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METHODOLOGICAL ISSUES

GUIDELINES UNDER ARTICLES 5, 7 AND 8 OF THE KYOTO PROTOCOL

Views from Parties on the expedited procedure for the review for reinstatement of eligibility of a Party included in Annex I to the Convention to use the mechanisms established under Articles 6, 12 and 17 of the Kyoto Protocol

Note by the secretariat

1. The Conference of the Parties (COP), in its decision 23/CP.7, decided that there shall be an expedited procedure for the review under Article 8 of the Kyoto Protocol for reinstatement of eligibility of a Party included in Annex I to the Convention to use the mechanisms established under Articles 6, 12 and 17 of the Kyoto Protocol. It also recognized the elements of the expedited procedure for the review for reinstatement of eligibility to use the mechanisms included in appendix II to its decision 23/CP.7 (FCCC/CP/2001/13/Add.3). The COP requested the Subsidiary Body for Scientific and Technological Advice to consider this issue at its sixteenth session with a view to recommending a decision to the COP at its eighth session.
2. The COP, by the same decision, requested Parties to submit their views on the issues mentioned in paragraph 1 above, by 15 March 2002.
3. The secretariat has received five submissions,* including one from Spain on behalf of the European Community and its member States and Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia and Slovenia. In accordance with the procedure for miscellaneous documents, these submissions are reproduced in the language in which they were received and without formal editing.

* These submissions have been electronically imported in order to make them available on electronic systems, including the World Wide Web. The secretariat has made every effort to ensure the correct reproduction of the texts as submitted.

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¹ This submission substitutes a similar one sent by Spain on behalf of the European Community and its member States, received on 15 March 2002.

PAPER NO 1: CHINA

**on the Expedited Procedures for Reinstatement of Eligibility
of a Party included in Annex I to use the mechanisms
Established under Articles 6, 12 and 17 of the Kyoto Protocol**

March 11, 2002

In accordance with paragraph 12 of *Guidelines for review under Article 8 of the Kyoto Protocol (FCCC/CP/2001/L.29)*(hereafter refers to the *Guidelines*), China hereby submits the following views to the Secretariat of UNFCCC on the expedited procedures for reinstatement of eligibility of a Party included in Annex I to use the mechanisms established under Articles 6, 12 and 17 of the Kyoto Protocol. For all views submitted, China holds the right to amend at any time following the submission.

1. Expert review team for reinstatement of eligibility

The review for reinstatement of eligibility shall be organized objectively and transparently, since both suspension and reinstatement of eligibility to use the mechanisms directly touches such matter that a Party concerned is not in compliance with relevant Articles of the Kyoto Protocol. For this purpose, any member of expert review team whose review report indicated that a Party included in Annex I failed to meet eligibility requirements under Article 6, 12 and 17, shall be no longer a member of expert review team for reinstatement of eligibility. The expert review team for reinstatement of eligibility shall be reorganized and its composition shall be determined in accordance with the principle of the five regional groups of the United Nations.

2. Time frames of the review for reinstatement of eligibility

In determination of time frames of the review for reinstatement of eligibility, some critical elements shall be considered, such as:

First, the actual timing of review for reinstatement of eligibility may vary by the causes which lead to suspension of an Annex I Party's eligibility to use the mechanisms. Accordingly, the time frames of the review for reinstatement of eligibility shall be set up practically. For those technical-oriented causes such as problems in relation with adjustment of greenhouse gas emissions under Article 5, paragraph 2, and establishment of Assigned Amount under Article 7, paragraph 4, for example, it is hard for expert review team to complete review in such a short time set in the Appendix II to the *Guidelines*, in accordance with the relevant provisions of Part II, III, IV of the *Guidelines* in which a year period is allowed for reviews in normal case.

Second, the determination of the time frames shall fully consider the varied capabilities by Parties to submit information requested and to comment upon the expedited draft review report made by expert review team.

Third, the determination of the time frames shall also give a full consideration to the balance of two approaches, in terms of their time frames and the favor by user, to reinstatement of eligibility stipulated in the COP Draft decision: *Procedures and Mechanisms relating to Compliance under the Kyoto Protocol (FCCC/CP/2001/L.21)*. Section X, paragraph 2 in the Draft decision says: "Where the eligibility of a Party included in Annex I under Articles 6,12 and 17 of the Protocol has been suspended under section XV, paragraph 4, the Party concerned may submit a request or reinstate its eligibility, either through an expert review team or directly to the enforcement branch." For the approach of directly to the enforcement branch, the expedited procedures shall be completed in 14

weeks around in according with the relevant provisions of the Draft decision. Therefore, the time frames for the approach of through an expert review team shall keep close to that set in the approach of directly to the enforcement branch, from legal point of view. Otherwise, an approach of two options might loose its necessity of existing and its possibility and favor applied.

