



Partnership on Transparency
in the Paris Agreement

Flexibility and capacity building towards enhanced transparency under the Paris Agreement

DISCUSSION PAPER | APRIL 2018

giz Deutsche Gesellschaft
für Internationale
Zusammenarbeit (GIZ) GmbH

On behalf of:



Federal Ministry
for the Environment, Nature Conservation
and Nuclear Safety

CAOS
sustentabilidade

of the Federal Republic of Germany

Flexibility and capacity building towards enhanced transparency under the Paris Agreement

DISCUSSION PAPER | APRIL 2018

Imprint

“Flexibility and capacity building towards enhanced transparency under the Paris Agreement”

Disclaimer

This document represents the authors’ personal opinions. It has been prepared in the context of the 2017 Annual Retreat of the Partnership on Transparency in the Paris Agreement.

The Partnership on Transparency in the Paris Agreement

In May 2010, Germany, South Africa and the Republic of Korea launched the Partnership on Transparency in the Paris Agreement (formerly the International Partnership on Mitigation and MRV) in the context of the Petersberg Climate Dialogue with the aim of promoting ambitious climate action through practical exchange. With the Paris Agreement entering into force in 2016, the way is now clear for the Partnership to focus on implementing the Agreement and particularly on the Enhanced Transparency Framework. Over 100 countries, more than half of which are developing countries, have taken part in the Partnership’s various activities. The Partnership has no formal character and is open to new countries.

The Annual Partnership Retreats

These Retreats are one of the Partnership’s key events, bringing together professionals from all over the world, from both negotiator and national practitioner backgrounds. The Retreats provide a space to discuss some of the most pressing issues in the negotiations, obtain input on the most recent work of specialists and experts in the field, and learn from each other in a spirit of mutual trust and collaboration. Topics vary from year to year and are based on countries’ needs and interests as well as on the discussions arising in the international negotiations.

The purpose of the 2017 Annual Partnership Retreat was to discuss the topic of ‘The Enhanced Transparency Framework – Ambition and National Implementation’. A total of 51 participants from 24 developing and developed countries and from a number of international organisations engaged in intense and fruitful discussions. To find out more about the 2017 Retreat, visit <https://www.transparency-partnership.net/news/6th-annual-partnership-retreat-discusses-enhanced-transparency-framework>

Authors

Goncalo Cavalheiro (CAOS), Thapelo Letete (University of Cape Town)



CAOS – Borboletas E Sustentabilidade, Lda
Rua De Cabo Verde, 11
2745-085 Queluz I Portugal
NIF: 508782805
www.caos.com.pt

Prepared for

Partnership on Transparency in the Paris Agreement

Contact

info@transparency-partnership.net

Commissioned by



On behalf of:



Federal Ministry
for the Environment, Nature Conservation
and Nuclear Safety

of the Federal Republic of Germany

Support Project for the Implementation of the Paris Agreement –
Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH

This project is part of the International Climate Initiative (IKI). The Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (BMU) supports this initiative on the basis of a decision adopted by the German Bundestag.

Design

SCHUMACHER Brand + Interaction Design, www.schumacher-visuell.de

Photo

AzmanL, www.istockphoto.com

Berlin, April 2018

Table of contents

Table of contents	4
Lists of figures, tables and abbreviations	5
Executive summary	6
1. Introduction	7
2. Flexibility Provisions of the Enhanced Transparency Framework	8
2.1 Flexibility in Decision 1/CP.21 and the Paris Agreement	8
2.1.1 Flexibility Clauses	8
2.1.2 The Flexibility Zone	10
2.2 Putting flexibility into practice	11
2.2.1 Applicability	14
2.2.2 Determination	16
2.2.3 The role of the technical expert review	16
3. Flexibility, capacity building and enhanced transparency	17
3.1 Capacity-building provisions for transparency under the Paris Agreement and related initiatives	17
3.1.1 Key provisions on transparency-related capacity and capacity building	17
3.2 The transparency capacity-building system under the Paris Agreement	19
4. Conclusion	22
References	23

Lists of figures, tables and abbreviations

Figures

Figure 1. Flexibility zone	10
Figure 2. Potential flexibility options for each flexibility area as proposed in 1/CP.21	15
Figure 3. The Paris Agreement's systematic approach to capacity building for enhanced transparency	19
Figure 4. The transparency capacity-building system for the Paris Agreement	21

Tables

Table 1. Summary of various proposed approaches to operationalising flexibility	11
--	----

Abbreviations

APA	Ad Hoc Working Group on the Paris Agreement
CBIT	Capacity Building Initiative for Transparency
CMA	Conference of the Parties serving as the meeting of the Parties to the Paris Agreement
COP	Conference of the Parties (to the UNFCCC)
CTU	Clarity, transparency and understanding
ETF	Enhanced Transparency Framework
GEF	Global Environment Facility
GHG	Greenhouse gas
GST	Global Stocktake
ICAT	Initiative for Climate Action Transparency
IPCC	Intergovernmental Panel on Climate Change
LDCs	Least developed countries
MPG	Modalities, procedures and guidelines
MRV	Measurement, Reporting and Verification
NDC	Nationally Determined Contribution
PA	Paris Agreement
SIDS	Small Island Developing States
TER	Technical expert review
UNFCCC	United Nations Framework Convention on Climate Change
1/CP.21	Decision 1 of the 21st Conference of the Parties to the UNFCCC

Executive summary

The Paris Agreement grants flexibility in the implementation of the Enhanced Transparency Framework (ETF) to those countries that need it in light of their capacities and to least-developed-country (LDC) Parties and small island developing states (SIDS) in particular. Such flexibility can be provided in areas such as the scope, frequency and level of reporting. This discussion paper addresses the operationalisation of flexibility, one of the key questions discussed at the 2017 Annual Partnership Retreat.

