under Articles 4 and 9 to guide the development of the modalities and procedures of the compliance committee to ensure the modalities and procedures take into account the respective national capabilities and circumstances of Parties.

The development of the modalities and procedures should also take into account lessons learned from the compliance mechanism under the Kyoto Protocol and other multilateral environment agreements.

The work of the mechanism should build on and continue to build on from the current transparency actions identified under relevant COP decisions. It shall be consistent with the existing commitments and reporting and verification processes for developed countries, as this reflects the function of promoting compliance, and on the other hand should allow for the evolution of transparency actions by developing countries in line with their capacities and the support provided to them to implement their NDCs and this reflects the function of facilitating implementation.

It is worth highlighting that the goal of the Paris Agreement is to enhance the implementation of the Convention as reflected in Article 2 of the Paris Agreement. The transparency system and the mechanism should therefore be focused on achieving this goal, and not to just focus on establishing MRV mechanism.

Furthermore, it is important to understand that the development of the discussions on the mechanism is directly related to the progress achieved under other negotiating tracks, particularly transparency and finance. In this regard, there is a need for synchronization between the different processes and, as far as possible, rationalization of the discussions to avoid duplication.

While the African Group will continue engaging and contributing to the mechanism negotiations to ensure an effective regime, it should be noted that progress on the Paris Agreement work programme is critical for developing detailed modalities and procedures for the mechanism.

II. Context

The African Group is pleased to share its views on the questions posed in paragraph 26 of the APA conclusion in light of the general comments expressed above.

a) Specify the modalities and procedures required for the effective operation of the committee referred to in Article 15, paragraph 2, of the Paris Agreement.

The development of modalities and procedures will ensure the operationalization of the mechanism, including the effective operation of the committee contemplated in Article 15 paragraph 2. For the African Group it is key that the modalities and procedures include the following:

1. Purpose and scope of the mechanism;
2. Initiation of procedures (triggers);
3. Procedures and measures (outcomes); and
4. Reporting and relationship with the CMA.

b) Elaborate elements that could be addressed through such modalities and procedures

1. Purpose and Scope of the Mechanism

- The purpose and the scope of the mechanism are defined in Article 15 paragraph 1 of the Paris Agreement: “A mechanism to facilitate implementation of and promote compliance with the provisions of this Agreement is hereby established.” As provided, the purpose is to facilitate implementation and promote compliance with a comprehensive scope covering the entirety of the Paris Agreement.
- For the African Group it is important that the mechanism is comprehensive and addresses the different provisions of and decisions taken in terms of the Paris Agreement. The elaboration of the provisions of the Paris Agreement is continuous through forthcoming decisions of Conferences of Parties to clearly defined legally binding obligations. Therefore, the scope of the committee and the modalities and procedures of the committee should take into account the further elaborations of the collective obligations.
- Furthermore, the treatment of actions and ambition under the Paris Agreement is clearly reflected in Articles 4.3, 4.4 and 4.5, which should provide for the principles of structuring the modalities for implementing the two functions identified in Article 15.1.
- The scope of the mechanism should cover all aspects, in particular those related to fulfillment of obligations and pledges related to provisions of means of implementation provided to developing countries in terms of Articles 9.3, 9.4 and 9.5.

2. Initiation of procedures (Triggers)

- The Paris Agreement has established a compliance mechanism, but to ensure its effective operationalization Parties need to define procedures to initiate its

work. The African Group supports the giving the mandate to the compliance committee to respond to requests from individual Parties related to the fulfillment of their own pledged actions (self-trigger). Self-trigger is an important initiation procedure in which the work of the compliance committee will begin and is particularly relevant in the committee's mandate to facilitate implementation.

- The level of extent to which developing countries are able to take ambitious climate action in terms of implementation of developing countries actions within the Paris Agreement is clearly linked to provisions of support provided to them by developed countries. Furthermore, and in line with Articles 4.4, 9.3, 9.5 and 10.6, there are clear responsibilities on developed countries to take the lead in climate actions and to provide support to developing countries as identified through those articles, and in line with relevant articles of the Convention. Therefore, a process for verification of the fulfilling such commitments should be included in the triggers, in accordance with these provisions of the Paris Agreement, as well as the relevant Articles of the Convention;
- Other procedures for initiation could include triggering by the committee itself or inputs from the existing bodies and arrangements under the Convention and the Paris Agreement.