3. Relationship of expedited final review report and enforcement branch

It shall be clarified in relevant section of the *Guideline* that an expedited final review completed by expert review team for reinstatement of eligibility shall be, through secretariat, submitted to enforcement branch for final decision-making about reinstatement of eligibility.

4. Review for the expedited procedures for reinstatement of eligibility

Up to date, no relevant experience has been available for reference to establishment of the expedited procedures for reinstatement of eligibility of a Party included in Annex I to use the mechanisms established under Articles 6, 12 and 17 of the Kyoto Protocol. In this sense, the expedited procedures for reinstatement of eligibility in the *Guidelines*, which is in discussion, needs to be reviewed in certain time after it would be implemented.

PAPER NO. 2: COLOMBIA

COLOMBIAN VIEWS ON THE EXPEDITED PROCEDURE FOR REINSTATEMENT OF ELIGIBILITY OF A PARTY INCLUDED IN ANNEX I TO USE THE MECHANISMS UNDER ARTICLE 6, 12 AND 17 OF THE KYOTO PROTOCOL

Regarding Section X of Decision 24/CP.7, "Expedited Procedures for the Enforcement Branch", Colombia has the following observations:

- 1) Further work needs to be developed regarding the content of the report to be submitted by the Expert Review Team to the enforcement branch (as described in paragraph 2, Section X), indicating there is no longer a question of implementation with respect to the eligibility of the Party concerned. In this regard, criteria should be established regarding the type of information to be included in the report and its validity in exonerating the Party concerned. In addition, guidance should be given to the enforcement branch as to which elements to take into account when considering if there continues to be or not, a question of implementation with respect to that Party's eligibility.
- 2) As to the shorter time frames established for the expedited procedure, paragraph 1 (g) of this section needs further clarification. As it stands, the possibility for the enforcement branch to apply the periods of time stipulated in Section IX only if it does not interfere with subparagraphs 1 (d) and (f) of Section X, is confusing. Initially, applying the longer time frames in Section IX will necessarily interfere with the adoption of decisions in accordance with the above mentioned subparagraphs, insofar as these shorten the weeks within which the enforcement branch shall adopt its preliminary and final decisions. Therefore, there might be a need to specify under which circumstances Section IX time periods are applicable and under which they are not.
- 3) Considering the nature of non-compliance of commitments under Article 3 of the Protocol, careful thought should be given to the appropriateness of the periods established for the expedited procedure under Section X, when reinstating a Party's eligibility to make transfers under Article 17. We recognize the need for increased agility in this decision-making process. However, some of the stipulated periods may not give the enforcement branch enough time to analyze matters thoroughly. Further emphasis should be placed at this stage on the need for the enforcement branch to not sacrifice in-depth analysis for expeditiousness. In addition, it should be stated that paragraph 11 of Section IX applies *mutatis mutandis*, taking into consideration subparagraph 1(g) discussed earlier.
- 4) On the subject of reinstating a Party's eligibility to make transfers under Article 17 of the Protocol, clarity should be sought regarding which commitment is being referred to in paragraph 3, Section X. Currently, this paragraph stipulates that the enforcement branch will reinstate that eligibility if it concludes that the Party has demonstrated that it will meet its quantified emission limitation or reduction commitment in the period subsequent to the one for which the Party was determined to be in non-compliance. Colombia interprets that the quantified commitment to be met in the subsequent period refers to the commitment for the subsequent period and not the one for the current period in which the non-compliance was declared. A different interpretation would create a severe disincentive to endeavor to comply in the earlier period.

Based on our interpretation, the criterion against which the enforcement branch shall reinstate a Party's eligibility to make transfers under Art. 17, ignores the fact that the enforcement branch may not have, at the moment when considering the reinstatement, the necessary information to determine what the commitment for the subsequent period for that Party will be.