From the clauses on flexibility in decision 1/CP.21 and the Paris Agreement, it is possible to deduce the concept of a 'flexibility zone'. Not all developing countries fall within this zone; only LDCs, SIDS and those developing countries with a sufficient level of capacity constraints qualify.

Flexibility is therefore not applicable to all countries, and it is not automatically applicable to every transparency requirement, but only to those requirements the Party cannot fulfil due to capacity constraints.

Providing unconstrained flexibility to countries may also be counterproductive and detrimental to the goal of continuous improvement towards enhanced transparency. A tiered concept can therefore be beneficial, where flexibility is provided for the fulfilment of a given requirement, including the most desired option (i.e. highest tier) and the bare minimum (lowest tier).

In line with the largely bottom-up approach under the Paris Agreement where each Party self-determines the type and level of its Nationally Determined Contribution (NDC), each Party should ideally also self-determine the ETF areas for which it requires flexibility. However, the modalities, procedures and guidelines (MPGs) should clearly outline this self-determination process, and the technical

expert review (TER) should have a role in the assessment of flexibility requirements.

In addition to this role, the TER should also support the identification of transparency-related capacity-building needs and interventions, review reported progress in capacity building and determine these factors' implications for flexibility.

The TER is therefore a pillar of the systematic approach to building capacity for the enhanced transparency required in the Paris Agreement. Underpinning this approach are two further key pillars: capacity-building support and the fulfilment of the Article 15 mechanism's function to facilitate implementation.

In addition to these three pillars, several Parties have proposed the concept of improvement plans, which has been included in the informal note drawn up by the co-facilitators of APA agenda item 5 (MPGs for the transparency framework for action and support referred to in Article 13 of the Paris Agreement).

The improvement plan serves as both the starting and finishing lines of efforts to build capacity on transparency-related matters under the Paris Agreement. Its main purpose should be to facilitate the country's planning in the short and medium term, which includes identifying the resources and support needed from the international community.

This paper concludes that flexibility and capacity-building are two sides of the same coin. They are embedded in the Paris Agreement to ensure the continuous improvement of transparency and are applied taking into account the capacity of each developing country, its capacity-building needs and the support it receives to address these areas.

01.

Introduction

In the implementation of the Paris Agreement, notions of national determination and flexibility, enhanced ambition and continuous improvement, and national capabilities and the provision of support (including capacity-building support) play an important role.

The provisions of the Enhanced Transparency Framework (ETF) also reflect the fine balance between, on the one hand, the need for transparent, accurate, complete, consistent and comparable (TACCC) information and, on the other, the recognition that meeting this need is a major effort for many countries lacking the capacity to do so. The concepts of flexibility and continuous improvement play a vital role here: while countries are encouraged (and, to the degree that support is provided, expected) to improve their reports from one submission to the next, flexibility is also applied to adjust the pace of improvements to national circumstances.

Capacity building is the engine that drives countries forward along the path of continuous improvement towards enhanced transparency. The provision of capacity-building support by developed countries and

other countries in a position to do so will enable beneficiary countries to leapfrogging towards achieving higher transparency, without creating an undue burden on their institutions.

This paper discusses how flexibility could be applied to those countries that need it and how, together with the provision of capacity-building support, it contributes to countries' progress towards enhanced transparency. Some of the ideas have been raised during the Annual Partnership Retreat 2017 of the Partnership on Transparency in the Paris Agreement. The authors of this paper build on these discussions to further inform negotiations on the modalities, procedures and guidelines (MPGs) of the ETF.

The first part of this paper addresses flexibility, identifying the key relevant clauses in the Paris Agreement and discussing options for and making recommendations on the implementation of the ETF. The second part discusses the different provisions of the Paris Agreement on capacity building related to transparency. It explores how these can systematically promote enhanced capacity and transparency in developing countries.

02.

Flexibility Provisions of the Enhanced Transparency Framework

Countries' differing capacities in relation to reporting have always been acknowledged under the United Nations Framework Convention on Climate Change (UNFCCC). Article 12.1 of the Framework Convention (United Nations, 1992) makes provision for Parties to communicate national inventories of anthropogenic emissions by sources and removals by sinks of all greenhouse gases (GHGs) not controlled by the Montreal Protocol, 'to the extent that their capacities permit'. Under the Cancun Agreements, the reporting in Parties' national communications was enhanced: a measurement, reporting and verification (MRV) framework was established that provides flexibility specifically to LDCs and SIDS (UNFCCC, 2010). At the 21st Conference of Parties (COP 21), Parties adopted the Paris Agreement, which included ETF MPGs common to all Parties but with built-in flexibility for those Parties needing it. This chapter presents and discusses this built-in flexibility of the ETF (UNFCCC, 2015).

2.1 Flexibility in Decision 1/CP.21 and the Paris Agreement

2.1.1 Flexibility clauses

The Paris Agreement grants flexibility in the implementation of the ETF to those countries that need it in light of their capacities.

Flexibility can be provided in areas such as the scope, frequency and level of reporting.

Special flexibility is provided to LDC Parties and SIDS, which may submit their reports at their discretion. The types of flexibility made available to these countries are to be considered during the development of the MPGs and are therefore included in the latter. Box 1 below details the flexibility provisions included in 1/CP.21 and the Paris Agreement.

Box 1

Flexibility provisions included in decision 1/CP.21 and in the Paris Agreement

Paragraphs 89, 90, 92 and 94 of decision 1/CP.21, which gives effect to the Paris Agreement (UNFCCC, 2015), outline the flexibility provisions of the ETF as follows (bold text is author's own emphases):

'The Conference of the Parties, [...]

