



United Nations
Framework Convention on
Climate Change



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Centre for International
Sustainable Development Law

Compliance and Implementation under the Paris Agreement

The Climate Legislation Webinar Series

Session 1 | 27 August 2020



Event Overview

Prof. Dr. Marie-Claire Cordonier Segger (Chair), Senior Director, Centre for International Sustainable Development Law (CISDL); Leverhulme Visiting Professor, University of Cambridge & Executive Secretary, Climate Law & Governance Initiative

Adv. Hafida Lahiouel (Chair), Director, Legal Affairs and Principal Legal Adviser, UNFCCC Secretariat

- **Prof. Dr. Christina Voigt (Instructor)**, Co-Chair, Paris Agreement's Implementation and Compliance Committee; Professor of Law, Department of Public & International Law, University of Oslo & CISDL Legal Research Fellow
- **Dr. Alina Averchenkova (Instructor)**, Distinguished Policy Fellow, Lead, Governance and Legislation, Grantham Research Institute on Climate Change and the Environment
- **Ms. Kareen Jabre (Instructor)**, Director, Division of Programmes, Inter-Parliamentary Union

Adv. Mrinalini Shinde (Moderator), Fellow, Legal Affairs Programme, UNFCCC Secretariat

Adv. Chantalle Byron (Zoom Moderator), Coordinator, Climate Law & Governance Initiative

Adv. Freedom-Kai Phillips (Online Facilitation), Operations Director & Legal Research Fellow, CISDL

Hugh Travis & Elly Brimacombe (Rapporteurs), Legal Interns, Climate Law & Governance Initiative



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Prof. Dr. Marie-Claire Cordonier Segger

Senior Director, Centre for International Sustainable Development Law (CISDL); Leverhulme Visiting Professor, University of Cambridge & Executive Secretary, Climate Law & Governance Initiative



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Adv. Hafida Lahiouel

Director, Legal Affairs and Principal Legal Adviser,
UNFCCC secretariat



Focus

- How treaties are concluded with the expectation of compliance;
- Identifying how compliance has evolved within the UNFCCC process;
- The role of the UNFCCC secretariat in providing assistance to Parties on compliance, including by supporting the Paris Agreement Implementation and Compliance Committee.



Treaties ensuring compliance

- Commitment among the Parties to the treaty regime
- The treaty regime is constructed in a participatory manner, with discourse between Parties, the treaty organisation and Non-Party stakeholders.
- The fairness of the international rules is important in promoting compliance, and inherent belief in the fairness of the regime.

Koh, H. H. (1997). Why Do Nations Obey International Law? The Yale Law Journal, 106(8), 2599. doi:10.2307/797228



Evolution of compliance and implementation

- Kyoto Protocol compliance mechanism was designed to facilitate, promote and enforce compliance with the commitments under the Protocol.
- The Compliance Committee under the Protocol is made up of two branches: a facilitative branch and an enforcement branch.
- Paris Agreement included a mechanism to facilitate implementation and promote compliance which functions in a transparent, non-adversarial and non-punitive manner, while considering the respective national capabilities and circumstances of Parties.
- Parties prepare, communicate and maintain successive nationally determined contributions that they intend to achieve. Article 4, paragraph 8, of the Paris Agreement provides that, in communicating their nationally determined contributions, all Parties shall provide the information necessary for clarity, transparency and understanding in accordance with decision 1/CP.21.



Information to be included within NDCs

- Decision 4/CMA.1, and Annex I to the decision, provides further clarity regarding the specific information that all Parties shall consider when drafting their second and subsequent NDCs, and strongly encouraged with respect to their first NDC.

