



***ENFORCEMENT BRANCH***

**Sixteenth meeting**

14–18 November 2011

Bonn, Germany

**Report on the meeting**

**1. Opening of the meeting**

1. Mr. René Lefeber, vice-chairperson of the enforcement branch, declared the meeting open. He welcomed the members and alternate members of the branch who were present at the meeting and informed them that Ms. Sandea de Wet, chairperson of the branch, was unable to attend the meeting.

2. At the request of the chairperson, the secretariat provided information on participation and quorum, as well as key administrative, logistical and housekeeping arrangements. 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 one member and 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.

**2. Adoption of the agenda**

3. The branch reviewed and agreed to follow the provisional agenda as amended (CC/EB/16/2011/1/Rev.1). Upon completion of a vote by electronic means the branch adopted the agenda as revised.

**3. Organization of work**

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

- (a) First, to review and assess the plan submitted by Romania pursuant to the final decision of the enforcement branch (CC-2011-1-9/Romania/EB and CC-2011-1-9/Romania/EB/Add.1);



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- (b) Second, to consider the question of implementation with respect to Lithuania and in this context:
  - i. To receive expert advice on the report of the review of the annual submission of Lithuania submitted in 2010 (FCCC/ARR/2010/LTU, hereinafter referred to as “the 2010 ARR”), in accordance with the decision to seek expert advice (CC-2011-3-3/Lithuania/EB);
  - ii. To hold a hearing of the views of Lithuania, including any expert testimony it may wish to put forward;
  - iii. To elaborate and adopt a decision, with further expert advice and questions to Lithuania as required;
- (c) Third, to review and assess the plan submitted by Croatia pursuant to the final decision of the enforcement branch (CC-2000-1-10/Croatia/EB);
- (d) Fourth, to begin scoping out the areas on which the branch may wish to conduct a future stocktaking exercise; and
- (e) Finally, to discuss any other matters.

#### **4. Review and assessment of the plan submitted by Romania pursuant to the final decision of the enforcement branch**

5. At the request of the chairperson, the secretariat provided a summary of the proceedings since the adoption by the branch of a final decision with respect to Romania (CC-2011-1-8/Romania/EB).

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

- (a) Ms. Miriana Roman, Director, Climate Change and Sustainable Directorate;
- (b) Mr. Felix Zaharia, Counselor, Directorate for International Law and Treaties, Ministry of Foreign Affairs; and
- (c) Mr. Sorin Deaconu, National Focal Point for GHG Inventory Activities, National Agency for Environment Protection.

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

<sup>2</sup> 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.



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7. The branch considered and adopted a decision on expert advice (CC-2011-1-10/Romania/EB) in private in accordance with rule 9, paragraph 2. In accordance with section VIII, paragraph 5, and pursuant to the decision on expert advice referred to above, this part of the meeting was also attended by Mr. Simon Eggleston, Mr. Marcelo Rocha and Ms. Marina Vitullo.

8. After the elaboration of a decision held in private in accordance with rule 9, paragraph 2, and upon receipt of three additional votes by electronic means, the branch adopted a decision on the review and assessment of the plan submitted under paragraph 2 of section XV (CC-2011-1-11/Romania/EB).

9. During its deliberations, the branch commended Romania for the document entitled "Section XV(2) Plan" submitted to the branch on 2 November 2011 (CC-2011-1-9/Romania/EB; hereinafter referred to as the "plan") and progress already made. During the discussion with Romania, the branch raised several questions and provided inputs to Romania on the plan. In particular, the branch addressed: the availability of financial resources to undertake the studies referred to in the plan; the relationship between study 2 entitled "NGHGI LULUCF both under the UNFCCC and KP obligations" and study 6 with the same title and both with the objective to improve the accuracy, completeness, consistency and transparency of the land use, land-use change and forestry (LULUCF) sector; the importance of the studies to remedy non-compliance and how the results of those studies are used to strengthen the national system and are reflected in Romania's annual submissions; the expertise and status of the new staff employed by the National Environmental Protection Agency of Romania; the absence of references in the plan to the LULUCF matrix and quality management responsibilities of the inventory agency; the future sustainability and stability of the national system; and the significance of the fact that the results of some of the studies will only become fully available in 2012 or 2013 and whether such results relate to requirements of a mandatory nature. During the meeting, Romania stated that it will take into account the input by the branch and submit a second progress report by 1 February 2012.

### **5. Consideration of the question of implementation with respect to Lithuania**

10. At the request of the chairperson, the secretariat provided a summary of the proceedings relating to the question of implementation with respect to Lithuania.