In this regard, even though Article 3.9 of the Protocol determines that the Conference of the Parties serving as the meeting of the Parties shall initiate the consideration of such commitments at least

seven years before the end of the first commitment period (2008 – 2012), there is no certainty as to when they will be decided upon and adopted.

The uncertainty around the future quantified commitments for the Party whose eligibility has been suspended, would result in a decision to reinstate that Party's eligibility by the enforcement branch with little factual basis. Moreover, the sooner the enforcement branch applies this suspension within the first commitment period, the more likely the COP/MOP would not yet have adopted the amendment to Annex B of the Protocol containing the commitments for subsequent periods. Therefore, the greater the uncertainty regarding a decision to reinstate a Party's eligibility to make transfers under Article 17.

In this sense, Colombia suggests that the Party's eligibility should not be reinstated on the basis of the compliance action plan submitted by the Party, until the enforcement branch has some indication of the exact figures for the subsequent quantified emission limitation or reduction commitments.

Paragraph 4, Section X could eventually add some light to the uncertainty highlighted above, given that if the Party does not demonstrate that it has met its commitment in the subsequent period (either through the report of the expert review team under Article 8 of the Protocol for the final year of the subsequent commitment period or through a decision of the enforcement branch), the emissions reductions it has credited due to transfers under Article 17 will not be counted in favor of the commitments of Article 3.1 for that period. If this is the case, further guidance should be developed for the enforcement branch to proceed in this situation.

If our interpretation of paragraph 4, section X is not generally accepted, the uncertainty remains and the enforcement branch would need additional parameters to reinstate a Party's eligibility to use the flexibility mechanism under Article 17.

PAPER NO. 3: JAPAN
(ON BEHALF OF AUSTRALIA, CANADA, JAPAN,
NEW ZEALAND AND THE RUSSIAN FEDERATION)

**Submission on the Expedited Review of Information
Relating to Reinstatement of Mechanism Eligibility**

1. Australia, Canada, Japan, New Zealand and Russian Federation are pleased to provide a submission on the expedited review of information relating to reinstatement in response to the request contained in Decision -/CP.7. To that end, draft text for incorporation in Part I, Section D of the Guidelines for Review under Article 8 of the Kyoto Protocol is contained below.
2. We attach considerable importance to the timely completion of this work under Article 8 as it is inseparable part of the work already completed under Article X.2 of Decision -24/CP.7 on Procedures and Mechanisms relating to Compliance under the Kyoto Protocol.
3. In considering the timing contained in our submission we believe that a number of matters must be borne in mind:
 - (1) First, the expedited review of information related to reinstatement is an extraordinary procedure for an extraordinary circumstance. Indeed, we anticipate that the loss of eligibility, and its subsequent reinstatement, will be a rare occurrence.
 - (2) Second, the information relating to reinstatement which the Expert Review Team must review will very likely be a small subset of the information reported annually under Article 7.1 and hence the timing needs for assessing that information and information provided by the Party will be commensurately less.
 - (3) Third, given the detailed process leading to the suspension, the information relating to the problem as well as what the suspended Party will have to do to lift the suspension will be well known to all involved. From that point of view, there should be few surprises, and consequently the timing required for assessment will be limited.
 - (4) Finally, the expedited procedure would not require the detailed consultation process normally associated with the annual review process which includes several opportunities for Parties to provide views on the work of the team, and allows time for discussion and incorporating of these views. Although the process outlined below allows for an opportunity to provide input on the expert review team's draft report, it is a single opportunity. Hence the proposed timelines should be more than adequate for a complete process.

TEXT SUBMISSION

4. Expedited review of information relating to reinstatement

1. The purpose of the review of information relating to a request for reinstatement of eligibility pursuant to paragraph X.2 of the Procedures and Mechanisms relating to Compliance by a Party included in Annex I to use the mechanism established under Articles 6, 12 and 17 is:
 - (a) To provide for an expedited procedure for the reinstatement of a Party included in Annex I which is able to demonstrate that it is no longer failing to meet eligibility requirements under Articles 6, 12 and 17;

(b) To provide an objective, transparent, thorough and comprehensive assessment of information provided by a Party included in Annex I on the matters which led to the suspension of its eligibility to use the mechanisms;

(c) To ensure that the enforcement branch has reliable information to consider the eligibility of Parties to use the mechanisms.