89. *Decides* that, in accordance with Article 13, paragraph 2, of the Agreement, **developing country Parties shall be provided flexibility in the implementation of the provisions of that Article, including in the scope, frequency and level of detail of reporting, and in the scope of review**, and that the scope of review could provide for in-country reviews to be optional, while such flexibilities shall be reflected in the development of modalities, procedures and guidelines; [...]

90. *Also decides* that all Parties, except for the least developed country Parties and small island developing States, shall submit the information referred to in Article 13, paragraphs 7, 8, 9 and 10, of the Agreement, as appropriate, no less frequently than on a biennial basis, and that the least developed country Parties and small island developing States may submit this information at their discretion; [...]

92. *Also requests* the Ad Hoc Working Group on the Paris Agreement, in developing the recommendations for the modalities, procedures and guidelines referred to in paragraph 91 above, to take into account, *inter alia*: [...]

(b) the need to provide flexibility to those developing country Parties that need it in the light of their capacities; [...]

94. *Requests* the Ad Hoc Working Group on the Paris Agreement, **in developing the modalities, procedures and guidelines referred to in paragraph 91 above, to consider, inter alia:**

(a) the types of flexibility available to those developing country Parties that need it on the basis of their capacities - ; [...]

The flexibility clauses in the Paris Agreement itself (UNFCCC, 2015) appear under its Article 13 in the following paragraphs:

'2. The transparency framework shall provide flexibility in the implementation of the provisions of this Article to those developing country Parties that need it in the light of their capacities. The modalities, procedures and guidelines referred to in paragraph 13 of this Article shall reflect such flexibility.

3. The transparency framework shall build on and enhance the transparency arrangements under the Convention, recognizing the special circumstances of the least developed countries and small island developing States, and be implemented in a facilitative, non-intrusive, non-punitive manner, respectful of national sovereignty, and avoid placing undue burden on Parties. [...]

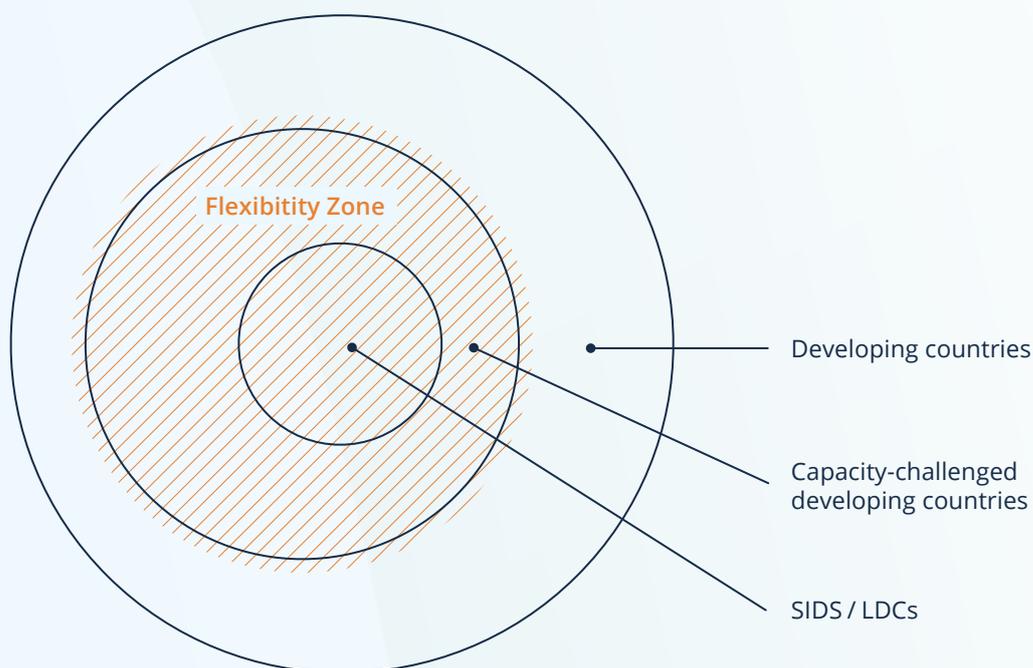
12. [...] The review shall pay particular attention to the respective national capabilities and circumstances of developing country Parties.'

2.1.2 The Flexibility Zone

Based on the relevant clauses contained in 1/CP.21 and the Paris Agreement (presented in Box 1 above), a 'flexibility zone' can be determined. Countries seeking flexibility in their reporting for the ETF must fall within this zone. See Figure 1 below:

A Party is deemed to fall within the flexibility zone only if it is an LDC and / or a SIDS or if it is a developing country with transparency-related capacity challenges. The Paris Agreement is therefore clear that flexibility applies only automatically to SIDS and LDCs, while it is to be provided to other developing countries when they present capacity challenges. Given that the provision of flexibility to developing countries other than LDCs and SIDS is not automatic,

Figure 1.
Flexibility zone



some sort of mechanism for determining (even if based on self-determination) and demonstrating the capacity challenge in question can be expected.

2.2 Putting flexibility into practice

While Parties might generally understand the applicability criteria for flexibility (as depicted in Figure 1), their interpretations and preferences vary widely as to what putting

flexibility into practice and thus incorporating flexibility in the MPGs actually means. Prasad, Ganesan and Gupta (2017) have analysed Parties’ responses submitted to the Ad hoc Working Group on the Paris Agreement (APA) and identified at least nine approaches proposed by Parties for operationalising flexibility. The first two columns of the table 1 below list the approaches as identified by Prasad et al., in the third column key issues and implications associated with each of these approaches have been added:

