

ELABORATING THE PARIS AGREEMENT: INFORMATION AND ACCOUNTING



Daniel Bodansky, Sandra Day O'Connor College of Law, Arizona State University

The Paris Agreement's provisions on mitigation-related information and accounting are intended to promote transparency and environmental integrity, and play a central role in the regime's architecture. They contain two basic elements: first, general obligations on parties, and second, authorizations to the Conference of the Parties serving as the Meeting of the Parties (CMA) to adopt more detailed rules and guidance.

In elaborating additional rules on how parties provide information on and account for their mitigation efforts, an important question is the potential linkages between the various CMA decisions authorized by the Paris Agreement. To the extent the issues addressed in different decisions are inter-related, then arguably they should be developed in a coordinated manner, to avoid inconsistencies and gaps.

This background paper reviews the decisions contemplated by the Paris Agreement on information and accounting by parties relating to mitigation; explores their inter-relationships and the rationales for linkage; and presents different options regarding coordination of the CMA decisions.

BACKGROUND

As is well known, the Paris Agreement combines bottom-up and top-down elements: On one hand, it allows parties to nationally determine their mitigation contributions. On the other hand, it establishes multilateral rules and procedures to promote ambition and accountability.

The top-down component of the Paris Agreement's architecture has three basic elements:

- First, hortatory norms relating to the content of parties' NDCs—for example, that successive NDCs represent a "progression" and reflect a party's "highest possible ambition."
- Second, informational and accounting obligations on parties, to promote transparency and environmental integrity.

- Third, multilateral mechanisms to review individual and collective action, including technical expert review; a facilitative, multilateral consideration of progress; periodic global stocktakes; and a mechanism to "facilitate implementation" and "promote compliance."

With respect to all three components, the Paris Agreement establishes only quite broad parameters and principles. However, for the second and third components—that is, the provision of information and accounting by parties relating to NDCs, and multilateral mechanisms to review and assess individual and collective action—the agreement authorizes the CMA to adopt more detailed rules and guidance.¹

CMA DECISIONS ON INFORMATION AND ACCOUNTING

This paper focuses on the possible CMA decisions on the second component of the Paris Agreement’s mitigation architecture—the informational and accounting obligations on parties relating to their NDCs. The Paris Agreement provides for decisions by the CMA on four topics:

- Up-front information to be provided by parties when submitting their NDCs (Article 4.8).
- Accounting by parties of their NDCs (Article 4.13).
- Accounting by parties of internationally transferred mitigation outcomes (ITMOs) (Article 6.2).
- Common modalities, procedures and guidelines for the transparency of action and support (Article 13.13), which could include rules on the information to be provided by parties under Article 13.7 on their progress in implementing and achieving their NDCs.

The COP decision adopting the Paris Agreement assigned the development of these CMA decisions to various bodies, primarily the Ad Hoc Working Group on the Paris Agreement (APA), but also the Subsidiary Body on Scientific and Technological Advice. The Paris COP decision also provided further guidance on the issues to be decided by the CMA (COP Decision 1/CP.11, paras. 27-28, 31-32, 36, 89-98).

General considerations

Several factors are relevant to the CMA’s elaboration of decisions on information and accounting:

- **Legal bindingness**—Although CMA decisions are not ordinarily binding, a CMA decision could be legally binding if: (a) the Paris Agreement authorizes the CMA to adopt decisions on the relevant subject that parties are required to follow; and (b) the CMA chooses to exercise this authority by formulating a decision in mandatory terms.
- **Prescriptiveness**—The CMA could formulate decisions at different places along the continuum between top-down and bottom-end approaches. At one end of the continuum, the CMA could formulate precise rules on information and accounting. In the middle, it could elaborate more general principles intended to guide but not precisely determine what parties do. At the

bottom-up end of the spectrum, a CMA decision could allow each party to determine its own rules on information and accounting, and simply require parties to report on their rules internationally, in order to ensure transparency.

- **Timing**—The COP decision that adopted the Paris Agreement calls for the development of all the different decisions on information and accounting, for consideration and adoption by CMA-1 (Decision 1/CP.1, paragraphs. 28, 31, 36, 91). But the Paris Agreement itself requires adoption by CMA-1 only of the common modalities, procedure, and guidelines for the transparency of action and support under Article 13.13. In contrast, Articles 4.8, 4.13, and 6.2 authorize CMA decisions on up-front information, accounting, and ITMOs, but do not require them at any particular time.

Up-front information

Article 4.8 requires parties, when they communicate their NDCs, to provide the information necessary for clarity, transparency, and understanding, in accordance with Decision 1/CP.1 and any relevant decisions of the CMA. This obligation to provide up-front information aims to ensure that parties define their NDCs with sufficient precision to enable both *ex ante* assessments of ambition and *ex post* determinations of implementation and achievement. Without information on factors such as an NDC’s time frame, sectoral scope, greenhouse gas coverage, and methodological assumptions (for example, about BAU emissions, if an NDC includes a BAU target), it is unclear what a party has pledged to do or determine whether it has met its pledge.