2. Any Party included in Annex I that has been suspended from eligibility to use the mechanisms may, at any time following suspension, submit information on the matter which led to the suspension of eligibility. Subject to paragraph 3 below, this information shall be reviewed expeditiously in accordance with the relevant provisions of parts II, III, IV and/or V of these guidelines.

3. For the purposes of this review of information relating to a request for reinstatement of eligibility the following time frames shall apply:

(a) The expert review team shall be constituted and prepare an expedited draft final review report within 6 weeks of the receipt of information from the Party in question;

(b) The Party shall be provided with 4 weeks to comment upon the expedited draft final review report;

(c) The expert review team shall prepare an expedited final review report within 2 weeks of the receipt of comments upon the draft final report;

(d) The time periods in (a) to (c) are considered maximum time periods. The expert review team and the Party should strive to complete the review in the shortest time possible.

PAPER NO. 4: SPAIN
(ON BEHALF OF THE EUROPEAN COMMUNITY AND ITS MEMBER STATES, AND
BULGARIA, CROATIA, CYPRUS, CZECH REPUBLIC, ESTONIA, HUNGARY, LATVIA,
LITHUANIA, MALTA, POLAND, ROMANIA, SLOVAKIA AND SLOVENIA)

BRUSSELS, 15 MARCH 2002

**GUIDELINES FOR REVIEW UNDER ARTICLE 8 OF THE
KYOTO PROTOCOL:
EXPEDITED PROCEDURE FOR THE REVIEW FOR
REINSTATEMENT OF ELIGIBILITY**

Spain, on behalf of the European Community and its Member States, and Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia welcome the opportunity to provide views on the expedited review for reinstatement of eligibility, in accordance with Decision 23/CP.7 agreed by the Conference of the Parties at its seventh session (see document FCCC/CP/2001/13/Add.3).

The current submission is structured in two main sections:

- General comments on the expedited review process.
- Text to be incorporated to guidelines for review under article 8 of the Kyoto Protocol.

I. GENERAL COMMENTS

(1) The EU and its Member States, and Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia agree with the establishment of an expedited procedure for the review for reinstatement of eligibility for Parties included in Annex I to use the mechanisms in the guidelines under Article 8.

(2) The condition for receiving reinstatement is that there is no longer a question of implementation, which the Party has to demonstrate. If doubts remain as to whether a question of implementation still exists regarding the Party concerned, the eligibility of the Party would therefore need to remain suspended. The guiding principle for the elaboration of a reinstatement procedure after the suspension of eligibility should be that the expedited procedure for the review for reinstatement should be as thorough as the procedure to suspend eligibility, with the same quality of assessment. It would introduce an imbalance into the system if suspension of eligibility would require more detailed or thorough assessments of information, whereas reinstatement could occur more easily without the information being checked as thoroughly.

(3) As already highlighted during COP 7 in Marrakech, the EU and its Member States, and Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia also believe that the text proposed (Appendix II to Decision 23/CP.7) needs to be amended and developed in more detail. The EU and its Member States, and Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia believe that the procedures for the expedited review procedure should be specified in a self-standing section in the guidelines for review under Article 8 of the Kyoto Protocol. The EU and its Member States, and Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia suggest modifications to the proposed text as explained in part II of this submission, and wishes to make the following comments:

Introduction of a screening procedure

(4) The EU and its Member States, and Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia believe that depending on what the reason for suspension of eligibility was, expedited review processes could endanger the principles expressed in the previous paragraph (for example the Party has not established a national system). In addition, expedited reviews procedures could be unreasonable or would require specific procedures (for instance, when suspension follows submission of the whole inventory more than six weeks after the due date, or when Party has not ratified the Protocol).

(5) According to the text in appendix II to decision 23/CP.7, a Party could submit the request for reinstatement directly after the suspension based on the same information that was already assessed by the expert review team (ERT) and the Compliance Committee. The Party should identify the problems which led to the loss of eligibility and how they have been resolved and provide new or revised inventory data and/or supporting documentation that allow the Compliance Committee to decide whether any question of implementation remains. The EU and its Member States, and Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia note that a request for reinstatement should only be accepted if new and additional information is provided by the Party concerned.

(6) In order to take into account different reasons for the suspension of eligibility and to guarantee that reinstatement is based on new and additional information, the EU and its Member States, and Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia propose to introduce a technical screening procedure. Clear technical criteria are proposed to determine whether the ERT should pursue the assessment of a request to reinstate a Party's eligibility in form of a detailed review process. If any of the criteria were not fulfilled, the ERT would produce a final report indicating this. This screening procedure is reflected in paragraphs 3 and 5 of the specific text proposal (part II).

