



ENFORCEMENT BRANCH

Twenty-second meeting

22–23 March 2013
Bonn, Germany

Report on the meeting

1. Opening of the meeting

1. Mr. René Lefeber, chairperson of the enforcement branch, declared the meeting open at 15:30.
2. At the request of the chairperson, the secretariat provided information on participation and quorum. The secretariat confirmed that the meeting was being webcast live on the Internet, and that an audio recording was being made of the entire meeting. The secretariat informed the meeting that due to last minute cancellations on the part of two alternate members, the branch did not have a quorum to take decisions at the meeting. As suggested by the chairperson and on the understanding that any decision would only be adopted upon receipt of the required additional votes by electronic means, the members and alternate members present agreed to proceed with the meeting.
3. The branch expressed concern at the lack of quorum, in particular, noting that the situation had been caused by the inability of some members and alternate members to obtain permission from their superiors to attend the meeting, and further noting that this challenge had been faced by the branch on several occasions in the past. The branch recalled that members and alternate members are elected to serve in their individual capacity, and that their nomination to the Compliance Committee of the Kyoto Protocol, and their eventual election, assumes that they have made the necessary arrangements to ensure their attendance at meetings of the Committee. The branch appealed to those members and alternate members who could not attend the meeting due to lack of permission from their superiors to raise this issue with their employers. The branch agreed to reflect this concern in the report on the meeting and to bring it to the attention of the plenary, with a view to include this matter in the eighth annual report of the plenary to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.

2. Adoption of the agenda

4. The branch reviewed and agreed to follow the provisional agenda (CC/EB/22/2013/1). Upon completion of a vote by electronic means, the branch adopted the agenda.

3. Organization of work

5. The branch agreed to organize its consideration of the items under its agenda in the following manner:



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- (a) First, to discuss the draft working arrangements with respect to adjustments to inventories under Article 5, paragraph 2, of the Kyoto Protocol, as contained in document CC/EB/22/2013/2;
- (b) Second, to consider the questions of implementation with respect to Slovakia;
- (c) Third, to consider draft templates for decisions of the enforcement branch; and
- (d) Fourth, to take up other matters, including, as necessary, the updated list of issues that the branch had considered during its last stocktaking exercise.

4. Consideration of the questions of implementation with respect to Slovakia

6. At the request of the chairperson, the secretariat provided a summary of the proceedings since the twenty-first meeting of the branch.

7. Also at the request of the chairperson, the delegation of Slovakia informed the meeting that, in accordance with section VIII, paragraph 2, of the “Procedures and mechanisms relating to compliance under the Kyoto Protocol”¹ and rule 25, paragraph 3, of the “Rules of procedure of the Compliance Committee of the Kyoto Protocol”,² the following designated representatives of Slovakia were present at the meeting:

- (a) Ms. Helena Princová, Director of Climate Change Policy Department, Ministry of Environment, Slovak Republic;
- (b) Mr. Milan Zvara, Chief State Advisor, Climate Change Policy Department, Ministry of Environment, Slovak Republic; and
- (c) Ms. Janka Szemesová, Department of Emissions and Air Quality Monitoring, Slovak Hydrometeorological Institute.

8. As part of the consideration by the branch of the questions of implementation with respect to Slovakia the branch provided Slovakia with the opportunity to make a presentation entitled “Second Progress Report of the Slovak Republic”. In the second progress report on the plan that Slovakia had submitted pursuant to the final decision of the branch (CC-2012-1-13/Slovakia/EB) and in its presentation, Slovakia requested the branch to conclude that the Slovak national system is in full compliance with the “Guidelines for national systems for the estimation of anthropogenic greenhouse gas emissions by sources and removals by sinks under Article 5, paragraph 1, of the Kyoto Protocol” (annex to decision 19/CMP.1) and that the plan submitted by Slovakia pursuant to the final decision of the enforcement branch (CC-2012-1-10/Slovakia/EB; the plan) and two progress reports (CC-2012-1-10/Slovakia/EB and 2012-1-13/Slovakia/EB) have already sufficiently remedied its non-compliance.

9. The branch commended Slovakia for its clear and detailed presentation, which also indicated that it is making good progress on the measures it had described in its plan. In accordance with rule 9, paragraph 1, deliberations on Slovakia’s request referred to in paragraph 8 above were held in private

¹ This and subsequent references to sections, as well as references to the procedures and mechanisms, refer to the annex to decision 27/CMP.1.

