



Domestic implementation of the Paris Agreement by developing country parties

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An implementation checklist¹

While the Paris Agreement does not specify how parties are expected to implement their commitments at the national level, in practice they will have to rely on domestic policy, law and regulations. Many developing country parties to the UN Framework Convention on Climate Change (UNFCCC) have already indicated that to respond adequately to climate change their national legal and institutional infrastructure will require improvements².

Given the cross-sectoral nature of climate change impacts, governments will have to consider a very broad range of law and policy interventions depending on a country's specific needs, vulnerabilities and political priorities. In this context, they may have to map relevant policies, laws and regulations, identify gaps and subject areas for review, revision and new legislation.

Many of them will have to consider developing new policies, legislation and institutions to respond effectively to climate change and facilitate low carbon economic development. There will not be any "one size fits all" solutions and

developing country governments may require assistance, both in terms of human resources and expertise, to accomplish this significant task.

For that purpose, an "implementation checklist" based on the Paris Agreement would be a useful tool for government officials in all parts of the developing world. It would help to ensure that parties comply with their commitments and also fully benefit from the provisions of the Paris Agreement.

The checklist would serve as a quick first step toward analysing the state of play in a developing country party jurisdiction as its government sets out to implement the Paris Agreement. It should also provide additional information as to the timing of requirements in different subject areas and outline options that might be available for addressing gaps or strengthening existing arrangements.

At this point in time, however, the Paris Agreement largely creates a framework for further substantive decisions by the parties on its implementation. The necessary processes, methodologies and regulations – the so called "rule book" of the Paris Agreement – are still being developed³. This work is meant to be completed by 2018.

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¹ By Linda Siegele and Christoph Schwarte.

² Marie-Claire Cordonier Segger, Mirjam Reiner & Alexandra Scott, Countries stress the importance of legal and institutional capacity building in the iNDCs, Centre for International Sustainable Development Law (CISDL), Canada, 2016.

³ A list of tasks has been compiled by the secretariat and an update on the work (progress tracker) is available at http://unfccc.int/files/paris_agreement/application/pdf/pa_progress_tracker_200617.pdf

As a result, a checklist cannot be finalised and made available until the “rule book” has been agreed. The following table, therefore, provides only an initial overview of the relevant subject areas for domestic government interventions under the Paris Agreement. It may, however, already be used to provide broad guidance

to a government planning on drafting a climate framework act or policy, or to determine the mandate of a new body or institution tasked to coordinate the response to climate change across ministries. A degree of built-in flexibility to accommodate the rulebook’s future requirements and criteria may be necessary.

Table - Initial overview of subject areas for government intervention under the Paris Agreement

The following table highlights potential areas for consideration as developing country parties begin to address the implementation of the Paris Agreement. While government interventions to implement the Paris Agreement will need to be tailored to the specific

circumstances of a country involved, the table broadly highlights some law and policy areas potentially affected at the national (and sub-national) level. It may also be useful in helping governments identify which relevant governance frameworks, laws and institutions are already in place.

What the Paris Agreement says

Which domestic governance areas this may affect in developing country parties:

Mitigation (control and reduction of emissions)

Prepare, submit and pursue increasingly ambitious nationally determined mitigation contributions (Art.4.2&3) every 5 years with additional information necessary for transparency and clarity; developing country parties may move towards economy-wide absolute emission reduction or limitation targets (Art.4.4); LDCs and SIDS may prepare and communicate strategies, plans and actions for low GHG emissions development (Art.4.6).

Policy, law and implementing regulations in various areas such as air pollution, energy, industry, transport etc. and improving emissions data collection, monitoring and reporting.

Formulate and communicate low-emission development strategies (Art.4.19).

Long-term (until 2050) economy-wide and/or sector specific national economic policy, plans and strategies that promote sustainable social and economic development while reducing GHG emissions.

Conserve and enhance sinks and reservoirs of GHGs, including through results-based payments (Art.5).

Policy and law on forest protection, water management and other environments and activities that absorb more carbon than they release. The existing framework as set out in guidance and decisions agreed under the UNFCCC should help guide the implementation, including land use, land use change and forestry (LULUCF) reporting guidelines and the decisions forming the Warsaw Framework for REDD-plus.

Voluntary use of market mechanisms (Art.6.4) with proceeds to support adaptation in particularly vulnerable countries.

Markets and trading mechanisms for carbon and other climate change relevant commodities, interests and rights; associated trade, financial services, investment policy, laws and regulations.

Availability of non-market approaches to assist in the implementation of NDCs.

Trade measures, government levies and taxes, customs, import and export duties, subsidies; social services policies, laws and regulations.

Provide national GHG inventory reporting and information necessary to track progress made in implementing and achieving mitigation NDCs (Art.13.7).

Measuring, reporting and verification of GHG emissions; systems, governance structure and/or allocation of responsibilities to gather and process relevant information and monitor outcomes of mitigation efforts, including for biennial reporting under the transparency framework and the global stocktake.

Adaptation (to climate change impacts)

Recognition of adaptation efforts (Art.7.3).

Documentation, monitoring and evaluation of adaptation efforts in all areas, including in the vulnerability and adaptation section of national communications and monitoring of national adaptation plans (where available); national and sub-national budgets for adaptation action and departments/agencies responsible for planning, implementing and reporting on adaptation-related activities.