11. Also at the request of the chairperson, the delegation of Lithuania informed the meeting that, in accordance with section VIII, paragraph 2, the following designated representatives of Lithuania were present at the meeting:

- (a) His Excellency, Mr. Mindaugas Butkus, Ambassador of the Republic of Lithuania to the Federal Republic of Germany;
- (b) Mr. Aleksandras Spruogis, Vice Minister, Ministry of Environment;
- (c) Ms. Stasile Znutiene, Head of the Climate Change Division, Environmental Quality Department, Ministry of Environment;



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- (d) Ms. Rasma Ramoškaitė, Third Secretary, Strategic Sectors Policy Division, Economic Security Policy Department, Ministry of Foreign Affairs;
- (e) Mr. Vitalijus Auglys, Director, Pollution Prevention Department, Ministry of Environment;
- (f) Ms. Jolanta Merkelienė, Chief Desk Officer, Climate Change and Hydrometeorology Division, Pollution Prevention Department, Ministry of Environment;
- (g) Ms. Agnė Murauskaitė, Head of Law Application Division, Law and Personal Department, Ministry of Environment;
- (h) Mr. Romas Lenkaitis, Consultant, Center for Environmental Policy;
- (i) Mr. Albertas Kasperavičius, Deputy Director, State Forestry Service;
- (j) Mr. Ričiardas Beniušis, Deputy Head, National Forestry Inventory Division, State Forestry Service; and
- (k) Mr. Peter Zaman, Legal Adviser, Clifford Chance LLP.

12. In accordance with section VIII, paragraph 5, and pursuant to a decision of the branch on expert advice (CC-2011-3-3/Lithuania/EB), this part of the meeting was also attended by Mr. Eggleston, lead reviewer for the centralized review of the annual submission of Lithuania submitted in the 2010 that took place from 20 to 25 September 2010, Mr. Rocha and Ms. Vitullo.

### **(a) Advice from experts**

13. Mr. Eggleston made a presentation and provided an overview of the 2010 centralized review. In particular, he presented the findings of the expert review team that reviewed the annual submission of Lithuania submitted in 2010 (hereinafter referred to as the “ERT”) in relation to the national system of Lithuania and on reporting of information on LULUCF activities under Article 3, paragraphs 3 and 4, of the Kyoto Protocol (hereinafter referred to as “KP-LULUCF activities”). Ms. Vitullo provided her views on the findings of the ERT contained in the 2010 ARR relating to KP-LULUCF reporting.

### **(b) Hearing**

14. At the hearing, Lithuania made a presentation and provided its views and background information based on its written submission (CC-2011-3-5/Lithuania/EB) and additional documents presented at the hearing (CC-2011-3-5/Lithuania/EB/Add.1). Lithuania presented information relating to its national system, including a description of its new legal and institutional framework; improvements relating to inventory planning, preparation and



management; measures to increase human capacity in the key institutions responsible for inventory preparation; and planned improvements for the 2012 annual submission.

15. During the hearing, the experts identified in paragraph 13 above indicated that unresolved national system problems relating to KP-LULUCF activities remain, in particular with respect to the identification of land areas subject to KP-LULUCF activities. The experts expressed the view that such identification is necessary to ascertain that the elected activities under Article 3, paragraph 4, of the Kyoto Protocol are not accounted for under activities under Article 3, paragraph 3 of the Kyoto Protocol, in accordance with paragraph 9 (c) of the Article 7 guidelines. Such identification is also necessary to ensure the accuracy of any estimates reported in relation to KP-LULUCF activities. The experts stressed that the implementation of the measures presented in the “Action Plan to improve LULUCF reporting of Lithuania” (Annex 15 to the written submission of Lithuania, CC-2011-3-5/Lithuania/EB) is necessary to resolve the question of implementation. They also indicated that only a review of an annual submission could confirm that Lithuania’s national system is able to ensure that land areas subject to KP-LULUCF activities are identifiable and KP-LULUCF estimates are accurate.

**(c) Elaboration and adoption of a decision**

16. After the elaboration of a decision held in private, in accordance with rule 9, paragraph 2, and after the receipt of three additional votes by electronic means, the enforcement branch adopted a preliminary finding (CC-2011-3-6/Lithuania/EB).