² This and subsequent references to rules, as well as to rules of procedure, refer to those contained in the annex to decision 4/CMP.2, as amended by decision 4/CMP.4.



to allow the branch to consider whether to elaborate and adopt a decision on the request and to refer to matters which had been discussed at the workshop on consistency of reviews, which was held in private. After such deliberations, the branch indicated that it could not yet come to a conclusion on whether all the questions of implementation with respect to Slovakia had been resolved. While taking note of the concerns expressed by Slovakia with respect to the imminent delay in the publication of the report of the review of the annual submission of Slovakia submitted in 2012 (the 2012 ARR), the branch reiterated that the receipt of such a report is required for it to determine whether all the questions of implementation have been resolved. The branch confirmed that it would consider the request of Slovakia as soon as possible and practicable after the 2012 ARR is published.

10. The branch noted with concern the imminent delay in the publication of Slovakia's 2012 ARR and decided to bring this matter to the attention of the plenary. The branch requested that the finalization of reports relating to Parties with respect to which there is a question of implementation be prioritized.

5. Draft templates for decisions of the enforcement branch

11. The branch discussed revised versions of the draft templates for preliminary findings and final decisions that it had considered at its twenty-first meeting. It also discussed templates for decisions on preliminary examination, expert advice, review and assessment of plans submitted under paragraph 2 of section XV, and reinstatement under paragraph 2 of section X that had been prepared by the chairperson and vice-chairperson, with the assistance of the secretariat, at the request of the branch. The branch requested the chairperson and vice-chairperson, with the assistance of the secretariat, to update the templates on the basis of discussions at the meeting and to make the revised templates available at its next meeting. The branch agreed that subsequent discussion of these draft templates would form part of any future stocktaking exercise.

6. Considering disagreements whether to apply adjustments to inventories under Article 5, paragraph 2, of the Kyoto Protocol

12. The branch considered draft working arrangements relating to the consideration by the branch of disagreements whether to apply adjustments under Article 5, paragraph 2, of the Kyoto Protocol (document CC/EB/22/2013/2), prepared by the chairperson and vice-chairperson with the assistance of the secretariat. On the basis of an initial round of discussions on the draft working arrangements, the chairperson and vice-chairperson prepared a revised draft for consideration by the branch (see the Annex).

13. The branch agreed that the provisions of the draft working arrangements would be more appropriately adopted as amendments to the rules of procedure. It requested members and alternate members to provide comments to the text of the draft working arrangements contained in the Annex to this report, by 31 May 2013. On the basis of comments received, the chairperson and vice-chairperson, with the assistance of the secretariat, will thereafter revise the text of the draft working arrangements and make the revised text available to members and alternate members of the branch prior to the meeting at which this matter will be further considered.



7. Other matters

14. The branch determined that it would not revisit the list of stocktaking issues annexed to the provisional agenda and annotations for its twenty-second meeting.³

15. In view of the outcomes of the consideration by the branch of the questions of implementation with respect to Slovakia, the chairperson noted that it may be necessary for the branch to convene a meeting shortly after the publication of Slovakia's 2012 ARR, in addition to the meeting of the branch that is scheduled to take place in September 2013.

8. Closure of the meeting

16. The meeting was declared closed at 14:30 on 23 March 2013.

9. Attendance

17. The names of members and alternate members present at the meeting are bolded below.

Members (in alphabetical order)	Alternate Members
1. DE WET, Sandea Ms.	AMOUGOU, Joseph Armathé Mr.
2. ESTRADA OYUELA, Raúl Mr.	GONZALEZ NORRIS , José Antonio Mr.
3. FODEKE , Victor Mr.	GOPOLANG , Balisi Justice Mr.
4. HAYNES , Rueanna Ms.	MARINO, Sebastian Mr.
5. KODJABASHEV, Alexander Mr.	SHAMANOV , Oleg Mr. *
6. LEFEBER , René J M Mr.	PALLEMAERTS , Marc Mr.
7. LOIBL, Gerhard Mr.	RUDZKO, Iryna Ms.
8. NISHAT , Ainun Mr.	BABAR BEG , Mirza Salman Mr.
9. OBERTHÜR , Sebastian Mr.	KUOKKANEN, Tuomas Mr.
10. SU, Wei Mr.	ALAM, Mohammad Mr.

³ CC/EB/22/2013/1.

* Mr. Shamanov was absent on the afternoon of 23 March 2013.



