



**Possible amendments to the rules of procedure:
Consideration by the enforcement branch of disagreements
whether to apply adjustments to inventories under
Article 5, paragraph 2, of the Kyoto Protocol**

Note by the chairperson and vice-chairperson

I. Introduction

1. At its twentieth meeting, the enforcement branch considered a disagreement whether to apply adjustments to inventories under Article 5, paragraph 2, of the Kyoto Protocol (hereinafter referred to as “disagreements whether to apply adjustments”) that had arisen between Slovakia and the expert review team (ERT) that had prepared the report of the review of the annual submission of Slovakia submitted in 2011. At the same meeting, the branch discussed its approach to considering disagreements whether to apply adjustments.
2. At its twenty-first meeting, the branch had further discussions on the approach to considering disagreements whether to apply adjustments. The branch requested the chairperson and vice-chairperson, with the assistance of the secretariat, to develop draft working arrangements relating to the consideration by the branch of such disagreements.
3. At its twenty-second meeting, 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 to the report on the twenty-second meeting of the enforcement branch, document CC/EB/22/2013/3).
4. Drawing on comments received by 31 May 2013 from members and alternate members of the branch on the revised draft of the working arrangements referred to in paragraph 3 above, the chairperson and vice-chairperson, with the assistance of the secretariat, have further revised the text of the draft working arrangements. In keeping with the agreement reached by the branch at its twenty-second meeting, the text contained in the Annex to this note is presented in the form of proposed amendments to the “Rules of procedure of the Compliance Committee of the Kyoto Protocol”.¹
5. Section II of this note sets out the possible amendments to the rules of procedure with some explanatory notes. The text of these possible amendments, without the accompanying explanations, is presented in the Annex to this note.
6. The branch may wish to consider the revised text contained in the Annex to this note, with a view to forwarding the proposed amendments to the rules of procedure to the plenary.

¹ 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.

II. Draft text for possible amendments to the rules of procedure relating to the consideration by the enforcement branch of disagreements whether to apply adjustments to inventories under Article 5, paragraph 2, of the Kyoto Protocol

A. Background

7. The proposed amendments to the rules of procedure contained in the Annex to this note set out the general approach of the branch in considering disagreements whether to apply adjustments. The approach and the steps outlined in the proposed amendments are derived from the provisions of sections VII to X of the “Procedures and mechanisms relating to compliance under the Kyoto Protocol”,² specifically taking into account the 12-week time frame indicated in section X, paragraph 5, which provides that:

[i]n the event of a disagreement whether to apply adjustments to inventories under Article 5, paragraph 2, of the Protocol, or whether to apply a correction to the compilation and accounting database for the accounting of assigned amounts under Article 7, paragraph 4, of the Protocol, the enforcement branch shall decide on the matter within twelve weeks of being informed in writing of such disagreement. In doing so, the enforcement branch may seek expert advice.

8. The approach and steps indicated in the proposed amendments also draw on existing provisions of the rules of procedure, in particular, those contained in rules 17, 18, 20 (paragraphs 2 and 3), 21, 22 and 25 (paragraph 1 and 2).

9. These additional rules would supplement those currently found under rule 2 and part 2 of the rules of procedure relating to procedures of the branches, including section 12 on procedures for the enforcement branch.

10. There are two ways to incorporate relevant provisions of the procedures and mechanisms and the rules of procedure into the text of the proposed amendments. One option is to cross reference these provisions and to indicate that they will apply, *mutatis mutandis*,³ to the new rule on disagreements whether to apply adjustments (see, for instance, rule 25 ter, paragraphs 3 and 7, below). This approach was used for the draft working arrangements relating to a disagreement whether to apply adjustments that were annexed to the report on the twenty-second meeting of the branch. An alternative is to incorporate all or some of these provisions, *mutatis mutandis*, into the text of the proposed amendments (see, for instance, rule 25 ter, paragraphs 2 bis, 3 bis to 3 septies, 4 bis to 4 novies, and 6).