17. The branch was encouraged by the willingness and commitment shown by Lithuania to address the unresolved problems with respect to the specific and general functions of the national system and KP-LULUCF reporting. In particular, it appeared to the branch that a number of these problems have been resolved; the measures to address the remaining problems and the timetables for their implementation have been developed and submitted to the enforcement branch in the written submission; and, if implemented in accordance with these timetables, these measures can be expected to resolve these problems. However, the enforcement branch noted, *inter alia*, that pending the implementation of the measures identified by Lithuania, the national system is not operating in accordance with the guidelines for national systems. Further, the redesigned national system is yet to perform all specific functions relating to inventory planning, preparation and management to generate an annual inventory.

18. The branch applied the relevant consequences provided in section XV of the annex to decision 27/CMP.1, but noted that the findings and consequences take effect upon confirmation by a final decision of the enforcement branch.<sup>3</sup>

19. The branch agreed to meet to adopt a final decision, taking into consideration any further written submission that Lithuania may make within four weeks of receipt of the written notification of the preliminary finding. The secretariat informed the branch that arrangements had been made to hold the seventeenth meeting of the branch from 20 to 21 December 2011 in Bonn, Germany.

<sup>3</sup> See paragraphs 23–25 of the preliminary finding, CC-2011-3-6/Lithuania/EB.



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20. The branch also agreed to seek expert advice, in accordance with section VIII, paragraph 5, and rule 21, on the in-country review of Lithuania's 2011 annual submission and requested the chairperson and vice-chairperson, with the assistance of the secretariat, to develop a draft decision on expert advice for consideration by the branch.

21. The branch noted that, as in the cases of Romania and Ukraine, it had received the 2010 ARR after the deadlines established under the "Guidelines for review under Article 8 of the Kyoto Protocol" (contained in the annex to decision 22/CMP.1). The branch reiterated that the increasing trend for expert review team reports being published beyond such deadlines was creating difficulties for the enforcement branch in the discharge of its functions, in particular in relation to the scheduling of meetings and the achievement of quorum at these meetings.

### **6. Review and assessment of the plan submitted by Croatia pursuant to the final decision of the enforcement branch**

22. At the request of the chairperson, the secretariat provided a summary of the proceedings since the adoption by the branch of a final decision with respect to Croatia (CC-2009-1-8/Croatia/EB).

23. After the elaboration of a decision held in private in accordance with rule 9, paragraph 2, and upon receipt of three additional votes by electronic means, the branch adopted a decision on the review and assessment of the plan submitted under paragraph 2 of section XV (CC-2009-1-11/Croatia/EB).

24. The branch requested the chairperson and vice-chairperson to liaise with Croatia with respect to the implementation of the decision referred to in paragraph 23 above.

### **7. Stocktaking exercise**

25. The branch had an initial exchange of views on possible topics for the stocktaking exercise, which it agreed would take place in early 2012 provided that the workload and scheduling of meetings would allow for such an exercise. It requested the chairperson and vice-chairperson, with the assistance of the secretariat, to develop a list of possible issues to be addressed during the stocktaking exercise for consideration at its seventeenth meeting on the basis of the input received before and during its sixteenth meeting, with a view to agreeing on the issues for consideration at the stocktaking exercise, including their prioritization.

### **8. Other matters**

26. The branch requested the secretariat to make available to the members and alternate members of the Committee a compilation of the decisions taken by the branches of the Compliance Committee to date as well as reference materials relevant to the consideration by the branch of questions of implementation.



**9. Closure of the meeting**

27. The chairperson declared the meeting closed at 13:30 on 18 November 2011.

**10. Attendance**

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

<b>Members (in alphabetical order)</b>	<b>Alternate Members</b>
1. DE WET, Sandea Ms.	<b>AMOUGOU</b> , Joseph Armathé Mr. <sup>+</sup>
2. ESTRADA OYUELA, Raúl Mr.	GONZALEZ NORRIS, José Antonio Mr.
3. FODEKE, Victor Mr.	GOPOLANG, Balisi Justice Mr.
4. <b>LEFEBER</b> , René J M Mr.	LOIBL, Gerhard Mr.
5. <b>MICHEL</b> , Stephan Mr.*	VIK, Vidar Mr.
6. <b>OBERTHÜR</b> , Sebastian Mr.	KUOKKANEN, Tuomas Mr.
7. <b>RAJABOV</b> , Ilhomjon Mr.	<b>NISHAT</b> , Ainun Mr.
8. <b>SHAMANOV</b> , Oleg Mr.	RUDZKO, Iryna Ms.
9. <b>SHAREEF</b> , Mohamed Mr.	MACE, Mary Jane Ms.
10. SU, Wei Mr.	ALAM, Mohammad Mr.

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<sup>+</sup> Served as member.

\* Mr. Michel was absent on the morning of 14 November 2011.