Quantifiable information on the reference point (including, as appropriate, a base year)

Time frames and/or periods for implementation

Scope and coverage

Planning processes

Assumption and methodological approaches, including those for estimating and accounting for anthropogenic greenhouse gas emissions as appropriate, removals

How the NDC contributes towards achieving the objectives of the Convention as set out in Article 2

How the Party considers that its NDC is fair and ambitious in light of its national circumstances

Role of the secretariat in supporting Parties

- The UNFCCC secretariat serves as the secretariat of the Paris Agreement Implementation and Compliance Committee. [Decision 20/CMA.1, Annex, para 37].
- The secretariat supports the coordination and functioning of the PAICC, providing crucial information, advice and assistance.
- The UNFCCC secretariat, through its Legal Affairs division, is committed to supporting Parties and engaging with Non-Party stakeholders to build capacity on legislation addressing climate change.





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Prof. Dr. Christina Voigt

Co-chair of the Paris Agreement's Implementation and Compliance Mechanism, Professor of Law, University of Oslo & CISDL Legal Research Fellow

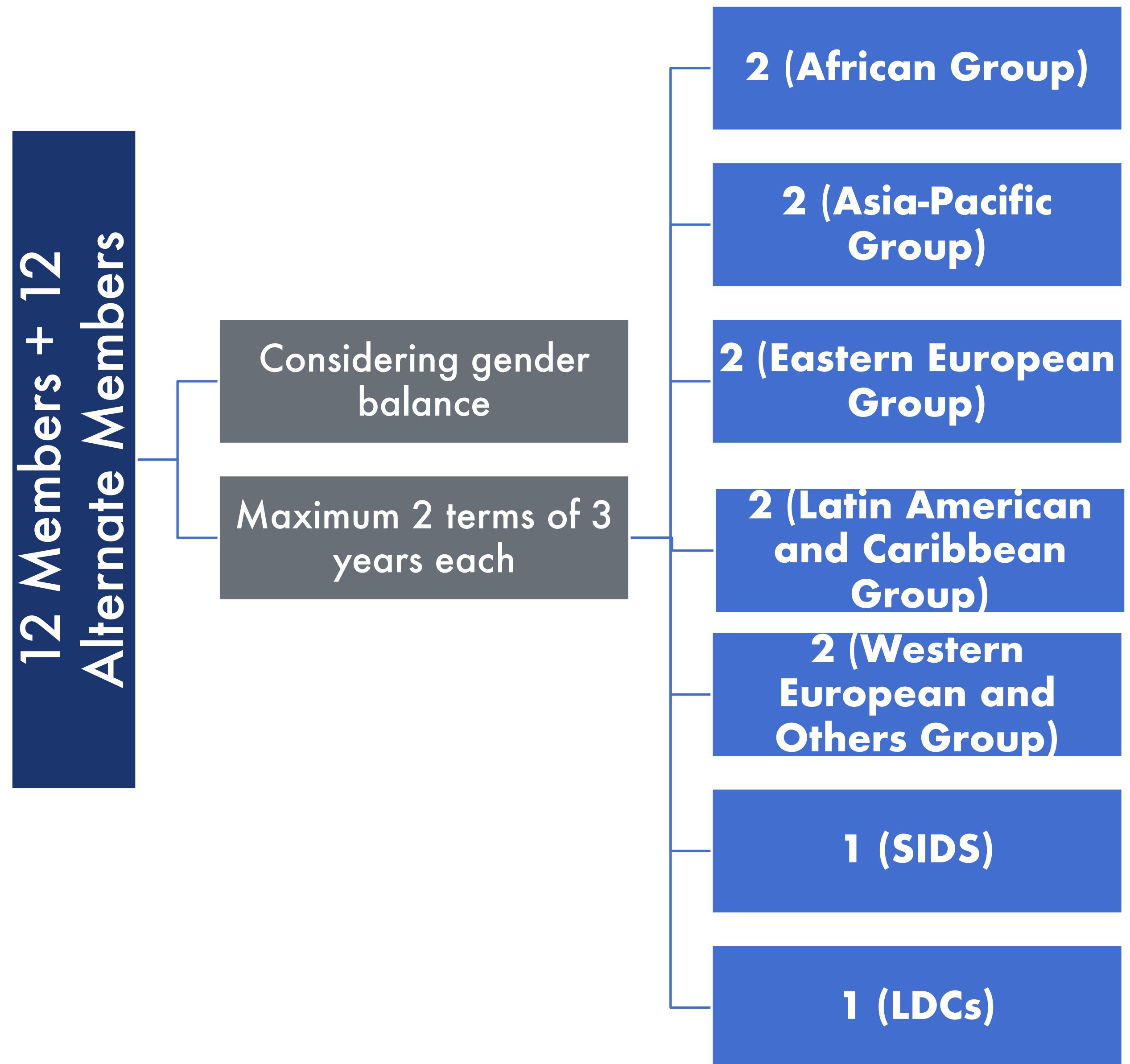


Scope and function of the Art. 15 Committee

- Facilitate implementation of and promote compliance with the provisions of the Paris Agreement (Art. 15.1)
- Expert-based, facilitative in nature, transparent, non-adversarial, **non-punitive** (Art. 15.2)
- Avoid duplication of effort, shall not function as enforcement or dispute settlement mechanism, **not impose sanctions or penalties**, shall respect national sovereignty (Decision 20/CMA.1, Annex para 4)

Membership

- Recognized competence in relevant scientific, technical, socio-economic or legal fields
- Serving for a term of 3 years, with possibility of re-election for one more term





How does an “issue” get before the Committee?

Three modes of initiation:

- 1. Self-submission by a party on all provisions of the PA (20/CMA.1, Annex, para 20) with respect to own implementation/compliance.
- 2. Discretionary initiation by the committee, with consent of Party, in cases of significant and persistent inconsistencies of the information submitted under art. 13.7 and 13.9 with MPGs, based on recommendations in TERR (para 22(b)).
- 3. Initiation by the committee where a specific requirement is not met; based on the information listed in para 22(a).