11. The text set out below presents both approaches, explaining, through footnotes, provisions of the procedures and mechanisms and the rules of procedure that form the basis of the proposed amendments and illustrating, through text that is struck out, which cross references would be deleted if the approach of incorporating relevant provisions is used by the branch. Pending a decision on the choice whether to incorporate all or some of the provisions, *mutatis mutandis*, into the text, the paragraphs have not been renumbered.

B. Definition of the term “Party involved”

12. Rule 2, paragraph (i), of the rules of procedure defines the term “Party concerned” as “a Party in respect of which a question of implementation is raised.” The term “Party

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

³ Meaning, “with the necessary changes”.

concerned” is also used in the “Good practice guidance and adjustments under Article 5, paragraph 2, of the Kyoto Protocol” (decision 20/CMP.1) to refer to a Party included in Annex I with respect to which an adjustment procedure has been initiated by an ERT (see paragraph 5). On the other hand, section V, paragraph 5 (a), provides that the enforcement branch shall determine whether to apply “[a]djustments to inventories under Article 5, paragraph 2, of the Protocol, in the event of a disagreement between an expert review team under Article 8 of the Protocol and the Party involved.”

13. Since the definition in rule 2, paragraph (i), refers to a question of implementation, the branch may wish to propose the addition of the following definition under rule 2, to clarify how a Party that disagrees with the adjustments calculated and recommended by an ERT should be referred to:

(i bis) “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 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;

14. Even if a question of implementation has also been raised with respect to the Party involved, a separate decision relating to the disagreement whether to apply adjustments would be adopted by the enforcement branch. The term “Party involved” would only be used with respect to the decision relating to the disagreement, whereas the term “Party concerned” would be used with respect to the decision relating to the question of implementation.

C. Additional rules under the procedures for the enforcement branch

15. Part 2 of the rules of procedure contains the procedures for the branches. Procedures for the enforcement branch are found in section 12. Rule 25 pertains to a hearing and the entitlement of a Party concerned to designate one or more persons to represent it during the hearing, and rule 25 bis, which was added to the rules of procedure through decision 4/CMP.4, relates to the plan submitted by a Party concerned in accordance with a final decision of the branch. Hence, rule 25 bis is not relevant in the context of a disagreement whether to apply adjustments.

16. The branch may wish to propose paragraphs 1 to 8 below as a new rule 25 ter. Further explanations, as necessary, are provided for specific paragraphs.

1. Notification

17. Section X, paragraph 5, provides that the enforcement branch shall decide on the matter of the disagreement “within twelve weeks of being informed in writing of such disagreement”. Proposed rule 25 ter, paragraph 1, seeks to clarify who the secretariat should notify about the disagreement whether to apply adjustments, what information should be provided, and when such notification should be given. The notification to the enforcement branch that is referred to in proposed rule 25 ter, paragraph 1 (a) below, is intended to constitute the information in writing that would start the twelve-week period referred to in section X, paragraph 5. Proposed rule 25 ter, paragraph 1, makes no mention of an allocation by the bureau, since, in accordance with section VII, paragraph 1, only questions of implementation are allocated by the bureau.

1. Within seven days from having received, through the secretariat, a report of a report of an expert review team under Article 8 of the Kyoto Protocol in accordance with section VI, paragraph 1 or 3, 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.*

2. Applicable time frames and procedural steps

18. Apart from the twelve-week time frame set out in section X, paragraph 5, no other time frames in the procedures and mechanisms and the rules of procedure apply to the consideration of a disagreement whether to apply adjustments. Moreover, the only procedural steps that are identified by section X, paragraph 5 are:

- (a) Informing the enforcement branch in writing of the disagreement whether to apply adjustments;*
- (b) Deciding on the matter of the disagreement whether to apply adjustments; and*
- (c) The possibility of seeking expert advice.*