Annex

Draft working arrangements relating to the consideration by the enforcement branch of disagreements whether to apply adjustments to inventories under Article 5, paragraph 2, of the Kyoto Protocol¹

1. “Party involved” means a Party that disagrees with adjustments relating to an inventory under Article 5, paragraph 2, of the Kyoto Protocol as calculated and recommended by an expert review team (ERT) in accordance with the procedures set out in paragraphs 79 to 80 of the “Guidelines for review under Article 8 of the Kyoto Protocol” as contained in the annex to decision 22/CMP.1.
2. Within seven days from having received, through the secretariat, a report of an ERT (ERT report) under Article 8 of the Kyoto Protocol in accordance with section VI, paragraph 1 or 3, of the “Procedures and mechanisms relating to compliance under the Kyoto Protocol”² that includes a disagreement whether to apply adjustments to an inventory under Article 5, paragraph 2, of the Kyoto Protocol, the bureau shall request the secretariat to notify forthwith:
 - (a) Members and alternate members of the enforcement branch of the disagreement and send them all available materials;
 - (b) Members and alternate members of the facilitative branch of the disagreement;
 - (c) The Party involved that the disagreement will be considered by the enforcement branch.
3. The Party involved may make a written submission within four weeks from the date of receipt of the notification referred to in paragraph 2 (c) above.
4. If so requested in writing by the Party involved within four weeks from the date of receipt of the notification referred to in paragraph 2 (c) above, the enforcement branch shall hold a hearing that shall take place within four weeks from the date of receipt of the request or the written submission under paragraph 3 above, whichever is the later. The Party involved may present expert testimony or opinion at the hearing. Such a hearing shall be held in public, unless the enforcement branch decides, of its own accord or at the request of the Party involved, that part or all of the hearing shall take place in private. The provisions of rule 25, paragraphs 1 and 2, shall apply *mutatis mutandis* to such a hearing.
5. The enforcement branch shall adopt its decision within eleven weeks of the notification under paragraph 2 (c) above or within three weeks of a hearing under paragraph 4, whichever is the shorter.
6. The Party involved may, at any time before the adoption of the decision referred to in paragraph 5 above accept, at the hearing referred to in paragraph 4 above or in writing, the adjustments as calculated and recommended by the ERT.³ Such acceptance shall result in the resolution of the disagreement and shall be noted by the enforcement branch in its decision.

¹ There is an understanding within the enforcement branch that these provisions should be adopted as amendments to the rules of procedure. In the light of this understanding, the branch is also considering developing rules for disagreements relating to corrections to the compilation and accounting database for the accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol.

² Subsequent references to the procedures and mechanisms, as well as to sections, refer the annex to decision 27/CMP.1.

³ It requires further consideration whether this provision could be applied, *mutatis mutandis*, to an ERT.



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7. Following the notification of the disagreement referred to in paragraph 2 above, subject to section VIII, paragraph 4, competent intergovernmental organizations and non-governmental organizations that wish to submit relevant factual and technical information to the enforcement branch shall do so in writing.

8. The provisions of section VIII, paragraphs 2 to 9, as well as rules 17, 18, 20, paragraphs 2 and 3, and rules 21 and 22, shall apply *mutatis mutandis*.

9. If the ERT report that includes the disagreement referred to in paragraph 2 above also indicates a question of implementation that is allocated to the enforcement branch [and to which the expedited procedure set out in section X, paragraph 1, applies], the enforcement branch may extend any time frames provided for in paragraphs 2–7 above to align both procedures. The enforcement branch shall make every effort to minimize any resulting delay and, in any event, shall decide on the disagreement no later than the adoption of the final decision on the question of implementation[in accordance with section X, paragraph 1 (f)].



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Indicative schedule – consideration by the enforcement branch of disagreements whether to apply adjustments under Article 5, paragraph 2, of the Kyoto Protocol

Paragraphs 2 to 5

No.	Steps	Range	Number of weeks
1.	publication of ARR		0
2.	forwarding of ARR to Committee	first business day after STEP 1	
3.	request by the bureau for the secretariat to notify the members and alternate members and alternate members of the enforcement branch, the members and alternate members of the facilitative branch, and the Party involved of the disagreement	seven days from STEP 2	1
4.	notification of the disagreement to the enforcement and facilitative branches and the Party involved	next business day after STEP 3	
	selection of expert(s), questions to experts and procedure to be followed	a reasonable time before the hearing	
5.	request for hearing from the Party involved	<i>four weeks from <u>date of receipt</u> by Party of the notification referred to in STEP 4</i>	5
6.	written submission by the Party involved	<i>four weeks from <u>date of receipt</u> by Party of the notification referred to in STEP 4</i>	5
7.	hearing (meeting dates)	four weeks from date of receipt of the request referred to in STEP 5 or four weeks from date of receipt of the written submission referred to in STEP 6, whichever is later	9
8.	adoption of the decision on the disagreement	three weeks STEP 7 or eleven weeks from step 4, whichever is shorter	12