Table 1.
Summary of various proposed approaches to operationalising flexibility

Approach	Description	Comments and implications
Optional manner	<p>MPGs to reflect differentiation between developed- and developing-country Parties, equivalent to existing transparency arrangements:</p> <ul style="list-style-type: none"> > Developed country: Biennial Reports, international assessment and review. > Developing country: Biennial Update Reports, international consultation and analysis, facilitative sharing of views. <p>Specific areas of differentiation are not defined because submission is based on differentiation between the Parties. As differentiation is fundamental, this also pervades all aspects of the agreement (the scope, frequency, level and detail of reporting).</p>	<p>This approach implies open flexibility in terms of the scope, frequency, level and detail of reporting, with an unlimited list of options for each area of flexibility. This means that two parties with similar capacity-related challenges may choose to apply flexibility differently and therefore have different levels of transparency, making the application of flexibility subjective. This has the potential to negatively impact on comparability and transparency, and thus runs counter to paragraph 92 c of 1/CP.21, which stipulates that the MPGs of the ETF must promote transparency, accuracy, completeness, consistency and comparability. Furthermore, subjective flexibility will make the independent technical review difficult.</p>

Approach	Description	Comments and implications
Decision tree analysis	<p>A decision tree, based on a series of questions, is used to decide on whether and how to apply flexibility to specific provisions:</p> <p>Step 1. Does fulfilling the provision depend on a country's technical or institutional capacity?</p> <p>Step 2. Do Parties already have sufficient discretion with respect to fulfilling the provision?</p> <p>Step 3. What specific flexibility is required for said provision?</p>	<p>This approach contains clearly defined steps for applying flexibility to specific provisions. However, the three steps or questions may not be comprehensive. The approach also does not specify whether the list of flexibility options for each provision should be finite or open-ended.</p>
Opt-in / Opt-out basis	<p>Common rulebook based on the progression principle.</p> <p>Opt-in / Opt-out flexibility across the MPGs (reporting, review, and multilateral consideration of progress).</p> <p>Flexibility is determined according to capacity, which is in turn linked with financial support.</p>	<p>This approach offers the choice to opt in or opt out, which will then be applied to all the ETF provisions regardless of any specific capacity gaps or areas of need. This approach might, however, reproduce ad infinitum the differentiation between developing and developed countries, because developing countries are likely to consistently have capacity constraints in one area or another. The approach may therefore end up working counter to the achievement of the objective of moving towards improved transparency over time as capacity is built.</p>
Individual provisions	<p>Defined in relation to specific individual provisions – e.g. institutional arrangements, reporting base year, hosting in-country review, etc.</p>	<p>While this approach links specific individual provisions to related capacity needs, it does not specify whether the list of options for each provision will be finite or open-ended (i.e. the Party is offered a set number of flexibility options for the latest reported GHG inventory year only, or the Party can choose to report the GHG inventory of any year as the latest).</p>

Approach	Description	Comments and implications
Embedded within elements of MPG	Intergovernmental Panel on Climate Change (IPCC) methodologies already provide flexibility. Additionally reporting frequency, reporting on adaptation, and the time frame of the flexibility should be linked with financial support. Developing countries should also be provided with flexibility regarding the type of instrument used to report adaptation actions and plans.	This approach (a) indicates that the IPCC methodology already provides the required flexibility for GHG inventory reporting and (b) emphasises the need for flexibility in other areas to be linked with financial support. It does not provide specific details regarding the number of flexibility options (finite or open-ended).
Differentiation	Flexibility to be given on the basis of insufficient capacities in the areas of statistics, institutional arrangements, and necessary resources. This flexibility is to be applied in all the stages of reporting, technical expert review and facilitative multilateral consideration.	This approach involves the identification of some of the capacity gaps for which flexibility may be granted but does not give clarity on whether the list of options for each provision will be finite or open-ended.
Rationale based	Flexibility in the choice of IPCC methodology and coverage must be given, with a grace period that allows for transition to a common minimum reporting format and for reporting on NDC achievements. Parties must explain the rationale underpinning their choice of which flexibility option to apply, and must provide information on capacity gaps and needs.	This approach requires parties to explain the rationale for their choice of which flexibility options to apply and to link these directly with the capacity needs and gaps. In addition, it proposes a common minimum reporting format that all Parties must adhere to as a bare minimum after a specified transition period. However, the approach fails to specify whether the list of options for each provision will be finite or open-ended.

Source: adapted from Prasad, Ganesan and Gupta 2017, with comments and implications supplied by the authors.

In summary, when it comes to operationalising flexibility, it seems that all the proposed approaches discussed in the above table come with shortfalls, some of which are simply due to a lack of sufficient information being available and thus to a lack of clarity on the proposed approach. In the sections below, an alternative approach for operationalising flexibility is proposed that covers applicability, determination and the role of technical review.

2.2.1 Applicability

One of the concepts that will need to be clarified in the MPGs with respect to operationalising flexibility in the ETF is that of applicability. There are at least three key issues to be clarified in relation to applicability:

1. Blanket applicability or not: As flexibility is linked with capacity constraints, it should apply only to those provisions of the ETF that are affected by the existing capacity constraints of the Party in question and should not apply wholesale to all ETF areas, including those areas not affected by the Party's capacity constraints. For this reason, a transparent and objective assessment and disclosure of the linkages between the Party's capacity constraints and specific ETF requirements will be needed.