How does an “issue” get before the Committee? (2)

22. The Committee:

- (a) Will initiate the consideration of issues in cases where a Party has not:
 - (i) Communicated or maintained a nationally determined contribution under Article 4 of the Paris Agreement, based on the most up-to-date status of communication in the public registry referred to in Article 4, paragraph 12, of the Paris Agreement;
 - (ii) Submitted a mandatory report or communication of information under Article 13, paragraphs 7 and 9, or Article 9, paragraph 7, of the Paris Agreement;
 - (iii) Participated in the facilitative, multilateral consideration of progress, based on information provided by the secretariat;
 - (iv) Submitted a mandatory communication of information under Article 9, paragraph 5, of the Paris Agreement;



What can the Committee do?

Shall take appropriate measures, which may include:

- Engaging in a dialogue with the Party to share information, identify challenges and recommend solutions (para 30 a)
- Assist the Party in engaging with support bodies and arrangements and make recommendations to the Party (and communicate those to the support bodies/arrangements) (para 30 b and c)
- Recommend development of an action plan (30 d)
- Issue findings of fact in relation to matters listed in para 22 a (para 30 e)



Ongoing work

- **Preparation of the Committee's draft rules of procedure**, for adoption by CMA.3 (paragraphs 17 and 18)





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Dr. Alina Averchenkova

**Distinguished Policy Fellow, Lead, Governance and
Legislation, Grantham Research Institute on Climate
Change and the Environment**



Over 1.900 climate laws and policies worldwide, including 140 strategic frameworks with around 40 of them embedded in laws

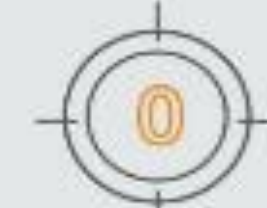
UK Climate Change Act	2008
Mexico "General Law on Climate Change"	2012 and Decree of 2018
France "Energy Transition Law"	2015
Malta "Climate Action Act"	2015
Mexico "Energy Transition Law"	2015
Ireland Climate Action and Low Carbon Development Act	2015
Finland Climate Change Act	2016
Kenya Climate Change Act	2016
Ecuador "Organic Code on the Environment"	2017
Paraguay "National Law on Climate Change no. 5875"	2017
Sweden "Climate Change Act"	2017
Norway "Climate Change Act"	2017
Peru "Framework Law no 30754 on Climate Change"	2018
France "Law on Energy and the Climate (Law N 2019-1147)"	2019



