***Domestic implications of the Paris Rulebook***

*IMPORTANT: LRI acts as an intermediary in obtaining legal advice from third parties on the query you have raised. That advice is provided to LRI but we are able to share it with you. The third-party advisers have accepted certain duties to LRI but have not and do not accept any duty to you. LRI itself does not and cannot provide legal advice. As a consequence, LRI takes no responsibility for the content of any advice that it forwards, nor does it accept any responsibility for any delay either in obtaining or sending copies to you of the advice it receives.

In forwarding the advice to you, LRI does not intend to create a lawyer-client relationship with you and to the extent permitted by law, any liability of LRI to you (including in negligence or for any damages of any kind) is excluded. Any dispute between you and LRI shall be governed by English Law, and the English Courts will have exclusive jurisdiction. In consideration of LRI sharing the advice with you, you agree to the terms set out above.*

*This advice is provided in response to* ***Query 4/19***

**Query:**

What may be the possible implications of the Paris Rulebook for law, policy and further action in developing countries?

**Advice:**

The following table provides an initial overview on the potential national implications of the Paris Agreement and the subsequent decisions on its implementation adopted in Katowice (the so called Rulebook) may have for developing country Parties’ to meet their commitments under the Paris Agreement, benefit from its provisions and contribute to its further development.

|  |  |  |  |
| --- | --- | --- | --- |
| **Commitments under the Paris Agreement** | **Further tasks to “operationalize” the Paris Agreement** | **Outcomes of the Katowice conference as part of the ”Rulebook”** | **National relevance and implications** |
| **Mitigation** |
| PA Article 4: Parties shall submit increasingly ambitious Nationally Determined Contributions (NDCs) every 5 years | Develop guidance on features of NDCs (COP decision 1/CP.21 accompanying the Paris Agreement para.26) at CMA1 (Katowice, 2018) | While noting that features are outlined in the PA – Parties did not decide on further guidance (4/CMA.1, para.19)[[1]](#footnote-1) | To control greenhouse gas emissions countries will have to revise and develop rules and regulations in various areas such as air pollution, energy, industry or transport depending on their NDCs, the national context and political priorities. Further guidance on features of NDCs to be considered in 2024. |
| Guidance on information to facilitate clarity, transparency and understanding (ICTU) of NDCs (1/CP.21 para.28) at CMA1 (Katowice, 2018) | Guidance on ICTU agreed, must be applied to 2nd and following NDCs. Parties are strongly encouraged to include this in NDCs submitted in 2020 (4/CMA.1, para.7) | Improving emissions data collection, monitoring and reporting; and strengthening capacity to comply with the reporting requirements, including in the areas of base years, time frames for implementation, scope of the inventory, implementing and tracking the planning process, making assumptions and choosing methodologies, and justifying an NDC’s fairness and ambition toward meeting the objectives of the Paris Agreement. |
| Modalities and procedures for the public registry that will house NDCs (1/CP.21 para.29) at CMA1 (Katowice, 2018) | Modalities and procedures based on interim registry’s functioning agreed (5/CMA.1, para.1) | NDCs to be logged in a public registry managed by the secretariat (decision 5/CMA.1) based on interim registry – hence no significant changes in process.  |
| Consider common time frames for NDCs (PA Art.4.10) at CMA1 (Katowice, 2018) | No decision on what time frames will be – e.g. whether NDCs cover 5 or 10 years. A common time frame (but no indication which) should be applied to NDCs from 2031 (decision 6/CMA.1). | Parties will have to submit revised (for those ending in 2025) or updated (for those ending in 2030) NDCs in 2020, and again in 2025.  |