19. Proposed rule 25 ter, paragraphs 2 to 8, outline the procedural steps and time frames that would apply to the consideration by the enforcement branch of a disagreement whether to apply adjustments. The proposed new rule 25 ter would apply both to a standalone disagreement as well as to a disagreement that is contained in an ERT report that also identifies a question of implementation to which the disagreement relates.⁴ The proposed rule does not contemplate a preliminary examination of the disagreement. The responsibility to take a decision on the matter of the disagreement has been given to the enforcement branch (see paragraph 10 of decision 20/CMP.1 and section X, paragraph 5) and deciding not to proceed with the consideration of a disagreement would result in no other body being able to resolve the disagreement.

2. The Party involved may make a written submission within four weeks from the date of receipt of the notification under paragraph 1 (c) above, including rebuttal of information submitted to the enforcement branch.

2 bis.⁵ The Party involved shall be entitled to designate one or more persons to represent it during the consideration of the disagreement referred to in paragraph 1 above by the enforcement branch. This Party shall not be present during the elaboration and adoption of a decision of the branch.

3. If so requested in writing by the Party involved within four weeks from the date of receipt of the notification under paragraph 1 (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 2 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

⁴ If a question of implementation identified in an ERT report that also contains a disagreement whether to apply adjustments, the relevant provisions of the procedures and mechanisms and the rules of procedure would apply to the consideration of such a question.

⁵ This text is based on section VIII, paragraph 2.

*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.~~*⁶

*3 bis.*⁷ *In its request for a hearing, the Party involved may identify:*

- (a) The issues that the Party proposes to raise and any documents that it intends to discuss during the hearing;*
- (b) Any individuals whose expert testimony or opinion it will present at the hearing.*

*3 ter.*⁸ *The Party involved, when choosing individuals to represent it during the hearing, should refrain from nominating individuals who were members or alternate members of the Committee in the two years preceding the date of the submission.*

*3 quater.*⁹ *The enforcement branch may put questions to and seek clarification from the Party involved, either in the course of the hearing referred to in paragraph 3 above or at any time in writing, and the Party involved shall provide a response within six weeks thereafter.*

*3 quinquies.*¹⁰ *The enforcement branch shall base its deliberations on any relevant information provided by:*

- (a) Reports of the expert review teams under Article 8 of the Protocol;*
- (b) The Party involved;*
- (c) Reports of the Conference of the Parties, the Conference of the Parties serving as the meeting of the Parties to the Protocol, and the subsidiary bodies under the Convention and the Protocol; and*
- (d) The facilitative branch.*

*3 sexes.*¹¹ *Following the notification of the disagreement referred to in paragraph 1 above, 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. The secretariat shall forthwith notify members and alternate members of the enforcement branch of the submission of such information and send it to them. The secretariat shall also notify members and alternate members of the facilitative branch of the submission of such information.*

*3 septies.*¹² *Any information considered by the enforcement branch shall be made available to the Party involved. The branch shall indicate to the Party involved which parts of this information it has considered. The Party involved shall be given an opportunity to comment in writing on such information. Subject to any rules relating to confidentiality, the information considered by the branch shall also be made available to the public, unless the branch decides, of its own accord or at the request of the Party*

⁶ The text that is struck out would be deleted if paragraphs 3 bis and 3 ter below are included as part of the proposed amendments.

⁷ This text is based on rule 25, paragraph 1.

⁸ This text is based on rule 25, paragraph 2.

⁹ This text is based on section IX, paragraph 3.

¹⁰ This text is based on section VIII, paragraph 3.

¹¹ This text was paragraph 7 in the draft working arrangements annexed to the report on the twenty-second meeting of the enforcement branch, and is based on rule 20.

¹² This text is based on section VIII, paragraph 6.

involved, that information provided by the Party involved shall not be made available to the public until its decision has become final.