Emission reduction targets
for 2030 and 2050



Ratchet of ambition
or carbon budgets



Net zero target



Independent Advisory
Body



Mandates for the key agencies
and statutory timelines

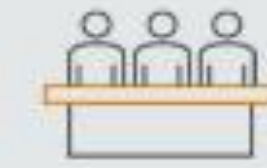


Parliamentary oversight



Stakeholder engagement
mechanism

• Designing a Climate Change Law



The role of devolved
governments



Policy instruments or
mandate to develop them



Risk assessment and
adaptation planning



Sectoral targets



Monitoring and
review of progress



Predictable funding to
implement the law



Risk disclosure for
investors and
asset managers



Key Elements for Ensuring Domestic Compliance





Independent advisory body

What and how?

Committee on
Climate Change:
experts and
secretariat

Recommends
carbon budgets

Monitors progress
on emissions
reduction and
climate resilience

Outcomes

Independent,
objective analysis

Long-term
consistency in
approach across
government

Transparency and
legitimacy

More informed
decision-making





Clear mandate



Government's accountability

- mandated to respond to input



Allocated predictable
funding

KEY FACTORS OF SUCCESS OF THE INDEPENDENT CLIMATE CHANGE ADVISORY BODIES



High level of technical
expertise



Independence from the
Government

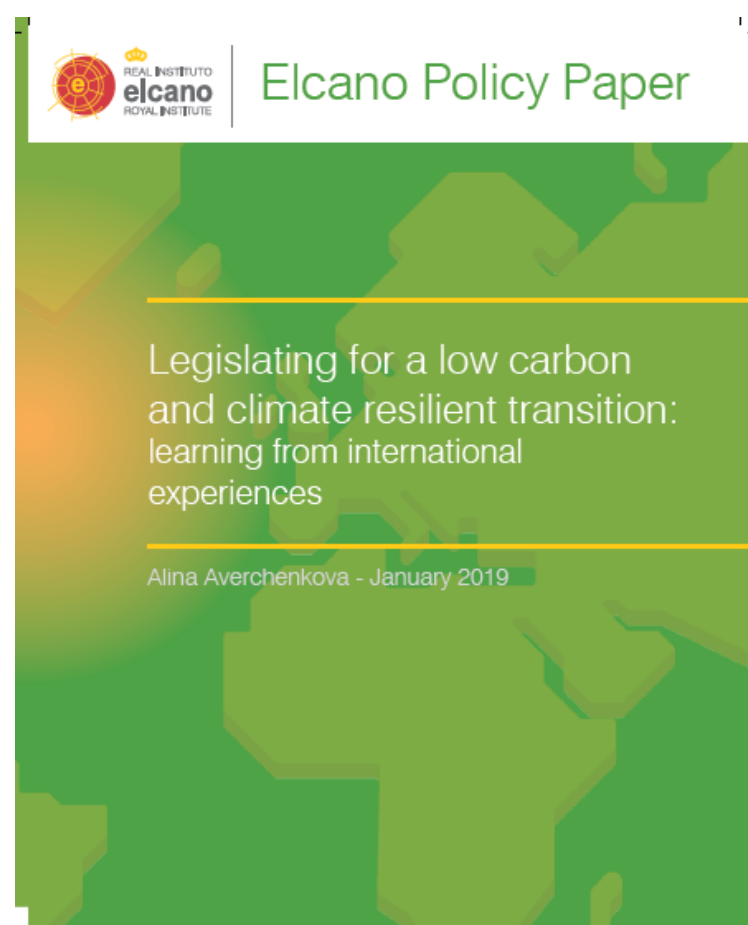
- financial and administrative



Parliamentary oversight



For more information see:



Thank you!