| Elaborate guidance for accounting of Parties’ NDCs (PA Art.4.13 and 1/CP.21 para.31) at CMA1 (Katowice, 2018) | Guidance agreed, must be applied to 2nd and following NDCs. Parties should strive to include all categories of anthropogenic emissions or removals in their NDCs (1/CP.21 para.31c.) and account for emissions and emission removals in accordance with IPCC guidance (4/CMA.1, Annex II). This can include natural disturbances on managed land, harvesting of wood products or the age-class structure in forests (Annex II para.1) | Developing countries need to strengthen their capacity to apply the guidance.Depending on what emissions and removals are included in the NDC law and policy in the forest and/or other relevant sectors may require review and adjustments. Once a source, sink or activity is included, it should continue to be included in future NDCs. |
| Recommend the modalities, work programme and functions of the Forum on the Impacts of the Implementation of Response Measures (1/CP.21 para.34) at CMA1 (Katowice, 2018) | Modalities, 6-year work programme, and functions of the Forum were agreed; the Katowice Committee of Experts to support the Forum established (7/CMA.1, paras 2 and 5) | Mainly international process |
| Adopt guidance concerning adjustment of NDCs by Parties with a view to enhancing ambition (PA Art. 4.11) | No decision |  |
| PA Article 6 provides 3 voluntary tools for the implementation of NDCs:1. Internationally Transferred Mitigation Outcomes (ITMO) | Develop guidance on robust accounting for internationally transferred mitigation outcomes under voluntary cooperative approaches (PA Art.6.2, 1/CP.21 para.36) at CMA1 (Katowice, 2018) | Despite progress in some areas – only a procedural decision was reached in Katowice (8/CMA.1) | Rules, modalities and procedures for the Art.6 mechanisms should now be adopted by CMA2 (in December 2019). Parties may still try to shape the outcomes (e.g. whether to include deforestation or allow Kyoto Protocol units into the system). In the medium term robust domestic accounting rules, a secure business environment, good governance etc. will be important elements to trading emissions and hosting sustainable development projects. |
| 2. A market mechanism to mitigate GHG emissions and support sustainable development | Rules, modalities and procedures for the mechanism on mitigation and sustainable development (PA Art.6.7, 1/CP.21 para.38) at CMA1 (Katowice, 2018) | Despite progress in some areas – only a procedural decision was reached in Katowice (8/CMA.1) |
| Designation of a body to supervise the mechanism on mitigation and sustainable development (PA Art.6.4) | Discussed as part of the rules, modalities and procedures – no agreement (8/CMA.1) |
| 3. A framework for non-market approaches | Work programme under the framework for non-market approaches to sustainable development (PA Art. 6.8, 1/CP.21 paras.39–40) at CMA1 (Katowice, 2018) | Despite progress in some areas – no agreement was reached in Katowice (8/CMA.1) | Work program will initially be international process. |
| Adaptation |
| PA Article 7: Parties establish a “global goal” on adaptation to enhance adaptive capacity, strengthen resilience and reduce vulnerability (PA Art. 7.1). As appropriate, Parties agree to engage in adaptation planning processes and the implementation of actions (PA Art. 7.9)  | Develop modalities to recognize adaptation efforts of developing country Parties (PA Art.7.3, 1/CP.21 para.41) at CMA1 (Katowice, 2018) | Parties agreed to raise the profile of adaptation action via reports and events – but “recognition of adaptation efforts” (PA Art.7.3) will be made primarily on a collective basis through the global stocktake process (11/CMA.1, paras 9-12) | Countries – depending on their specific climate vulnerabilities – may review and develop law, policy, plans and programs in areas such as planning, building, coastal protection, disaster risk reduction, food security etc. They should strengthen processes for assessing climate change impacts, adaptation needs, document and record action taken. |
| Parties should submit and update an adaptation communication on priorities, needs, plans and actions, without this creating any additional burden for developing country Parties (PA Art. 7.10) | Develop further guidance in relation to the adaptation communication | Flexible, voluntary guidance was adopted; information can be part of the NDC, national adaptation plans, national communications or another communication, including as a component of biennial transparency reports (BTRs) (9/CMA.1 & Annex) | As adaptation communications are voluntary and should not create additional burden, basic practices in place to record and communicate adaptation priorities, needs, plans and actions should suffice. However, to fully benefit from potential financial and technical support under the PA and also input meaningfully into the global stocktake Parties could prepare a communication that best highlights their adaptation, priorities, needs and plans in one accessible package, based on the guidance in decision 9/CMA.1.Supplementary guidance for the preparation of adaptation communications is to be made available for consideration by Parties in 2022Parties are to take stock of the guidance in 2025. |