Expert review team in charge of the expedited review process

(7) The proposal in Appendix II to Decision 23/CP.7 is silent on which ERT should be charged with the expedited review for reinstatement. If eligibility was suspended due to inventory problems, this could be either done by the ERT that is reviewing the Party's information in the subsequent year or by an additional ERT. The EU and its Member States, and Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia note that the review procedure would be more efficient if the ongoing review process for the subsequent inventory submission is used. On the other hand, as the review cycle does not exactly cover the whole year, it would be unlikely but possible that there was no ERT reviewing the Party concerned when the request is submitted. In this case, the Secretariat would convene a new ERT with the relevant expertise as soon as practicable. The latter also seems necessary if eligibility was suspended due to problems with the national system or problems with the national registry, since these review activities are not carried out on an annual basis. A specific text proposal is included in paragraph 4, part II.

Timing of the expedited review process

(8) The timing proposed in Appendix II to Decision 23/CP.7 (altogether a maximum of 10 weeks) for the expedited reinstatement procedure may not be sufficient for a thorough technical review of the information provided in all cases submitted. During the regular review procedure, there is much more time for the ERT to assess the submitted information. Therefore, the expedited procedure could result in a reinstatement because the assessment could not be performed appropriately in the tight timeline. It must

be avoided that a Party can hope to receive reinstatement on the basis of a superficial assessment due to lack of time provided for in the review process.

(9) The EU and its Member States, and Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia believe that the review process should aim at having a specific duration, but allowing more time if the ERT considers that it is necessary in order to allow a comprehensive and thorough technical assessment of the information submitted. The specific timeframes are detailed in the proposed text (paragraph 8, part II).

Specific cases for suspension of eligibility: problems with national registry or national system

(10) The EU and its Member States, and Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia believe that an appropriate review of the resolution of problems with national systems and/or national registries that were so severe that eligibility was suspended should always require an in-country review, which takes time for coordination and preparation.

(11) Because of the need for an in-country review, the EU and its Member States, and Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia believe that the ERT should have the possibility to extend the established time frame to prepare the draft report if this is necessary to allow a sound assessment. A specific text proposal is presented in paragraph 9, part II.

Specific cases for suspension of eligibility: problems with adjustments during the expedited review

(12) The review for reinstatement of eligibility can have implications on adjustments, e.g. a revision of adjustments that led to the suspension of eligibility. The adjustment procedure as specified in paragraphs 79 to 82 of the review guidelines part II, has to be modified for the purposes of the reinstatement because the reinstatement may deal with already adjusted inventories and a faster procedure is needed.

(13) For the purposes of an expedited procedure, the adjustment procedure should be limited to the elaboration of a revised adjustment with the draft report by the ERT, the possibility for the Party concerned to comment on this report and the final recommendation by the ERT in the final report. In case of a disagreement between the Party concerned and the ERT regarding the specific adjustment, the case will be forwarded to the Compliance Committee as part of the reinstatement report. See specific text proposal in paragraph 10, part II.

Reporting

(14) Contents of review reports are specified in the guidelines under Article 8. The content of the report on the review for reinstatement is missing in Appendix II to Decision 23/CP.7. The EU and its Member States, and Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia consider that the ERT should follow the specific reporting provisions for each individual review part depending on the specific case. A text proposal is included in paragraph 11, part II.

Financial implications

(15) Expedited reviews have financial implications. Even when established ERTs are charged, there are extra tasks that will affect the time and resources needed to complete all activities. Furthermore, it is

impossible to predict how many expedited reviews will take place every year, as this will depend on the number of Parties that have solved the problems leading to suspension.

(16) The EU and its Member States, and Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia believe that further consideration should be given to the issue in conjunction with other review-related subjects with financial implications, such as the terms of service of lead reviewers. The EU and its Member States, and Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia believe that expenses due to a review for reinstatement should be met by the Party concerned via the UNFCCC secretariat.