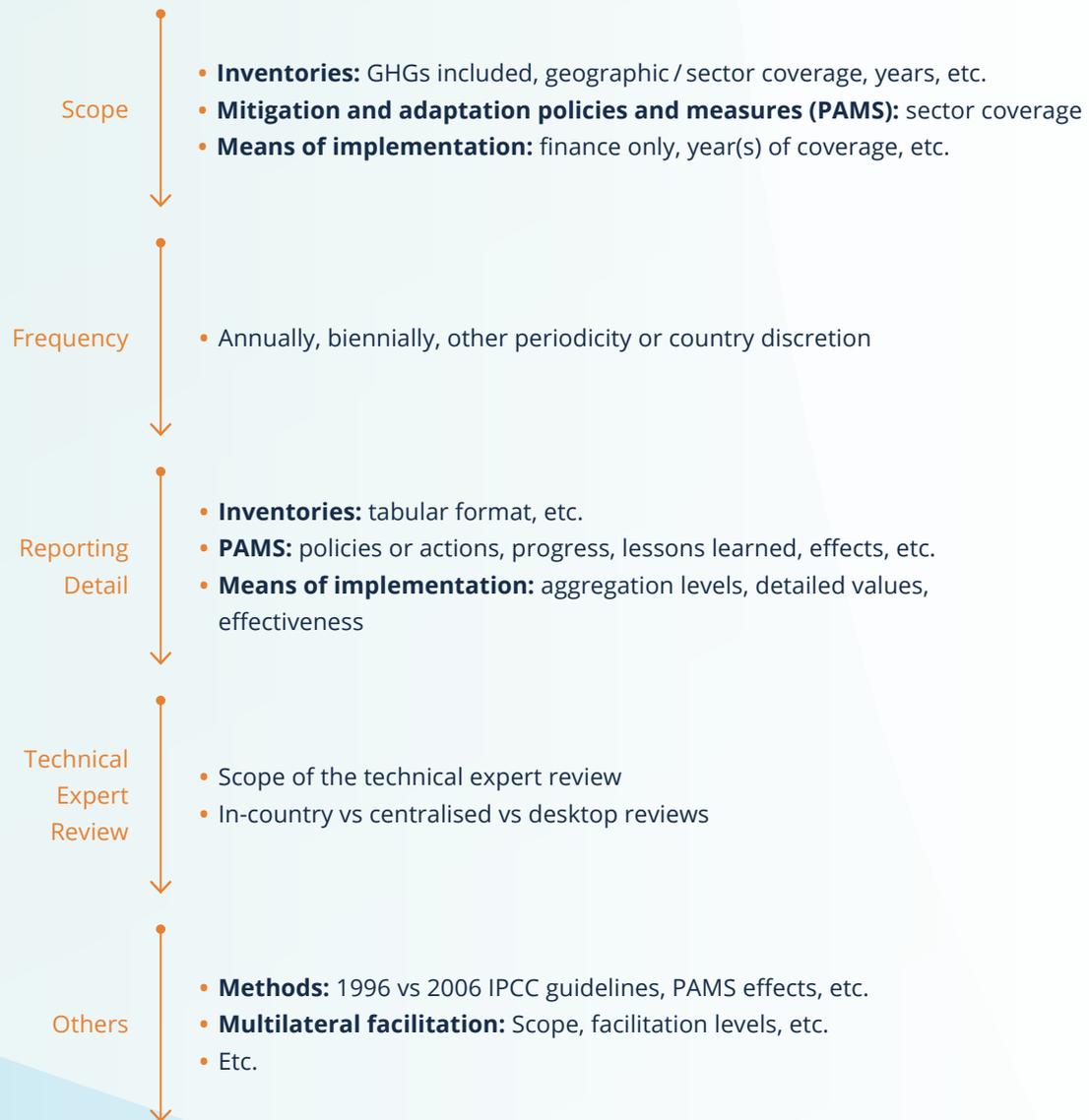
Depending on the specific capacity constraints affecting the Party, flexibility may apply to one or a combination of the areas described in Figure 2:

2. Finite or unlimited number of flexibility options: Determining the number of available options per flexibility area

is also critical. Collective experience on the development of Land Use, Land-Use Change and Forestry rules for the second commitment period of the Kyoto Protocol has illustrated that unconstrained flexibility is neither desirable nor necessary as it compromises comparability, which is one of the key principles of transparency (Winkler, Mantlana and Letete, 2017). That said, the tiered approach to flexibility set out in the IPCC guidelines for GHG inventories, in which Parties all adhere to a 'bare minimum tier' and have the option to choose from three clearly defined tier options only, has proved successful. Ideally the MPGs should define a set number of options for each provision of the ETF, including the most desirable option (i.e. highest tier) and the bare minimum (lowest tier).

3. Linked and de-linked flexibility options: What is also notable from the flexibility options put forward in Figure 2 above for each flexibility area is that some flexibility options are linked to one another while others may not necessarily be linked. For instance, any information to be subjected to the technical expert review (TER) must be included in the scope of reporting, hence the choice of flexibility option relating to the scope of reporting will automatically restrict choice regarding the scope of the TER. Obviously this type of linkage between flexibility options does not apply across the board (e.g. a choice regarding the scope of reporting does not necessarily affect the frequency of reporting).

Figure 2.
 Potential flexibility options for each flexibility area
 as proposed in 1/CP.21



2.2.2 Determination

While decision 1.CP/21 and the Paris Agreement both stipulate that flexibility be granted solely on the basis of 'need' in light of a Party's capacity, neither has specified how that need is to be determined and who determines or confirms it.

In line with the largely bottom-up approach under the Paris Agreement, in which individual Parties self-determine the type and level of their Nationally Determined Contributions (NDC), each Party should ideally also self-determine the ETF areas for which it requires flexibility. To contribute to building mutual trust and enhancing transparency, however, this process of self-determination should be clearly outlined in the MPGs and should include guidance on a self-assessment procedure to be followed in line with the applicability principle defined in the previous section. The process may be specified in the form of guiding questions or principles to which the Party requiring flexibility should respond, giving information and /or evidence of its specific flexibility needs and the related capacity gaps.

Furthermore, periodic self-assessment and reporting of the changes in capacity gaps – be it for the better as per the capacity improvement plan outlined in Chapter 5 or for the worse for whatever reason – should be communicated by the Party biennially as part of the reporting requirement mentioned in Article 13, paragraph 10 of the Paris Agreement.