| The adaptation communication shall be recorded in a public registry (PA Art. 7.12) | Modalities and procedures for the operation and use of the public registry to house adaptation communications to be adopted at CMA1 (Katowice, 2018) | Modalities agreed: There will be one registry with 2 parts, one for NDCs (see above) and one for adaptation communications. The final form of the registry to be agreed at CMA2 (December 2019) (10/CMA.1 and Annex) | Web-based process to log adaptation communications in public registry |
|  | Review the work of adaptation-related institutional arrangements and enhancing the coherence of their work (1/CP.21 para.42.a) at CMA1 (Katowice, 2018) | Decision was taken, e.g. Adaptation Committee and LDC Expert Group to serve PA (11/CMA.1 para.1) | International infrastructure |
| Consider and make recommendations on methodologies for assessing adaptation needs (1/CP.21 para.42.b) | Agreement reached on broad outline of further activities to develop, record and apply methodologies (11/CMA.1 paras 15-20) | Parties may submit views and information on the development and application of methodologies for assessing adaptation needs, including needs related to action, finance, capacity-building and technological support by February 2021 to feed into a technical paper for consideration and further guidance, available in 2022 |
|  | Methodologies to facilitate the mobilization of support for adaptation and reviewing the adequacy and effectiveness of adaptation and support for adaptation (1/CP.21 para.45) at CMA1 (Katowice, 2018) | Agreement reached on inviting and requesting Parties, institutions and other stakeholders to take relevant action (11/CMA.1, paras 21-30 and 34-36) | Parties invited to undertake work on these methodologies based on existing work prepared by the Adaptation Committee (AC) and LDCs Expert Group (LEG) and to submit to the AC and the LEG information on relevant gaps, challenges, opportunities and options. |
| Finance |
| PA Article 9: developed country Parties to provide financial resources for assisting developing country Parties in mitigation and adaptation (PA Art.9.1) | Developed countries intend to mobilize USD 100 billion per year by 2020 through 2025 and set a new collective quantified goal from a floor of USD 100 billion (1/CP.21 para.53) prior to 2025 | Decision to initiative discussions on new goal to commence at CMA3 in 2020 with USD 100 billion as floor (14/CMA.1 para.1) | Creating systems for the realistic and systematic costing of mitigation and adaptation actions over the medium and long-term. Strategies in place for accessing available funds.  |
| Developed country Parties to communicate biennially indicative information (ex-ante) on mobilization of climate finance (PA Art.9.5) | Identify the indicative quantitative and qualitative information on projected levels of public financial resources to be provided to developing country Parties (1/CP.21 para.55) at CMA1 (Katowice, 2018) | Types of information agreed, dedicated online portal will record biennial communications (12/CMA.1, paras 4, 6 & Annex) | Developing country Parties may consider putting systems in place to monitor these biennial reports on projected financial flows and match them against their priorities, needs and plans for action.  |
| Developed country parties to report biennially on support mobilized through public interventions (PA Art.9.7) | Modalities, procedures and guidelines for the biannual provision of transparent and consistent information (1/CP.21 para.57) at CMA1 (Katowice, 2018) | Agreement on potential information (amount, financial instrument, definition of public and private finance etc.) was incorporated into the decision on modalities, procedures and guidelines for the transparency framework under PA Art.13 (Annex to 18/CMA.1 paras 123 – 125)[[2]](#footnote-2) | See below under section on transparency of action and support |