II. ADDITIONAL COMMENTS TO THE PROPOSED TEXT IN APPENDIX II TO DECISION 23/CP.7

The Appendix II to Decision 23/CP.7 states that “the information submitted shall be reviewed expeditiously in accordance with the relevant provisions of parts II, III, IV and/or V of these guidelines” (guidelines for review under Article 8 of the Kyoto Protocol). Expeditiously and “in accordance with the relevant provisions of parts II, III, IV and V of these guidelines” are contradictory because these parts establish normal and non-expedited timelines. In addition, specific parts of the regular procedures should be different for the expedited procedure, e.g. a review of inventory data should not be split into an initial check and an individual inventory review because of the limited time available.

PART VIII: EXPEDITED REVIEW FOR REINSTATEMENT OF ELIGIBILITY²

Purpose

1. The purpose of the review for reinstatement of eligibility of a Party included in Annex I to the Convention to use the mechanism established under Articles 6,12 and 17 is:

(a) To provide for an expedited procedure for the reinstatement **of the eligibility to transfer and/or acquire AAUs, ERUs, CERs, or RMUs** of a Party included in Annex I to the Convention which is able to demonstrate that it is no longer failing to meet eligibility requirements under Articles 6, 12 and 17;

(b) To provide an objective, transparent, thorough and comprehensive **technical** assessment of information provided by a Party on Articles 5 and 7 matters which led to the suspension of its eligibility to use the mechanisms;

(c) To ensure that ~~the enforcement branch~~ **Compliance Committee³** has reliable information to consider **the request the eligibility of a Party to reinstate its eligibility to transfer and/or acquire AAUs, ERUs, CERs, or RMUs** ~~use the mechanisms.~~

² Bold text is new text proposed by the EU, strike-outs refer to the proposal as contained in appendix II to decision 23/CP.7

³ In the guidelines under Article 8 the Compliance Committee is usually addressed in general and not the different branches.

General Procedure

2. Any Annex I Party that has been suspended from eligibility to use the mechanisms may, ~~at any time following suspension,~~ submit a request to reinstate its eligibility including information on the matter which led to the suspension of eligibility.

3. **To pursue the assessment of a request to reinstate a Party's eligibility by an expert review team, each of the following criteria shall be fulfilled:**

(a) The Party is a Party to the Kyoto Protocol;

(b) The information submitted for the reinstatement was not yet submitted and not yet available during the review procedure or during the expedited procedure in the enforcement branch which led to the suspension of eligibility;

(c) The regular review procedure for the subsequent submission from the Party would not be completed earlier than the reinstatement procedure that would start with the request from the Party;

(d) The Party submitted annual inventories of anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montreal Protocol, including the national inventory report and the common reporting format within six weeks of the submission date established by the Conference of the Parties for the year of submission covered by the reinstatement procedure and for the subsequent year if the request for reinstatement was submitted after the submission due date of the subsequent year.

(e) For the year of submission covered by the reinstatement procedure and/or for the subsequent year if the request for reinstatement was submitted after the submission due date of the subsequent year, the Party concerned did not fail to include an estimate for an Annex A source category (as defined in chapter 7 of the IPCC good practice guidance) that individually accounted for 7 per cent or more of the Party's aggregate emissions, defined as aggregate submitted emissions of the gases and from the sources listed in Annex A to the Kyoto Protocol.

See explanations in paragraphs 4-6, Part I

4. **If a request for reinstatement is submitted, the secretariat shall coordinate with the expert review team that is responsible for the Party's inventory review during the regular inventory review cycle. If there is no expert review team reviewing the Party concerned when the request is submitted, the Secretariat shall convene a new expert review team with the relevant expertise as soon as practicable.**

See explanations in paragraph 7, Part I

5. **The expert review team shall examine whether the request to reinstate a Party's eligibility fulfils the criteria set out in paragraph 3 within three weeks after the expert review team has been convened. If all criteria are satisfied, the same expert review team shall assess the information provided by the Party concerned for the reinstatement. Otherwise, the expert review team shall produce a final report indicating that the Party's request does not meet at least one of the previous criteria.**

6. **The review for reinstatement shall be performed as a centralized review or an in-country review.**

Scope of the review

7. **The review shall cover the information submitted by the Party together with the request for reinstatement. The expert review team shall verify whether the criteria set out in paragraph 3 are accomplished and assess the extent to which questions of implementations that led to suspension of eligibility have been addressed and resolved. Where applicable, the expert review team shall also identify problems in accordance with the relevant provisions in the specific parts II, III, IV or V. See explanations in paragraphs 4 to 6, Part I**