4. The enforcement branch shall adopt its decision on the disagreement referred to in paragraph 1 above within eleven weeks of the notification under paragraph 1 (c) above or within three weeks of a hearing under paragraph 3, whichever is the shorter.

4 bis.¹³ Decisions shall include conclusions and reasons. The enforcement branch shall forthwith, through the secretariat, notify the Party involved in writing of its decision, including conclusions and reasons therefor. The secretariat shall make final decisions available to other Parties and to the public.

4 ter.¹⁴ The Party involved shall be given an opportunity to comment in writing on any decision of the enforcement branch.

4 quater.¹⁵ Comments and written submissions by the Party involved should include:

- (a) A statement of the position of the Party involved on the information, decision or disagreement referred to in in paragraph 1 above under consideration, including the grounds therefor;*
- (b) An identification of any information provided by the Party that it requests not to be made available to the public in accordance with paragraph 3 septies above;*
- (c) A list of all documents annexed to the submission or comment.*

4 quinquies.¹⁶ Any submission or comment under this rule shall be signed by the agent of the Party and be delivered to the secretariat in hard copy and by electronic means.

4 sexies.¹⁷ Any relevant documents in support of the submission or comment shall be annexed to it.

4 septies.¹⁸ If the enforcement branch decides to seek expert advice, it shall:

- (a) Define the question on which expert opinion is sought;*
- (b) Identify the experts to be consulted;*
- (c) Lay down the procedures to be followed.*

4 octies.¹⁹ The decision referred to in paragraph 4 above shall contain:

- (a) The name of the Party involved;*
- (b) A statement identifying the disagreement referred to in paragraph 1 above that is addressed;*
- (c) The provisions of the Kyoto Protocol and decision 27/CMP.1 and other relevant decisions of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol that form the basis of the decision;*

¹³ This text is based on section VIII, paragraph 7.

¹⁴ This text is based on section VIII, paragraph 8.

¹⁵ This text is based on rule 17.

¹⁶ This text is based on rule 18, paragraph 1.

¹⁷ This text is based on rule 18, paragraph 2.

¹⁸ This text is based on rule 21.

¹⁹ This text is based on rule 22, paragraph 21.

- (d) *A description of the information considered in the deliberations, including a confirmation that the Party involved was given an opportunity to comment in writing on all information considered;*
- (e) *A summary of the proceedings;*
- (f) *The substantive decision on the disagreement referred to in paragraph 1 above;*
- (g) *Conclusions and reasons for the decision;*
- (h) *The place and date of the decision;*
- (i) *The names of the members who participated in the consideration of the disagreement referred to in paragraph 1 above as well as the elaboration and adoption of the decision.*

4 novies.²⁰ Comments in writing on the decision referred to in paragraph 4 above submitted within 45 days from the receipt of that decision by the Party involved shall be circulated by the secretariat to the members and alternate members of the relevant branch and shall be included in the Committee's annual report to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.

5. The Party involved may, at any time before the adoption of the decision referred to in paragraph 4 above, accept, at the hearing referred to in paragraph 3 above or in writing, the adjustments as calculated and recommended by the expert review team referred to in paragraph 1 above.²¹ Such acceptance shall result in the resolution of the disagreement referred to in paragraph 1 above and shall be noted by the enforcement branch in its decision on the matter.

6.²² If the Party involved so requests, the disagreement referred to in paragraph 1 above, any notification under paragraph 1 above; any information under paragraph 3 quinquies above; and any decision of the enforcement branch, including conclusions and reasons therefor, shall be translated into one of the six official languages of the United Nations.

~~7. The provisions of section VIII, paragraphs 2 to 9,²³ as well as rules 17,²⁴ 18,²⁵ 20, paragraphs 2 and 3,²⁶ 21²⁷ and 22,²⁸ shall apply mutatis mutandis.~~

²⁰ This text is based on rule 22, paragraph 2.

²¹ It requires further consideration whether this provision could be applied, *mutatis mutandis*, to an ERT.

