

Mandate to bodies outside the UNFCCC

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*This advice is provided in response to **Query 73/24***

Query:

Can the CMA legally mandate institutions, bodies or agencies outside the UNFCCC to report on adaptation action and progress related to relevant thematic targets under the UAE Framework for Global Climate Resilience?

Summary of response

1. In summary, we advise:
 - a. Neither the CMA nor the COP have an ability to mandate or compel bodies outside of the treaty regime in which they operate.
 - b. However, coordination and cooperation between bodies under the UNFCCC and Paris Agreement does happen in practice. This is contemplated specifically in Article 7.2(l) of the UNFCCC.
 - c. Such coordination can be via a formal partnership with the UNFCCC secretariat, or via invitation from the COP, CMA or subsidiary bodies to engage in specific work programmes. SBSTA reports to the COP on such activity; the most recent report from SBSTA60 is **attached**.
 - d. In the context of coordination with third parties on adaptation, the following is worthy of note:
 - i. The Adaptation Committee (AC) has mandate to both support implementation of the global goal on adaptation (GGA) and promote coherence through engagement with non-UNFCCC bodies.
 - ii. Other UN bodies are already engaged in supporting implementation of the GGA, and this could be extended to supporting reporting on progress toward the GGA under the United Arab Emirates Framework for Global Climate Resilience (*UAE Framework*).
 - iii. The Nairobi Work Programme (*NWP*), established at COP12 in 2005, has partner organisations that provide input in response to invitation and encouragement by the COP. The NWP “partner organisation” approach provides a possible model for coordination with third party bodies under the GGA, which could be facilitated via SBSTA or the AC.
2. Our more detailed analysis is below.

The CMA cannot compel or mandate non-UNFCCC parties or bodies

1. Our analysis is that the CMA's mandate is limited to the Paris Agreement, and therefore, the CMA cannot command entities outside of the sphere in which it has administrative and procedural powers. This is based on customary international law (the principles of consent and state sovereignty), as well as Article 34 of the Vienna Convention ("a treaty does not create either obligations or rights for a third state without its consent.") This reinforces the idea that bodies created by treaties cannot impose obligations on states that are not parties to the treaty (or intergovernmental organisations (IGOs) such parties have established) without consent. We have not conducted additional analysis on this specific point given it is well canvassed in both the summary above, and indeed in LRI's earlier published [advice](#).
2. However, a strict legal interpretation of how the treaty bodies operate belies how such issues are navigated in practice. As such, we have turned our minds to the practical ways to manage coordination with other bodies outside the UNFCCC.

Practically, UNFCCC bodies do cooperate with, and seek input from, third party bodies

3. There is existing coordination between treaty regimes. Under the UNFCCC, this is specifically provided for under Article 7, paragraph 2(l) which states that the COP shall seek and utilize the services and cooperation of, and information provided by, competent international organizations and intergovernmental and non-governmental bodies. Practically, such coordination is managed by the UNFCCC secretariat (see [here](#)).
4. The key mechanisms for third parties to engage with UNFCCC appear to be:
 - a. responding to a decision of the COP (or CMA) inviting or encouraging engagement from third parties; or
 - b. via formal partnership with the UNFCCC secretariat, the guidelines for which are outlined [here](#).
5. Regarding formal partnerships as contemplated in 4(b) above, as the Paris Agreement does not expressly incorporate Article 7.2(l), it is unclear to what extent formal partnerships under this provision could be established that relate exclusively to the Paris Agreement. We would be happy to advise further on this if a formal partnership with external bodies were desired to be pursued by the CMA in relation to the GGA or reporting under the UAE Framework.
6. Regarding less formal coordination with and input from third party bodies, SBSTA is mandated to report to the COP on coordination activities with third parties. SBSTA60 provided the most recent report on this coordination (see [here](#)). Relevant coordination relevant to adaptation is summarised at pp. 14-20. Of key relevance are:
 - a. The role of the AC in promoting greater coherence of adaptation action under the Convention and globally, supported by the secretariat to work with constituted bodies, other United Nations entities and IGOs, and NGOs involved in adaptation activities (at [53]). (Note the AC has a clear mandate from the CMA to support the implementation of the United Arab Emirates Framework for Global Climate Resilience, from Decision 2/CMA.5 at [44] – [45].
 - b. That the AC seeks input from IGOs, NGOs and United Nations entities, the AC makes use of NWP partner organizations, which together constitute a network of more than 400 organizations working on adaptation to climate change (at [53]).
7. Relevant to the GGA on adaptation specifically, SBSTA noted that:
 - a. The 2024 Adaptation Forum on "Promoting solutions toward achieving the global goal on adaptation: opportunities for action and collaboration" was held in Bonn in March 2024 and involved participants from various international organizations, such as

United Nations entities, multilateral climate funds, regional organizations, research partnerships and humanitarian organizations (at [56]).

- b. That “collaboration with and inputs from IGOs with existing frameworks of targets and indicators for measuring their progress that overlap with the targets under the United Arab Emirates Framework for Global Climate Resilience will be crucial, especially in terms of lessening the reporting burden on Parties.” SBSTA notes that representatives of CBD and UNDRR, among others, are already engaged with work on the GGA.
8. The above indicates a role for the AC in both supporting implementation of the GGA, in promoting coherence through engagement with non-UNFCCC bodies, and that such bodies are already engaged in measuring and reporting progress under the UAE Framework.

The NWP “partnership organisations” approach provides a possible model for third party engagement to support the GGA and UAE Framework

9. In terms of opportunities to strengthen engagement or input from third party bodies, the NWP potentially provides a model for such input. In implementing the NWP, SBSTA, via the secretariat, “engage[d] Parties, organizations, experts and communities in the implementation of the [NWP]” (SBSTA27), convened forums of focal points of engaged organizations and institutions, convened by the Chair of SBSTA (SBSTA28). This ultimately evolved into the concept of “partner organisations” of the NWP. Decision 17/CP.19 requested engagement from these partner organisations as follows (at [8] – [9]), where the COP (emphasis added):

8. Encourages Parties, Nairobi work programme partner organizations and adaptation practitioners to support the effective implementation of the Nairobi work programme by increasing collaboration with regional centres and networks, in particular those in developing countries, that provide and disseminate information and knowledge at the regional and national levels;

9. Also encourages Nairobi work programme partner organizations to support the effective implementation of the Nairobi work programme by reporting on the actions and outcomes associated with the fulfilment of action pledges and addressing calls for action;

10. The NWP “partner organisation” approach provides a possible model to support implementation and reporting on the GGA under the UAE Framework, in the absence of a formal power to mandate involvement of third party bodies. This would build on the existing engagement from other UN bodies on the GGA’s implementation to date.