



***ENFORCEMENT BRANCH***

**Twenty-third meeting**

3–4 July 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 10:15.
2. At the request of the chairperson, the secretariat provided information on participation and quorum. The secretariat informed the branch that the meeting was being webcast live on the Internet. The secretariat informed the meeting that due to last minute cancellations on the part of two members and one alternate member, 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 serious concern at the repeated failure to meet the quorum requirements at its meetings.

**2. Adoption of the agenda**

4. The branch reviewed and agreed to follow the provisional agenda (CC/EB/23/2013/1). 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:
  - (a) First, to discuss the possible amendments to the “Rules of procedure of the Compliance Committee of the Kyoto Protocol”<sup>1</sup> with respect to consideration by the enforcement branch of disagreements whether to apply adjustments to inventories under Article 5, paragraph 2, of the Kyoto Protocol, as contained in document CC/EB/23/2013/2;

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<sup>1</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.



- (b) Second, to take up other matters, including, as necessary, the updated list of issues that the branch had considered during its last stocktaking exercise; and
- (c) Third, to consider the questions of implementation with respect to Slovakia.

#### **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-second 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”<sup>2</sup> and rule 25, paragraph 3, of the rules of procedure, the following designated representatives of Slovakia were present at the meeting:

- (a) Ms. Helena Princová, Head 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, NIS Coordinator, Department of Emissions and Air Quality Monitoring, Slovak Hydrometeorological Institute.

8. In accordance with section VIII, paragraph 5, and rule 21, and pursuant to the decision on expert advice that was adopted by the branch on 19 June 2013 (CC-2012-1-14/Slovakia/EB), the meeting was also attended by Ms. Karin Kindbom (Sweden), one of the two lead reviewers of the expert review team (ERT) that prepared the report of the review of the annual submission of Slovakia submitted in 2012 (Slovakia’s 2012 ARR), and Mr. Tinus Pulles (the Netherlands), one of the two lead reviewers of the ERT that prepared Slovakia’s 2011 ARR. Mr. Dario Gomez (Argentina), the second lead reviewer of the ERT that prepared Slovakia’s 2012 ARR, also attended this part of the meeting, via a video link established through the use of online video conferencing technology.

9. 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 “Measures to improve specific functions of the National Inventory System in Slovakia”. 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), two progress reports (CC-2012-1-10/Slovakia/EB and 2012-1-13/Slovakia/EB), as well as Slovakia’s 2012 ARR (FCCC/ARR/2012/SVK) have demonstrated that its non-compliance has been remedied.

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<sup>2</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.



10. After the elaboration of a decision during a meeting held in private in accordance with rule 9, paragraph 2, and upon receipt of four additional votes by electronic means, the branch adopted a decision under section X, paragraph 2, (CC-2012-1-15/Slovakia/EB) that there no longer continues to be a question of implementation with respect to Slovakia.

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

11. The branch considered the document entitled “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” (CC/EB/23/2013/2), prepared by the chairperson and vice-chairperson with the assistance of the secretariat following the initial discussion by the branch at its twenty-second meeting and subsequent comments received from members and alternate members. On the basis of an initial round of discussions on the document, the chairperson prepared a revised draft for further consideration by the branch.

12. Following the consideration of the revised draft, and upon receipt of four additional votes by electronic means, the branch agreed to forward the proposed draft amendments to the rules of procedure, as contained in the Annex to this report, along with an explanatory note to be prepared by the chairperson and vice-chairperson of the branch, to the plenary of the Compliance Committee for consideration at its next session.

**6. Other matters**

13. The branch determined that it would not revisit the list of stocktaking issues annexed to the provisional agenda and annotations for its twenty-third meeting and defer it to a future meeting for further consideration.<sup>3</sup>

14. The secretariat reported on the discussions held in the course of the thirteenth meeting of the facilitative branch on the matter of the proposed working arrangement on electronic decision-making and the concerns raised by that branch in this regard, as reflected in paragraph 29 of the Annex to the provisional agenda.<sup>4</sup> The enforcement branch considered the concerns raised by the facilitative branch and concluded that these concerns had merit. The branch also considered examples of other electronic decision-making procedures found in the rules of procedure of other bodies as an alternative to the proposed working arrangement, but did not wish to pursue such alternatives at this time.<sup>5</sup> The branch noted the conclusion of the plenary that in the absence of a working arrangement on electronic decision-making, the enforcement branch would continue to follow its practice of requiring a vote for decisions taken by electronic means.<sup>6</sup> In the absence of quorum, the branch indicated, on the basis of the discussion it had, that it does not see the need to pursue its proposal for a new working

<sup>3</sup> CC/EB/23/2013/1.

<sup>4</sup> CC/EB/23/2013/1.