| Matters relating to the Adaptation Fund  | Considering the issue of the Adaptation Fund (which was established under the Kyoto Protocol) serving the PA (1/CP.21 paras.59 and 60) at CMA1 (Katowice, 2018) | Adaptation Fund will also serve the PA from 1 January 2019 (13/CMA.1, para.1) and only the PA (no longer the Kyoto Protocol) when the share of proceeds from trading under PA Art.6.4 becomes available (1/CMP.14 para.2)[[3]](#footnote-3) | International governance process |
| Provide guidance to the entities entrusted with the operation of the Financial Mechanism of the Convention on the policies, programme priorities and eligibility criteria related to the PA (1/CP.21 para.61) | This guidance is to be provided by the CMA. There is no guidance yet but the Paris decision does not specify a timeframe. |  |
| Technology development and transfer |
| PA Art.10 establishes a technology framework to provide guidance to the existing Technology Mechanism on enhanced technology development and transfer for improving climate resilience and reducing emissions | Elaborate the technology framework of the Agreement (1/CP.21 para.67) at CMA1 (Katowice, 2018) | Agreed principles and key themes of the framework to be implemented by Technology Executive Committee (TEC) and Climate Technology Centre and Network (CTCN) (the Mechanism’s 2 bodies) under the authority and guidance of the CMA (15/CMA.1, paras 1 and 2) | Identify and record technology requirements to develop and implement NDCs, national adaptation plans and other climate-related policies, programs and projects. |
| Elaborate the scope and modalities for the periodic assessment of the effectiveness of and the adequacy of the support provided to the Technology Mechanism in supporting the implementation of the PA (1/CP.21 para.69) | Adopted scope of and modalities for periodic assessment; 1st assessment to be initiated at CMA4 in 2021 with a view to completing it at CMA5 in 2022 (16/CMA.1, paras 1 and 3) | Plans and programs put in place based on technology needs assessments (TNAs) and updates as appropriate; identify technology requirements to develop and implement NDCs, national adaptation plans and other climate-related policies, programs and projects; submit biennial update reports under the transparency framework |
| Capacity-building |
| PA Art.11 underlines the need for capacity-building in developing countries  | To review, consider and adopt a decision on the initial institutional arrangements for capacity-building (PA Art. 11.5) at CMA1 (Katowice, 2018) | None adopted at CMA1 - but the Paris Committee on Capacity-building (PCCB) was established in 2015 and has commenced work  | Capacity-building needs identified and plans / programs put in place for addressing them, including the financial and other forms of support required by developing country Parties.Systems in place to track and report on capacity-building initiatives. |
| Review progress, need for extension, effectiveness of PCCB with a view to making recommendation to CMA2 at COP25 (in 2019) (1/CP.21 para.81) | SBI to organize annual in-session meetings of the PCCB and to develop terms of reference for the PCCB and PCCB to prepare annual technical progress reports on its work. |  |
| Climate change education and awareness  |
| PA Art.12: A general commitment to cooperate in enhancing education, training, awareness and public participation  | CMA1 invited to explore ways of enhancing the implementation of training, public awareness, participation and access to information (1/CP.21 para.83) | Action under PA Art.12 will also be referred to as “Action for Climate Empowerment” (ACE) (17/CMA.1 para.1) and efforts under UNFCCC Art.6 (education and training) consolidated with PA Art.12 implementation (17/CMA.1 paras 3, 5 - 11) | Systems in place to ensure that education, training and public awareness are adequately considered in their contribution to capacity-building for addressing the reduction and control of GHG emissions as well as the adverse effects of climate change.Consider providing input into the 7th Dialogue on ACE in June 2019 to advance the discussions on ways of enhancing the implementation of education, training and public participation and international and regional cooperation. |
| Transparency of action and support |