Article 4.8 authorizes the CMA to adopt binding rules on up-front information, by providing that parties “shall” act “in accordance with” CMA decisions. But the parties chose not to exercise this authority in Decision 1/CP.21. Instead, they formulated paragraph 27 on up-front information in non-binding terms, specifying information that parties “may” provide when submitting their NDCs. A CMA decision could nevertheless make these informational elements mandatory; it also could identify additional types of information that parties may or must provide.

Accounting of NDCs

Article 4.13 requires parties to account for their

NDCs in order to avoid double counting and promote environmental integrity, transparency, accuracy, comparability, and consistency, in accordance with guidance adopted by the CMA. Although the term “guidance” is sometimes used to refer to non-binding norms, Article 4.13, like Article 4.8, appears to authorize the CMA to adopt binding rules, by providing that parties “shall” act “in accordance with” the CMA’s guidance.

Like up-front information, accounting rules help define a Party’s NDC and determine what counts as achievement. In doing so, they promote both transparency and environmental integrity.

A CMA decision on accounting could give parties more or less discretion. At the top-down end of the spectrum, it could specify particular accounting rules that parties must use. In the middle of the spectrum, it could identify a range or menu of options among which parties could choose. At the bottom-up end of the spectrum, it could allow parties to nationally-determine their accounting rules, but require them to report on their rules and methodologies, in order to ensure transparency.

Accounting of ITMOs

Article 6.2 requires parties, when using ITMOs, to promote sustainable development, ensure environmental integrity and transparency, and apply robust accounting to ensure, inter alia, the avoidance of double counting. Like Articles 4.8 and 4.13, Article 6.2 authorizes the CMA to adopt binding decisions, by providing that parties “shall” account “consistent with” CMA guidance. But the explicit authorization to the CMA to elaborate guidance relates only to accounting, not to the other elements of Article 6.2, such as promoting sustainable development.

Reporting on implementation and achievement of NDCs

Article 13.7 requires parties to provide information on their emission inventories as well as information necessary to track progress in implementing and achieving their NDCs. Although the Paris Agreement does not specifically authorize the CMA to elaborate the reporting obligations set forth in Article 13.7, Article 13.13 requires CMA-1 to adopt common modalities, procedures and guidelines for the transparency of action and support, which could include reporting guidelines.

GENERAL CONSIDERATIONS RELATING TO LINKAGES

The CMA provisions on information and accounting are related in several ways:

- **Common purpose**—They share common purposes, including promoting transparency and environmental integrity.
- **Overlapping issues**—They address, in some cases, the same or related issues – for example, accounting rules to prevent double counting.
- **Interdependent issues**—They address interdependent issues. For example, the information required under Article 13.7 to track implementation and achievement of NDCs might depend on the accounting rules adopted under Article 4.13.

To the extent that CMA decisions on information and accounting form an inter-linked system, then considering them as a package could provide several benefits—what might be termed the four C’s:

- **Completeness**—If an issue could be addressed in one decision or another, then developing decisions as a package would help ensure that it does not fall through the cracks. For example, how parties account for REDD+ activities could be addressed in the accounting guidance adopted under Article 4.13, or in the up-front information provided by parties pursuant to Article 4.8. If the accounting rules address this issue, parties need not address it in the information they provide when submitting their NDCs. But if the accounting rules do not address this issue, then arguably parties need to address it in their up-front information. Without coordination between the CMA decisions on up-front information and accounting, there is a risk that REDD+ accounting, and other issues like it, will not be addressed in either decision, creating a gap.
- **Consistency**—If multiple CMA decisions address related issues, then considering them together would help ensure that the rules in different decisions are consistent.
- **Coherence** —To the extent rules in different decisions are interdependent, then developing the rules in a coordinated way would help ensure that they are mutually supportive and work well together. For example, if the reporting rules adopted under

Article 13.13 do not track the accounting guidance adopted under Article 4.13, then it may not be possible to know whether a Party has accounted for its NDC in accordance with the accounting guidance. Similarly, coordination will be necessary to ensure consistency between the methodologies used to communicate NDCs under Article 4.8 and to report on progress towards achievement of NDCs under Article 13.7.

• **Calibration of legal bindingness and prescription—**

The decisions on information and accounting could trade off bindingness and prescription in various ways, both within particular decisions and between decisions, in order to calibrate the package as a whole. For example, within the Article 4.8 decision on up-front information, the CMA could trade-off a high level of prescription with a low level of bindingness, specifying very precise rules in hortatory terms or more general principles in binding terms. Similarly, the CMA could trade off relatively general, non-binding guidance on accounting under Article 4.13 with more precise, mandatory rules on reporting under Article 13.13.

In general, the CMA decisions on mitigation-related information and accounting are being developed by the APA, which can make the appropriate linkages between the decisions. But the CMA decision under Article 6.2 was assigned to SBSTA, which will need to work with the APA to ensure coordination between the Article 6.2 decision and the other decisions on information and accounting.