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Centre for International
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Ms. Kareen Jabre

Director, Division of Programmes, Inter-Parliamentary Union



Climate change and the Paris Agreement – What needs to be done and by whom?

- Tackling climate change and implementing the Paris Agreement requires a 'whole of society' approach
- The Paris Agreement, an international agreement, must be supported by national-level action to be effective
- This includes enacting the treaty into national legislation, allocating budgets, ensuring accountability, etc.
- Parliaments and parliamentarians play a key role in this process



Parliamentary functions

Parliaments can:

- Enact national legislation
- Set budget allocations
- Provide robust oversight of government performance
- Bridge the gap between constituents and governments

Parliaments also play important roles in:

- Translating issues from the local > national > international levels, and vice versa
- Ensuring legislation stimulates action at the sub-national level.



Parliamentary functions in the context of climate change

In the context of climate change, Parliaments can:

- Ensure the legislative response to climate change is nationally appropriate, while also being consistent with the Paris Agreement, including ensuring national legislation is in line with the commitment to keep global average temperature rise below 2° C
- Enact legislation that also encourages action at the sub-national level
- Allocate adequate funding to implement the Paris Agreement and related national laws and policies
- Develop mechanisms for government oversight, and include clear provisions for enforcement and monitoring in legislation
- Facilitate stronger links with civil society organizations working on climate change to ensure needs of at-risk constituents are met



The IPU and climate change action

- In recognising the crucial role of parliaments and parliamentarians, the IPU aims to build their capacity to address climate change
- Resolution adopted at 141st IPU Assembly urging all Parties to implement the Paris Agreement
- IPU Members have adopted a Parliamentary action plan on climate change (2016) to ensure national legislative responses are in line with the Paris Agreement
- IPU supports bilateral, regional and international parliament-parliament engagement to facilitate sharing of good practices and lessons learned on Paris Agreement implementation



Parliamentary Action Plan on Climate Change (2016)

Key action areas include:

Ensuring all efforts and measures are taken to establish a national legislative response to climate change that is consistent with national climate goals and the Paris Agreement, including on both mitigation and adaptation

Strengthening oversight of national and international commitments, including government implementation of national legislation and enhancing transparency and accountability of climate action and reporting.

Improving consistency and complementarity between national climate legislation and other societal goals, including poverty reduction, disaster risk reduction, improving access to energy, gender equality and protecting ecosystems.



Fifth World Conference of Speakers of Parliament Declaration, 19-20 August 2020

- Emphasizes the need to transition to a climate-neutral economy to build more resilient societies
- Highlights the economic benefits of reducing global carbon emissions and the potential for job creation
- “We therefore reaffirm the cardinal importance of the United Nations Framework Convention on Climate Change and the Paris Agreement, and urge all leaders to **unflinchingly move ahead with implementation, including through appropriate mitigation and adaptation strategies**”.



Examples of parliamentary action

Parliaments around the world are taking action. For example:

- Maldives parliament is planning to establish its first-ever Climate Act, which will set limits on pollution and adopt environmental protection measures
- The European Parliament's 2020 climate and energy package includes binding legislation that requires a 20% cut in greenhouse gas emissions from 1990 levels, 20% improvement in energy efficiency and that 20% of EU energy is from renewables (EP Environment Committee reviews EU progress on Paris climate goals and votes on EU Commission's proposals regarding 2030 environmental targets)
- In the Republic of Korea, a parliamentary proposal has called for \$ 10.5 billion USD investment to implement a proposed green deal which includes reducing reliance on fossil fuels
- In response to the COVID-19 pandemic, Kenya's parliament has allocated funds within its proposed economic stimulus package to mitigate the impact of climate change and deforestation to promote a 'green' recovery



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Thank you!

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