²² This text is based on section VIII, paragraph 9.

²³ Rule 25 ter, paragraphs 2 bis, 3 quinquies, 3 septies, 4 bis, 4 ter, and 6, are based on section VIII, paragraphs 2, 3, 6, 7, 8, and 9, respectively. Rule 25 ter, paragraph 3 sexies, is based in part on section VIII, paragraph 4. If these paragraphs are included in the proposed amendments, then the reference to section VIII, paragraphs 2, 3, and 6 to 9, in this paragraph may be deleted. Section X, paragraph 5, indicates that in deciding on the matter of a disagreement whether to apply adjustments to inventories under Article 5, paragraph 2, of the Kyoto Protocol, the enforcement branch may seek expert advice. A cross reference to section VIII, paragraph 5, in this paragraph may, therefore, be unnecessary.

²⁴ Since rule 25 ter, paragraph 4 quater, is based on rule 17, inclusion of such a paragraph in the proposed amendments would make a cross reference to rule 17 unnecessary.

²⁵ Since rule 25 ter, paragraph 4 quinquies and sexies, are based on rule 18, inclusion of such paragraphs in the proposed amendments would make a cross reference to rule 18 unnecessary.

²⁶ If rule 25 ter, paragraph 3 quinquies is adopted in its entirety, the reference to rule 20, paragraphs 2 and 3, can be deleted, as they are included as the second and third sentences of rule 25 ter, paragraph 3 quinquies.

²⁷ Since rule 25 ter, paragraph 4 septies, is based on rule 21, inclusion of such a paragraph in the proposed amendments would make a cross reference to rule 21 unnecessary.

§7. If the report referred to in paragraph 1 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 in this rule 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 referred to in paragraph 1 above no later than the adoption of the final decision on the question of implementation in accordance with section X, paragraph 1 (f).

²⁸ Since rule 25 ter, paragraphs 4 octies and novies, are based on rule 22, paragraphs 1 and 2, respectively, inclusion of such paragraphs in the proposed amendments would make a cross reference to rule 22, paragraphs 1 and 2, unnecessary.



Annex

Proposed draft text for amendments to the rules of procedure

Consideration by the enforcement branch of disagreements whether to apply adjustments to inventories under Article 5, paragraph 2, of the Kyoto Protocol pursuant to section X, paragraph 5 of the “Procedures and mechanisms relating to compliance under the Kyoto Protocol”

The “Rules of procedure of the Compliance Committee of the Kyoto Protocol” are amended as follows:

A. New rule 2, paragraph (i bis)

The following text is inserted following rule 2, paragraph (i):

(i bis) “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 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;

B. New rule 25 ter

The following text is inserted following rule 25 bis:

Rule 25 ter

1. Within seven days from having received, through the secretariat, a report of a report of an expert review team under Article 8 of the Kyoto Protocol in accordance with section VI, paragraph 1 or 3, 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.

2. The Party involved may make a written submission within four weeks from the date of receipt of the notification under paragraph 1 (c) above, including rebuttal of information submitted to the enforcement branch.

2 bis.¹ The Party involved shall be entitled to designate one or more persons to represent it during the consideration of the disagreement referred to in paragraph 1 above by the enforcement branch. This Party shall not be present during the elaboration and adoption of a decision of the branch.

3. If so requested in writing by the Party involved within four weeks from the date of receipt of the notification under paragraph 1 (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 2 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.~~²

3 bis.³ In its request for a hearing, the Party involved may identify:

- (a) The issues that the Party proposes to raise and any documents that it intends to discuss during the hearing;
- (b) Any individuals whose expert testimony or opinion it will present at the hearing.

3 ter.⁴ The Party involved, when choosing individuals to represent it during the hearing, should refrain from nominating individuals who were members or alternate members of the Committee in the two years preceding the date of the submission.