Follow a gender-responsive, participatory and transparent approach taking into account vulnerable groups, communities and ecosystems (Art.7.5).	Access to and dissemination of information, consultation processes and inclusive decision making; diversity, environmental and other impact assessments; human and indigenous peoples and many other areas potentially affected by climate change response measures that affect people's interests.
Engage in adaptation planning processes and implementation of actions (Art.7.9).	Climate change policies, laws and regulations; planning policies, programmes and projects; emergency preparedness and disaster risk reduction plans and programmes; building regulations, coastal protection and various other areas depending on vulnerabilities and anticipated impacts.
Submit and update communications and information on adaptation priorities, needs, plans and action (Art.7.10-12, Art.13.8).	As part of the process to formulate national communications or national adaptation plans, the recognition of adaptation efforts, including as reported through NDCs; adaptation needs (and other related) assessments; finance and budgeting processes as they relate to adaptation to the adverse effects of climate change.
Strengthen cooperation on enhancing adaptation action (Art.7.7).	International and regional collaboration on national and sub-national level implementation issues; policies and initiatives to support and/or enhance North-South and South-South cooperation including for data exchange, on technologies for adaptation and the financing of adaptation policies and measures.

Loss and damage

Recognizing the importance of averting loss and damage (Art.8.1) and enhancing understanding, action and support (Art.8.3).	Climate change risk assessments, disaster risk reduction strategies, emergency preparedness plans and programmes; migration and resettlement considerations and plans; financial support, including public-private partnerships and initiatives and humanitarian aid.
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Finance

Encourages some developing country parties to contribute to financial resources need by developing country parties (Art.9.2) and report accordingly (Art.13.9).	Finance and budgeting operations, including accessing and accounting for (reporting on) development aid and climate finance (required and received).
Provide information on financial support needed and received (Art.13.10).	Costing mitigation and adaptation actions over the medium and long-term; accessing and accounting for available funds; financial services, company laws and investment law and regulation (including foreign direct investment).

Technology transfer and development

Strengthen cooperative action on technology development and transfer (Art.10.2).	Science, technology, research and intellectual property; international and national cooperation including, for example, the industry or processes to identify technologies required, including the technology needs assessment (TNA) process.
Guide existing Technology Mechanism through technology framework (Art.10.4).	Systems to identify and communicate technology needs and priorities at the national and sub-national levels (e.g. TNAs), including as they relate to the development and implementation of NDCs and low emission development strategies and the preparation and submission of the adaptation communication (which may be in the context of national communication and national adaptation planning processes)
Receive support for technology development and transfer by developed country parties (Art.10.6) and report on needs and received (Art.13.10).	Determine support needed for the development, adjustment or rollout of climate technologies; cross-government coordination to collect and synthesise information on support needed (for mitigation, adaptation, loss and damage, technology transfer, capacity-building, implementing the transparency framework, etc.)

Capacity building

Report on progress made in implementing capacity-building plans, policies and actions to implement the Paris Agreement (Art.11.4) and support needed and received (13.10).

Systems to identify capacity-building needs in all areas of the Agreement; designing plans and programmes for addressing them and accessing financial and other forms of support; tracking success and reporting on capacity-building initiatives.

Education & public awareness

Cooperate in enhancing climate change education, training, public awareness, public participation and public access to information (Art.12).

Continuous pursuit or extension of initiatives on education, training and public awareness parties have already committed to under Art.6 (a) UNFCCC; school and other training curricula; public information and public relations.

Transparency

Review of information submitted and facilitative multilateral consideration of progress on finance and NDCs by technical experts (Art.13.10&11)

Systems to identify capacity-building needs across government departments to determine what processes and/or institutions may be required, including in the areas of participation and support, to comply with requirements under the transparency framework

Stakeholder consultations on climate legislation in Cameroon

While technical legal assistance can help governments to develop adequate legislative responses to climate change, it is also important to ensure that new laws and policies for the implementation of the Paris Agreement reflect society's interest at large. Art.7.5 of the Paris Agreement, for example, states “adaptation action should follow a country driven, gender-responsive, participatory and fully transparent approach, taking into consideration vulnerable groups, communities and ecosystems”. In collaboration with the Pan African Climate Justice Alliance (PACJA) we are therefore testing an approach to assess climate legislation priorities “bottom up” in different African jurisdictions. Led by the national chapter of PACJA a first stakeholder consultation process on climate

Participants of the stakeholder consultations in Idenau



legislation has been carried out in Cameroon from July to September 2017. Through a combination of interviews, surveys, focus group discussions and community consultations, agriculture, health and coastal erosion were broadly identified as the priority areas for legal review and reform. Based on these findings, an in-country (round-table) dialogue between government, lawyers and civil society stakeholders to identify and shape concrete legislative initiatives will be organised in early next year (2018). If successful, this approach involving elements of action research, awareness raising, peer learning and capacity building could be easily replicated in other jurisdictions.

LRI is a UK based charity that provides legal assistance free of charge to delegates from poor and climate vulnerable developing countries as well as civil society observer organisations. LRI does this with the support of a global network of lawyers from law firms, barrister chambers and universities who produce legal opinions in response to specific queries raised in connection with the climate negotiations.

The opinions and legal briefing papers are available through LRI's database at <http://legalresponseinitiative.org/legal-assistance>. Using the database is free of charge but you need to register using a valid e-mail address.



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