2.2.3 The role of the technical expert review

The TER process is also important in the operationalisation of flexibility for the ETF. There are at least three ways in which the TER can support the operationalisation of flexibility:

1. **Determination:** While a Party will self-determine its flexibility needs subject to the applicability principles and the set process, providing motives for each area for which flexibility is required, the TER can play a facilitative role. It can assist the Party in identifying transparency-related capacity constraints and matching these to the relevant flexibility requirements. In addition, the TER can foster transparency by technically reviewing the motives given by the Party, and it can help to ensure that the requested flexibilities match the capacity constraints outlined.
2. **Support in identifying transparency-related capacity-building needs and interventions:** As part of the process to analyse its transparency-related capacity constraints, each Party should outline specific capacity-building needs and interventions to be included in a capacity-building plan (which is discussed in more detail in Chapter 5). The TER will be instrumental in helping Parties to match their capacity constraints to relevant interventions or improvements, as laid down in Article 13, paragraph 11 of the Paris Agreement, as well as suggesting alternative innovative options for closing the capacity gaps.
3. **Support in reviewing reported progress on changes in capacity gaps and in determining its implications for flexibility:** The TER can also be a useful way to review each Party's reported capacity gaps and the link with specific flexibility requirements.

03.

Flexibility, capacity building and enhanced transparency

As demonstrated above, flexibility, capacity and capacity building are strongly interlinked in the Paris Agreement. Flexibility has been enshrined in the Paris Agreement in order to respect and address the fact that Parties have different starting points (which reflect their current capacity). Parties are not expected to remain beneficiaries of flexibility in perpetuity: flexibility is a country-driven vehicle that should propel parties along a path of continuous improvement towards enhanced transparency. For many countries, the provision of support by developed countries and by other countries in a position to do so is fundamental as a complement to domestic efforts. In this context, the better, more adequate and more regular the provision of support is, the faster the Party should achieve enhanced transparency.

This chapter provides a snapshot of the transparency-related capacity and

capacity-building elements under the Paris Agreement. It then explores how, together, these elements can support efforts to build the capacity of developing countries and, in so doing, enable them to progressively move out of the flexibility zone.

3.1 Capacity-building provisions for transparency under the Paris Agreement and related initiatives

3.1.1 Key provisions on transparency-related capacity and capacity building

The Paris Agreement, including decision 1/CP.21, contains several provisions on transparency-related capacity and relevant capacity building:

Overarching clauses of the Paris Agreement

- Article 11, paragraph 1 of the Paris Agreement mentions that ‘Capacity building under this agreement should enhance the capacity and ability of developing country Parties ... [in relation to the] transparent, timely and accurate communication of information.’
- Paragraph 71 of 1/CP.21 establishes the Paris Committee on Capacity-building, which will work to address gaps and needs, both current and emerging, in the implementation of capacity-building for developing country Parties.

The capacity-related clauses of the Enhanced Transparency Framework

- Paragraph 92 (a) of 1/CP.21 also highlights that the MPGs should consider ‘facilitating improved reporting and transparency over time.’
- In Article 13 of the Paris Agreement
 - > paragraph 11 mentions that ‘[for] those developing country Parties that need it in light of their capacities, the review process shall include assistance in identifying capacity-building needs’,
 - > paragraph 12 goes on to state that ‘[t]he review shall also identify areas of improvement for the Party’, and
 - > paragraph 15 stipulates that ‘[s]upport shall also be provided for the building of transparency-related capacity of developing country Parties on a continuous basis.’

The mechanism for facilitating implementation and promoting compliance

- Article 15 of the Paris Agreement establishes a mechanism ‘to facilitate implementation of and promote compliance with the provisions of’ said Agreement that ‘shall pay particular attention to the respective national capabilities and circumstances of Parties.’

The Capacity Building Initiative on Transparency (CBIT)

- Established in paragraph 84 of 1/CP.21, the CBIT’s role is to support developing countries to build the institutional and technical capacity they need to meet the enhanced transparency requirements set out in Article 13 of the Paris Agreement.
- Paragraph 85 of 1/CP.21 defines the CBIT’s aims, namely to
 - > strengthen national institutions for transparency-related activities in line with national priorities;
 - > provide relevant tools, training and assistance for meeting the provisions stipulated in Article 13 of the Paris Agreement; and
 - > assist in the improvement of transparency over time.
 - > The latter aim is a core concept featuring in this report.
 - > Paragraph 86 of 1/CP.21 requests the Global Environment Facility to establish the CBIT (GEF, 2017).