<sup>5</sup> The Guidance Document of the Compliance Committee under the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters ([http://www.unece.org/fileadmin/DAM/env/pp/compliance/CC\\_GuidanceDocument.pdf](http://www.unece.org/fileadmin/DAM/env/pp/compliance/CC_GuidanceDocument.pdf)) and the Rules of Procedure of the Council of the European Union (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2009D0937:20130101:EN:PDF>).

<sup>6</sup> See paragraph 10 of the report on the eleventh meeting of the plenary, CC/11/2012/4.



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arrangement on electronic decision-making and suggested that this be brought to the attention of the plenary.

15. The chairperson drew the attention of the enforcement branch to the suggestion by one of its members that the branch may wish to consider the situation potentially arising from the withdrawal by Canada from the Kyoto Protocol, in particular in light of Article 70 of the Vienna Convention on the Law of Treaties. The enforcement branch discussed whether or not to consider this matter and several members expressed their view that it was not within the mandate of the branch. The chairperson concluded that there was no consensus for the matter to be considered by the enforcement branch and indicated that this conclusion was without prejudice to the question whether the matter was within the respective mandates of the plenary and the facilitative branch.

16. The chairperson noted that with the enforcement branch having concluded the consideration of all the matters brought before it, there was no need to hold the meeting of the branch originally scheduled for September 2013. He reminded the members and alternate members, however, that a meeting of the plenary of the Compliance Committee will be held from 17 to 18 September 2013.

### 7. Closure of the meeting

17. The meeting was declared closed at 16:33 on 4 July 2013.

### 8. Attendance

18. 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.	AMOUGOU, Joseph Armathé Mr.
2. ESTRADA OYUELA, Raúl Mr.	GONZALEZ NORRIS, José Antonio Mr.
3. <b>FODEKE</b> , Victor Mr.	GOPOLANG, Balisi Justice Mr.
4. HAYNES, Rueanna Ms.	<b>MARINO</b> , Sebastian Mr.
5. <b>KODJABASHEV</b> , Alexander Mr.	<b>SHAMANOV</b> , Oleg Mr.
6. <b>LEFEBER</b> , René J M Mr.	PALLEMAERTS, Marc Mr.
7. <b>LOIBL</b> , Gerhard Mr.	RUDZKO, Iryna Ms.
8. NISHAT, Ainun Mr.	<i>Vacant</i> <sup>‡</sup>
9. <b>OBERTHÜR</b> , Sebastian Mr.	KUOKKANEN, Tuomas Mr.
10. SU, Wei Mr.	ALAM, Mohammad Mr.

<sup>‡</sup> Mr. Mirza Salman Babar Beg resigned.



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”<sup>1</sup>**

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

A. Amendment to rule 2

In rule 2, after paragraph (i), the following text is inserted:

(i bis) “Party involved” means a Party that disagrees with adjustments to its 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” contained in the annex to decision 22/CMP.1;

B. Amendment to section 12

In section 12, after rule 25 bis, the following text is inserted:

**Rule 25 ter**

1. Where there is a disagreement whether to apply adjustments to inventories under Article 5, paragraph 2, of the Kyoto Protocol under section X, paragraph 5, this rule shall apply. In addition, the other relevant rules and the other relevant provisions contained in the annex to decision 27/CMP.1 shall be applied *mutatis mutandis* as appropriate.

2.<sup>2</sup> Within seven days from having received, through the secretariat, 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;

<sup>1</sup> Footnotes in this annex are aimed at facilitating the consideration of the text by the plenary of the Compliance Committee and are not intended for inclusion in any final version of the amendments.

<sup>2</sup> This text is based on section VII, paragraph 4, and rule 19.



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(c) The Party involved that the disagreement will be considered by the enforcement branch.

3.<sup>3</sup> The Party involved may make a written submission within four weeks from the date of receipt of the notification under paragraph 2 (c) above, including rebuttal of information submitted to the enforcement branch.

4.<sup>4</sup> If so requested in writing by the Party involved within four weeks from the date of receipt of the notification under 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.

5.<sup>5</sup> The enforcement branch shall adopt its decision on the disagreement referred to in paragraph 2 above within eleven weeks of the notification under paragraph 2 (c) above or within three weeks of a hearing under paragraph 4 above, 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 expert review team referred to in paragraph 2 above. Such acceptance shall result in the resolution of the disagreement referred to in paragraph 2 above and shall be noted by the enforcement branch in its decision on the matter.

7. If the report 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 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 2 above no later than the adoption of the final decision on the question of implementation in accordance with section X, paragraph 1 (f).

8.<sup>6</sup> The period of time stipulated in section IX, paragraph 3, shall apply only if, in the opinion of the branch, it does not interfere with the adoption of the decision in accordance with paragraph 5 above.

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<sup>3</sup> This text is based on section IX, paragraph 1.

<sup>4</sup> This text is based on section IX, paragraph 2.

<sup>5</sup> This text is based on section X, paragraph 5.

<sup>6</sup> This text is based on section X, paragraph 1(g).