3 quater.⁵ The enforcement branch may put questions to and seek clarification from the Party involved, either in the course of the hearing referred to in paragraph 3 above or at any time in writing, and the Party involved shall provide a response within six weeks thereafter.

3 quinquies.⁶ The enforcement branch shall base its deliberations on any relevant information provided by:

- (a) Reports of the expert review teams under Article 8 of the Protocol;
- (b) The Party involved;
- (c) Reports of the Conference of the Parties, the Conference of the Parties serving as the meeting of the Parties to the Protocol, and the subsidiary bodies under the Convention and the Protocol; and
- (d) The facilitative branch.

3 sexes.⁷ Following the notification of the disagreement referred to in paragraph 1 above, 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. The secretariat shall forthwith notify

¹ This text is based on section VIII, paragraph 2.

² The text that is struck out would be deleted if paragraphs 3 bis and 3 ter below are included as part of the proposed amendments.

³ This text is based on rule 25, paragraph 1.

⁴ This text is based on rule 25, paragraph 2.

⁵ This text is based on section IX, paragraph 3.

⁶ This text is based on section VIII, paragraph 3.

⁷ This text was paragraph 7 in the draft working arrangements annexed to the report on the twenty-second meeting of the enforcement branch, and is based on rule 20.

members and alternate members of the enforcement branch of the submission of such information and send it to them. The secretariat shall also notify members and alternate members of the facilitative branch of the submission of such information.

3 septies.⁸ Any information considered by the enforcement branch shall be made available to the Party involved. The branch shall indicate to the Party involved which parts of this information it has considered. The Party involved shall be given an opportunity to comment in writing on such information. Subject to any rules relating to confidentiality, the information considered by the branch shall also be made available to the public, unless the branch decides, of its own accord or at the request of the Party involved, that information provided by the Party involved shall not be made available to the public until its decision has become final.

4. The enforcement branch shall adopt its decision on the disagreement referred to in paragraph 1 above within eleven weeks of the notification under paragraph 1 (c) above or within three weeks of a hearing under paragraph 3, whichever is the shorter.

4 bis.⁹ Decisions shall include conclusions and reasons. The enforcement branch shall forthwith, through the secretariat, notify the Party involved in writing of its decision, including conclusions and reasons therefor. The secretariat shall make final decisions available to other Parties and to the public.

4 ter.¹⁰ The Party involved shall be given an opportunity to comment in writing on any decision of the enforcement branch.

4 quater.¹¹ Comments and written submissions by the Party involved should include:

- (a) A statement of the position of the Party involved on the information, decision or disagreement referred to in in paragraph 1 above under consideration, including the grounds therefor;
- (b) An identification of any information provided by the Party that it requests not to be made available to the public in accordance with paragraph 3 septies above;
- (c) A list of all documents annexed to the submission or comment.

4 quinquies.¹² Any submission or comment under this rule shall be signed by the agent of the Party and be delivered to the secretariat in hard copy and by electronic means.

4 sexes.¹³ Any relevant documents in support of the submission or comment shall be annexed to it.

4 septies.¹⁴ If the enforcement branch decides to seek expert advice, it shall:

- (a) Define the question on which expert opinion is sought;
- (b) Identify the experts to be consulted;
- (c) Lay down the procedures to be followed.

⁸ This text is based on section VIII, paragraph 6.

⁹ This text is based on section VIII, paragraph 7.

¹⁰ This text is based on section VIII, paragraph 8.

¹¹ This text is based on rule 17.

¹² This text is based on rule 18, paragraph 1.

¹³ This text is based on rule 18, paragraph 2.

¹⁴ This text is based on rule 21.