Timing

8. For the review for reinstatement, the following time frames shall apply:

(a) The expert review team shall prepare a draft expedited review report within **12** weeks of the receipt of information from the Party concerned;

(b) The Party **concerned** shall be provided with 2 weeks to comment upon the draft expedited review report. **If the Party concerned does not provide any comments within that period of time, the expert review team shall forthwith prepare a final expedited review report;**

(c) **If the Party concerned provides comments upon the draft report**, the expert review team shall prepare a **final expedited** review report within **4** weeks of the receipt of such comments;

(d) The review shall be completed as soon as practicable, with the aim of completion no more than **18** weeks after the expert review team has been formed ~~and starts the consideration of the information from the Party.~~

(e) **The expert review team can decide to extend the timeline for completion of the expedited review for reinstatement to a maximum of 22 weeks,**

(i) **if additional expertise from other experts is needed for the analysis of specific problems that arise from the request;**

(ii) **if the amount of new and additional information submitted by the Party does not allow a thorough assessment in the timeline provided for the reinstatement.**

(iii) **in the case of an in-country review.**

See explanations in paragraphs 8 to 11, Part I

9. **If the eligibility was suspended because the Party was not in compliance with the requirement to have in place a national registry in accordance with Article 7, paragraph 4, and the requirements in the guidelines decided thereunder and/or with the requirement to have in place a national system for the estimation of anthropogenic emissions by sources and anthropogenic removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, in accordance with Article 5, paragraph 1, and the requirements in the guidelines decided thereunder, an in-country review of a Party's national registry and/or national system, as appropriate, shall be scheduled to take place no later than 8 weeks after the expert review team has been formed.**

See explanations in paragraph 10-11, Part I

10. **If the expedited procedure for reinstatement of eligibility concerns the revision of adjustments previously applied to a Party, the expert review team shall assess if the new and**

additional information submitted substantiates the revision of a previous adjustment and in case of such a revision it shall notify the Party concerned of the revised adjustment within the draft review report. Within the timeframe of the review for reinstatement, the Party may comment on the revised adjustment and the expert review team shall include any such comment in the final review report. If the Party disagrees with the proposed revised adjustments as included in the final expedited review report, the disagreement will be included in the final review report.

See explanations in paragraph 12-13, Part I

Reporting

11. The expert review team shall, under its collective responsibility, produce a report on the reinstatement of eligibility in accordance with paragraph 48 of these guidelines and in accordance with the relevant provisions for review reports in the specific parts II, III, IV or V under these guidelines depending on the specific reason for the suspension of eligibility.

See explanations in paragraph 14, Part I

PAPER NO. 5: SWITZERLAND

Review for the reinstatement of eligibility to use the Kyoto mechanisms

In response to the invitation contained in decision 23/CP.7, Switzerland submits the following views on an expedited review for the reinstatement of eligibility to use the Kyoto mechanisms.

1. Switzerland acknowledges the importance of mechanisms eligibility in the context of compliance with the quantified Kyoto commitments. Thus, excessively time-consuming procedures relating to the review process should never become the determining factor for non-compliance with such commitments. Resources and expertise should be allocated accordingly to the review process and review guidelines should contain provisions to safeguard each Party's interest in efficient procedures.
2. As a matter of principle, both loss of eligibility and reinstatement of eligibility shall be the result of equally careful and thorough review processes.
3. In line with para 2 above, any expedited procedure shall not lower the standards of thoroughness in assessing and establishing compliance with eligibility requirements. Limiting the review to the matter or matters that led to the suspension of eligibility should be the key rationale and basis for an expedited process. Beyond this, enhanced support from the UNFCCC Secretariat may be a means to address the need for optimum efficiency in information exchange and communication.
4. Time frames for the review for reinstatement process should allow for all necessary steps to perform an objective, transparent, thorough, comprehensive and focussed assessment, taking into account the eventuality of, e.g., complex model analyses or an in-country visit by the review team. Thus, in the view of Switzerland, no firm but indicative time lines should be fixed for the completion of a review cycle for the reinstatement of eligibility to use the Kyoto mechanisms.
5. An expedited review shall at no time substitute for a scheduled, comprehensive review under the Kyoto Protocol.
6. Switzerland is prepared to contribute constructively to the development of review guidelines dealing with the reinstatement of eligibility to use the Kyoto mechanisms.