The Paris Committee on Capacity-building

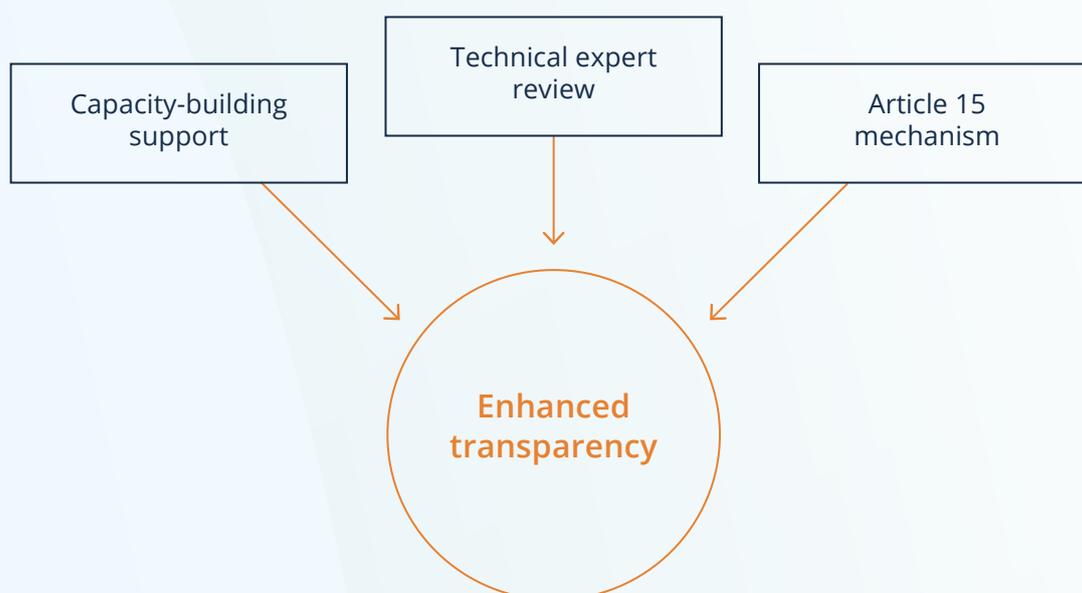
- Paragraph 71 of 1/CP.21 establishes the Paris Committee on Capacity-building as an additional mechanism for generally addressing ‘gaps and needs, both current and emerging, in implementing capacity-building in developing country Parties and further enhancing capacity-building efforts’.
- While transparency is not explicitly mentioned here, the Paris Committee ‘will annually focus on an area or theme related to enhanced technical exchange on capacity-building’ (Paragraph 74) and could therefore potentially also address capacity constrains related to enhanced transparency.

3.2 The transparency capacity-building system under the Paris Agreement

The Paris Agreement has created a systematic approach to building capacity for enhanced transparency, which comprises three key pillars: the capacity-building support, the technical expert review and the Article 15 mechanism.

Figure 3 .

The Paris Agreement’s systematic approach to capacity building for enhanced transparency



The informal note by the co-facilitators of the APA agenda item 5 (MPGs for the transparency framework for action and support referred to in Article 13 of the Paris Agreement (UNFCCC, 2017) makes reference to an improvement plan that Parties could ‘prepare and submit ... to address gaps in reporting, accompanied with a listing of capacity-building needs.’ This improvement plan would serve to ensure effective coordination between the different pillars of the capacity-building system under the Paris Agreement.

The improvement plan could serve as the starting and finishing lines of the efforts to build capacity on transparency-related matters under the Paris Agreement. Its main purpose should be to facilitate the country’s planning in the short and medium term, including identifying the resources and support needed from the international community.

The improvement plan should therefore include the following elements:

1. Transparency quality objectives for the short term (i.e. the period up to the next report) and medium term.
2. Identification of the steps and activities that need to be implemented to achieve these objectives, including a calendar for their implementation.
3. Identification of capacity-building needs related to the steps and activities identified when undertaking (2.) and to the steps required to bridge them.
4. Identification of the support required to meet the capacity-building needs identified when undertaking (3.).

This plan should form the basis of all the transparency-related support provided to countries and should therefore inform the definition of cooperation agreements promoting the ownership by

countries (meaning countries should only accept support that is aligned with their improvement plans). This will also ensure that different donor activities are coordinated and are contributing to the same goals, avoiding gaps and overlaps.

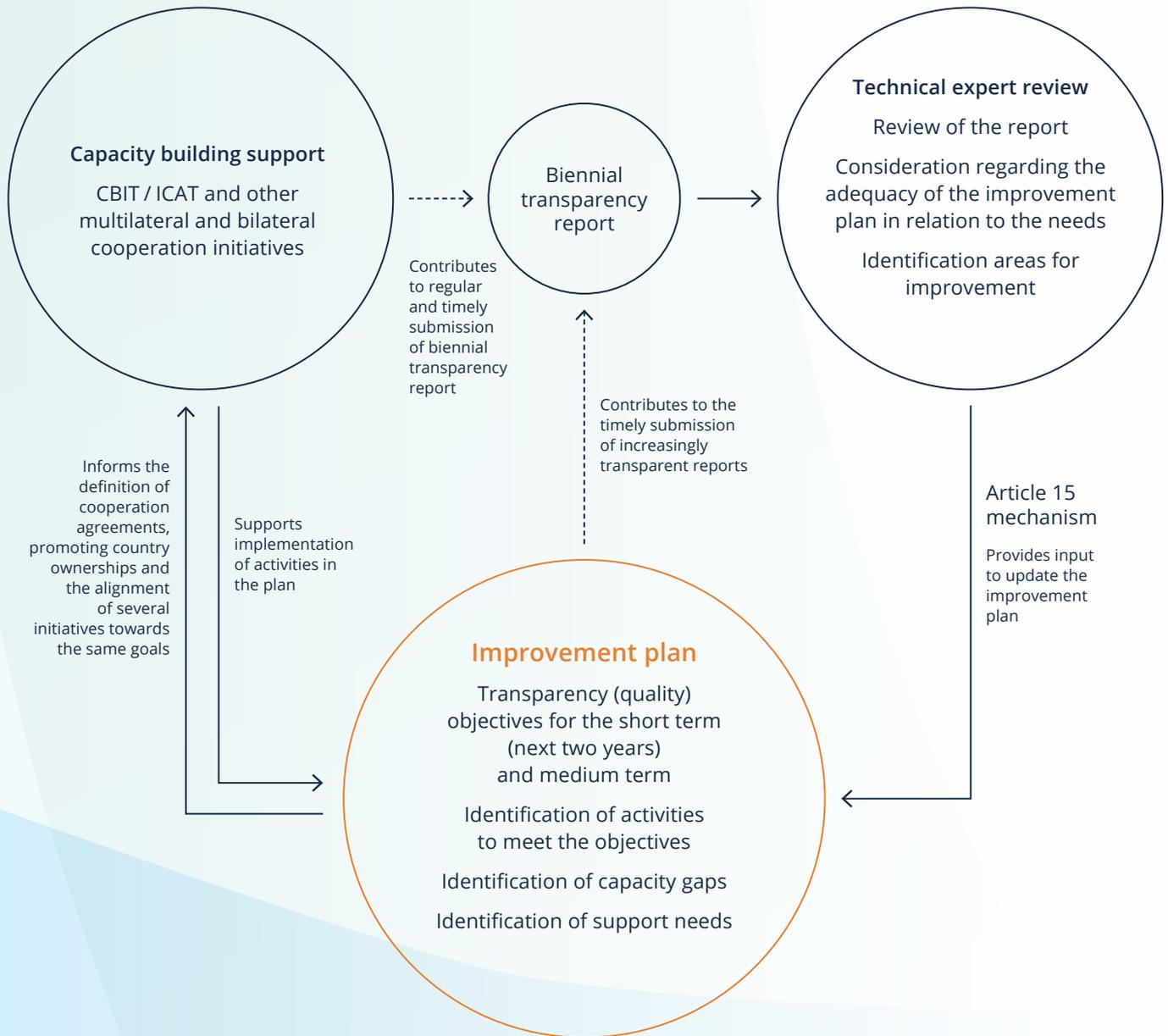
Given that drawing up an improvement plan can involve a certain degree of complexity and will require capacity and resources, support should be provided in these areas.