4 octies.¹⁵ The decision referred to in paragraph 4 above shall contain:

- (a) The name of the Party involved;
- (b) A statement identifying the disagreement referred to in paragraph 1 above that is addressed;
- (c) The provisions of the Kyoto Protocol and decision 27/CMP.1 and other relevant decisions of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol that form the basis of the decision;
- (d) A description of the information considered in the deliberations, including a confirmation that the Party involved was given an opportunity to comment in writing on all information considered;
- (e) A summary of the proceedings;
- (f) The substantive decision on the disagreement referred to in paragraph 1 above;
- (g) Conclusions and reasons for the decision;
- (h) The place and date of the decision;
- (i) The names of the members who participated in the consideration of the disagreement referred to in paragraph 1 above as well as the elaboration and adoption of the decision.

4 novies.¹⁶ Comments in writing on the decision referred to in paragraph 4 above submitted within 45 days from the receipt of that decision by the Party involved shall be circulated by the secretariat to the members and alternate members of the relevant branch and shall be included in the Committee's annual report to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.

5. The Party involved may, at any time before the adoption of the decision referred to in paragraph 4 above, accept, at the hearing referred to in paragraph 3 above or in writing, the adjustments as calculated and recommended by the expert review team referred to in paragraph 1 above.¹⁷ Such acceptance shall result in the resolution of the disagreement referred to in paragraph 1 above and shall be noted by the enforcement branch in its decision on the matter.

6.¹⁸ If the Party involved so requests, the disagreement referred to in paragraph 1 above, any notification under paragraph 1 above; any information under paragraph 3 quinquies above; and any decision of the enforcement branch, including conclusions and reasons therefor, shall be translated into one of the six official languages of the United Nations.

~~7. The provisions of section VIII, paragraphs 2 to 9,¹⁹ as well as rules 17,²⁰ 18,²¹ 20, paragraphs 2 and 3,²² 21²³ and 22,²⁴ shall apply mutatis mutandis.~~

¹⁵ This text is based on rule 22, paragraph 21.

¹⁶ This text is based on rule 22, paragraph 2.

¹⁷ It requires further consideration whether this provision could be applied, *mutatis mutandis*, to an ERT.

¹⁸ This text is based on section VIII, paragraph 9.

¹⁹ Rule 25 ter, paragraphs 2 bis, 3 quinquies, 3 septies, 4 bis, 4 ter, and 6, are based on section VIII, paragraphs 2, 3, 6, 7, 8, and 9, respectively. Rule 25 ter, paragraph 3 sexies, is based in part on section VIII, paragraph 4. If these paragraphs are included in the proposed amendments, then the reference to section VIII, paragraphs 2, 3, and 6 to 9, in this paragraph may be deleted. Section X, paragraph 5, indicates that in deciding on the matter of a disagreement whether to apply adjustments to inventories under Article 5, paragraph 2, of the Kyoto Protocol, the enforcement branch may seek expert advice. A cross reference to section VIII, paragraph 5, in this paragraph may, therefore, be unnecessary.

§7. If the report referred to in paragraph 1 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 in this rule 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 referred to in paragraph 1 above no later than the adoption of the final decision on the question of implementation in accordance with section X, paragraph 1 (f).

- - - - -

²⁰ Since rule 25 ter, paragraph 4 quater, is based on rule 17, inclusion of such a paragraph in the proposed amendments would make a cross reference to rule 17 unnecessary.

²¹ Since rule 25 ter, paragraph 4 quinquies and sexies, are based on rule 18, inclusion of such paragraphs in the proposed amendments would make a cross reference to rule 18 unnecessary.

²² If rule 25 ter, paragraph 3 quinquies is adopted in its entirety, the reference to rule 20, paragraphs 2 and 3, can be deleted, as they are included as the second and third sentences of rule 25 ter, paragraph 3 quinquies.

²³ Since rule 25 ter, paragraph 4 septies, is based on rule 21, inclusion of such a paragraph in the proposed amendments would make a cross reference to rule 21 unnecessary.

²⁴ Since rule 25 ter, paragraphs 4 octies and novies, are based on rule 22, paragraphs 1 and 2, respectively, inclusion of such paragraphs in the proposed amendments would make a cross reference to rule 22, paragraphs 1 and 2, unnecessary.