LINKAGE BETWEEN ARTICLE 4.8 AND ARTICLE 4.13

Up-front information and accounting guidance both help to define a party's NDC. By specifying the sectors and gases covered by its NDC, its time frame, and whether the NDC is conditional or unconditional, a party's up-front information defines the essential content of its NDC. Accounting guidance provides further information about an NDC by specifying what counts towards its achievement.

Coordination of the decisions on up-front information and accounting would help ensure that the Paris rulebook is complete, by addressing all parameters necessary to define a party's NDC with sufficient precision to allow assessment and review. In

some cases, these parameters could be defined either through up-front information under Article 4.8 or accounting guidance under Article 4.13. For example, each party could identify in its up-front information the global warming potentials it intends to use to compare emissions of different greenhouse gases, or the accounting guidance adopted under Article 4.13 could specify the global warming potentials that parties are to use. Similarly, accounting rules for REDD+ activities could be addressed either in a party's up-front information or in the CMA's accounting guidance. In the absence of coordination between the decisions on up-front information and accounting, these issues could fall through the cracks or be addressed inconsistently in different decisions.

In addition, coordination between Article 4.8 and 4.13 decisions would allow the CMA to calibrate the degree of discretion left to parties, through tradeoffs between the bindingness and prescriptiveness of the two decisions. For example, the CMA could give parties greater flexibility in determining their own accounting rules, by specifying only limited accounting guidance under Article 4.13 and if parties simply identify in their up-front information the accounting rules and methodologies that they intend to use. Conversely, the CMA could adopt a top-down approach by adopting a decision under Article 4.13 that specifies common (or minimum), internationally defined accounting rules.

LINKAGE BETWEEN ARTICLE 4.13 AND ARTICLE 6.2

Articles 4.13 and 6.2 both authorize the CMA to adopt accounting guidance, Article 4.13 for NDCs generally and Article 6.2 for ITMOs in particular. In both cases, the Paris Agreement provides that this accounting guidance is to ensure, *inter alia*, the avoidance of double counting.

Because accounting of ITMOs is an aspect of NDC accounting more generally, the guidance adopted under Article 6.2 must mesh with the accounting guidance adopted under Article 4.13, if the agreement's accounting system as a whole is to be coherent. For example, if a party receives an ITMO involving a reduction in deforestation in another country, then how those non-deforested acres count towards achievement of the transferee's NDC depends on its accounting rule for similar REDD+ activities in its own territory. The same is true for any

ITMO: how the recipient and transferring country account for an ITMO in order to avoid double counting depends on how they account for similar domestic mitigation outcomes. Given the close relationship between the CMA decisions under Articles 4.13 and 6.2, the parties may wish to consider them together.

LINKAGE BETWEEN ARTICLES 4.8 AND 4.13 AND ARTICLE 13.13

The information and accounting rules that define the parameters of a party's NDC and the information necessary to track progress towards achievement of that NDC are also closely linked. In essence, the elements of a party's NDC—the type of contribution involved, the gases and sectors covered, the time frame, and so

forth—determine the information necessary to track progress towards its achievement. As a result, the CMA decisions on up-front information and accounting under Articles 4.8 and 4.13 help define the information that parties must report under Article 13.7. For example, if the accounting guidance adopted under Article 4.13 required parties to account for emission increases in uncovered sectors that resulted from emission reductions in covered sectors, then the information that a party reported under Article 13.7 would need to address this issue; otherwise, tracking the party's progress in achieving its NDC would not be possible. Although this obligation on parties would exist independent of any reporting guidance adopted by the CMA under Article 13.13, the CMA could reinforce the rules on up-front information and accounting by specifically tracking them in its Article 13.13 reporting guidance.

ENDNOTE

1 With respect to the first component, the Paris Agreement does not explicitly authorize the CMA to adopt decisions on the content of NDCs, but the COP decision that adopted the Paris Agreement requests the APA to develop further guidance on the “features” of NDCs, for consideration and adoption by the CMA (Decision 1/CP.21, para. 26).

Other C2ES Resources:

Elaborating the Paris Agreement: Implementation and Compliance, November 2017. <https://www.c2es.org/document/elaborating-the-paris-agreement-implementation-and-compliance/>

ICAO's CORSIA and the Paris Agreement: Cross-Cutting Issues, November 2017. <https://www.c2es.org/document/icaos-corsia-and-the-paris-agreement-cross-cutting-issues/>

Elaborating the Paris Agreement: Potential Linkages Between Articles 13, 14, and 15, November 2016. <https://www.c2es.org/document/elaborating-the-paris-agreement-potential-linkages-between-articles-13-14-and-15/>

Structuring the UNFCCC 2018 Facilitative Dialogue, May 2017. <https://www.c2es.org/document/structuring-the-unfccc-2018-facilitative-dialogue/>

Key Issues in Completing the Paris Climate Architecture, October 2016. <https://www.c2es.org/document/key-issues-in-completing-the-paris-climate-architecture/>

Paris Agreement Q&A, June 2017 <https://www.c2es.org/content/paris-climate-agreement-qa/>



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.