3. Procedures and Measures (outcome)

After the initiation of proceedings, the committee needs clear procedures and modalities to exercise its functions consistent with its dual role to facilitate implementation and promote compliance with the provisions of the Agreement.

a) General procedures

Article 15 paragraph 2 of the Paris Agreement provides that the compliance mechanism shall consist of a committee that is expert-based, facilitative in nature and function in a manner that is transparent, non-adversarial and non-punitive. The composition of its members was agreed in paragraph 102 of decision 1/CP.21. However, there is a need to further define the procedures for the effective functioning of the committee, including its structure, meetings and national capabilities and circumstances Parties.

Structure: The African Group stresses that the structure of the committee should be consistent with its dual role of facilitating implementation and promoting compliance. A single committee with two functions or a committee with two branches can be used to deliver fulfil the committee's function. Building upon existing mechanisms, a two branch committee could be a good option, with a specific mandate and ToRs for each branch that reflects the relevant articles of the Paris Agreement, including and in line with the differentiated approach between developed and developing countries. The committee should be supported by technical experts to conduct the needed assessment

work, in addition to the support provided by the secretariat.

Meetings: The rules of procedure of the committee should be consistent with its transparent nature. The procedures should provide for the participation by and form of consultation with the Party concerned, as well as rules to address conflicts of interest and confidentiality.

National capabilities and circumstances of Parties: The provisions of the Paris Agreement have defined differentiated obligations of Parties. In addition, Article 15 paragraph 2 provides that the committee shall take into account the respective national capabilities and circumstances of Parties. Therefore, the compliance committee should have procedures and measures to reflect the differentiation of Parties, between developed and developing countries. Such procedures should provide differentiated treatment of the Party concerned, as well as the and actions taken by the committee.

The procedures of committee in relation to developing countries should also take into account the flexibilities provided in the Paris Agreement and subsequent decisions. consistent with the flexibilities. It should be noted that utilizing the flexibilities provided to developing countries, in terms of Article 13.2 of the Paris Agreement, will be based on a decision of the developing country itself as it deems appropriate and or necessary.

b. Measures (outcomes)

Facilitation of implementation: The committee in its function of facilitation of implementation, for developing countries, could, through consultations and coordination with the Party concerned, address causes of non-compliance, including identification of causes and challenges. The committee could, as appropriate and upon the Party's request, then assist the Party concerned, upon the Party's request, in the to prepare an action plan, which should address for the implementation and facilitation of technical (capacity-building and technology support) and financial support for such to implementation.

Promotion of compliance: The committee in its function to promote compliance of developed countries should seek clarification from the Party concerned on issues of non-compliance. The committee should consult with the Party by requesting reasons and proposals for subsequent measures and action to be taken by the Party to address its non-compliance.

c. Reporting and Relationship with the CMA

The compliance committee should report annually on its activities and list of decisions annually to the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA) as provided in Article 15 paragraph 3. The

report of the compliance committee to the CMA should include its findings with respect to instances of non-compliance, and may also include reflect on requests received for the of provision of assistance to the Convention bodies, operating entities and mechanisms to facilitate implementation and its findings to promote compliance.

b) Share their views on how to take the work further under this agenda item in order to ensure that the APA can fulfill its mandate in accordance with decision 1/CP.21, paragraph 103.

The African Group highlights the importance of elaborating the rulebook of the Paris Agreement for developing effective modalities and procedures for the committee. It is also important to further continue discussions to reach understanding among Parties, through further calls for submissions from Parties on modalities and procedures for operationalizing the committee. Another option for continuing these discussions could be through a workshop, which, in the first round, should focus on the lesson learnt from the Kyoto Protocol compliance mechanism and other relevant compliance regimes of multilateral environment agreements.