| PA Art.13 establishes the transparency framework through which Parties will report on their efforts to address climate change | Common modalities, procedures and guidelines (MPGs) for the transparency of action and support (PA Art.13.13), and define the year of their first and subsequent review and update at regular intervals (1/CP.21 para.91) | Adopted a comprehensive set of common rules (that apply to all Parties) with some flexibility for developing countries that need it. 1st biennial transparency report (BTR) and national inventory report to be submitted by 31 December 2024. LDCs and SIDs may submit information at their discretion.  | Parties shall submit their first BTR/national inventory report in accordance with the modalities, procedures and guidelines by 31 December 2024 (LDCs and SIDS at their discretion).Coordination with national adaptation planning processes and the adaptation communication process under PA Art.7. In addition, Parties may submit information related to averting, minimizing and addressing loss and damage associated with climate change impacts.Overarching cross-governmental systems in place to collect and synthesize information re mitigation, adaptation, loss and damage, technology transfer, capacity-building, to implement the transparency framework, as well as support needed (including for compliance with transparency system) and received.Climate change and energy policy, law and regulations, which includes guidance on periodic GHG inventory reporting and relates this to monitoring of progress made in achieving the NDCs. |
|  |  | Parties to nominate experts and UNFCCC Consultative Group of Experts will also serve PA (18/CMA.1, paras 1, 3, 4, 5, 15 & Annex).SBSTA has been tasked to develop outlines of common reporting templates, tables and other formats by November 2020.The GEF, as an operating entity of the financial mechanism, has been requested to support developing countries in preparing their first and subsequent BTRs. | Systems in place to identify capacity-building needs across government departments to ensure robust participation in the technical expert review process.Input in ongoing deliberations and obtaining financial and technical support as required. |
| This includes national greenhouse gas inventories (PA Art.13.7 a.) | To be prepared using good practice methodologies accepted by the IPCC and agreed by the CMA (PA Art.13.7 a.) | No specific timeline indicated but in time for Parties to prepare the reports for the global stocktake (before 2023) | Improve emissions data collection, monitoring and reporting. |
| Global stocktake |
| PA Art.14: Assessing collective progress every 5 years, starting in 2023 | Identify the sources of input for the global stocktake (1/CP.21 para.99) at CMA1 (Katowice, 2018) | A non-exhaustive list (including e.g. IPCC, UN, Party and non-Party reports) was agreed (19/CMA.1, paras 36 and 37) | Systems in place to ensure that required information is available on a timely basis to contribute to the global stocktake  |
| Develop modalities for the global stocktake (1/CP.21 para.101) | Parties decided on a 3-stage Party driven process consisting of information collection and preparation, technical assessment and a presentation of findings at high-level events (19/CMA.1, paras 3 and 19-34) | Ensure that delegation members participating in the global stocktake process are well informed and that the relevant government departments are prepared to take on board the outcomes of the stocktake, where relevant. |
| Facilitating implementation and promoting compliance |
| PA Art.15 establishes a mechanism to facilitate compliance consisting of a committee that functions in a non-adversarial, non-punitive manner | The modalities and procedures for the operation of the committee are to be adopted at CMA1 (Art.15 para.3, 1/CP.21 para.103) | Parties agreed on election process, the initiation of procedures (self-referral and committee driven in case of non-compliance with mandatory reporting requirements) and outputs(20/CMA.1, para.1) | Systems in place to ensure that obligations and reporting requirements are met on a timely basis. |

1. At present the CMA1 decisions 3 to 12, as contained in document FCCC/PA/CMA/2018/3/Add.1, can be easily accessed via:

https://unfccc.int/sites/default/files/resource/cma2018\_3\_add1\_advance.pdf [↑](#footnote-ref-1)
2. At present the CMA1 decisions 13 to 20, as contained in document FCCC/PA/CMA/2018/3/Add.2, can be easily accessed via:

https://unfccc.int/sites/default/files/resource/cma2018\_3\_add2%20final\_advance.pdf [↑](#footnote-ref-2)
3. Formally, the decision, contained in document FCCC/KP/CMP/2018/8/Add.1, had to be taken by the Meeting of Parties to the Kyoto Protocol (while the CMA made corresponding suggestions) and can currently be accessed via: https://unfccc.int/sites/default/files/resource/cmp2018\_8\_Add.1\_advance.pdf [↑](#footnote-ref-3)