The improvement plan and the support received for its implementation will contribute to the timely submission of the reports to be submitted no less frequently than biennially (hereinafter referred to as biennial transparency reports) and to their increasingly adherence over time to the TACCC principles.

Upon submission of the biennial transparency report, the second element of the systematic approach comes into play: the technical expert review. In addition to reviewing the biennial transparency report, the TER team may also consider the adequacy of the improvement plan with regard to the objectives that the Party has set for the plan itself, to the areas and the level of flexibility as determined by the country, and to the gaps and areas for improvement identified during the technical review. The findings of the TER would then be factored into the regular update of the improvement plan.

Finally, the Article 15 mechanism, in its function to facilitate implementation, may also provide the Party with additional guidance on the improvement plan. It may in particular recommend that the Party seek support from specific and relevant capacity-building support initiatives. Figure 4 illustrates the roles and interactions of the elements of the transparency capacity-building system.

Figure 4 .
**The transparency capacity-building system
 for the Paris Agreement**



04.

Conclusion

Flexibility is not deployed uniformly across all ETF areas; rather, it is explicitly linked to the capacity constraints of Parties. Those Parties granted flexibility should not remain in stasis; they should continue working towards achieving enhanced transparency. And capacity building is not an end in itself; rather, it is a means to an end. As outlined in paragraph 85 of the Paris Decision, the primary objectives of transparency-related capacity building (as provided through the CBIT) are to:

- strengthen national institutions for transparency-related activities in line with national priorities;
- provide relevant tools, training and assistance for meeting the provisions stipulated in Article 13 of the Paris Agreement; and
- assist in the improvement of transparency over time.

It therefore goes without saying that capacity-building activities must be planned and implemented with these primary objectives in mind.

If carried out properly (i.e. as described in section 0 above), capacity building should yield at least two flexibility-related outcomes:

- 1. Reduction of areas for which Parties require flexibility:** Capacity building should provide for, strengthen and / or

improve those areas for which Parties request flexibility, as it is Parties' capacity constraints in these areas that prevent them from fully meeting the ETF provisions stipulated in Article 13 of the Paris Agreement. As the impacts of the capacity building are felt, the areas for which Parties require flexibility should gradually reduce and, where possible, should completely disappear. However, it is important to acknowledge that some developing country Parties may never be in a position to fully address certain transparency-related capacity gaps and, conversely, will require further flexibility in these areas.

- 2. Shrinking of the flexibility zone:** As Parties develop the required capacity, their needs for flexibility in the areas outlined in Figure 2 will reduce and, where possible, will disappear. Parties progressing in this way will move out of the flexibility zone, thus leading to a reduction in the overall number of Parties falling within this zone.

Flexibility and capacity building are therefore two sides of the same coin. They are embedded in the Paris Agreement to ensure the continuous improvement of transparency and are applied taking into account the capacity of each developing country, its capacity-building needs and the support it receives to address these areas.

References

GEF (2017), *Capacity Building Initiative for Transparency*, general web content retrieved from <https://www.thegef.org/topics/capacity-building-initiative-transparency-cbit> accessed on 19 Dec 2017.

Initiative for Climate Action Transparency (2017), *Initiative for Climate Action Transparency*, general web content retrieved from www.climateactiontransparency.org accessed on 19 Dec 2017.

Partnership on Transparency in the Paris Agreement (2017), *Partnership on Transparency in the Paris Agreement*, general web content retrieved from <https://www.transparency-partnership.net/> accessed on 19 Dec 2017.

Prasad, S., Ganesan, K. and Gupta, V. (2017), *Enhanced Transparency Framework in the Paris Agreement – Perspective of Parties*, Council on Energy, Environment and Water (CEEW), New Delhi.

UNFCCC (2010), *Report of the Conference of Parties on its sixteenth session, held in Cancun from 29 November to 10 December 2010*, Cancun.

UNFCCC (2015), *Report of the Conference of Parties on its twenty-first session, held in Paris from 30 November to 13 December 2015*, Paris.

UNFCCC (2017), APA item 5 (transparency). Informal Note by the Co-Facilitators, retrieved from https://unfccc.int/meetings/ad_hoc_working_groups/items/10163.php accessed on 19 Dec 2017.

United Nations (1992), *United Nations Framework Convention on Climate Change*, Rio de Janeiro.

Winkler, H., Mantlana, B. and Letete, T. (2017), 'Transparency of action and support in the Paris Agreement', *Climate Policy*.

