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**CONFERENCE OF THE PARTIES SERVING AS THE
MEETING OF THE PARTIES TO THE KYOTO PROTOCOL**
Fifth session
Copenhagen, 7–18 December 2009

**Item 8 of the provisional agenda
Report of the Compliance Committee**

**Annual report of the Compliance Committee to the Conference of the
Parties serving as the meeting of the Parties to the Kyoto Protocol***

Summary

The fourth annual report of the Compliance Committee to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol covers activities undertaken from 10 October 2008 to 13 October 2009. The report provides a summary of the further consideration by the enforcement branch of the question of implementation with respect to Greece and its consideration of two questions of implementation with respect to Croatia. It also contains information on discussions by the facilitative branch on provisions relating to facilitation, and discussions of the plenary on consistency in the review process.

* This document was submitted after the due date in order to take into account the outcomes of the sixth meeting of the plenary of the Compliance Committee, which took place from 12 to 13 October 2009.

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I. Introduction

A. Mandate

1. Under section III, paragraph 2 (a), of the “Procedures and mechanisms relating to compliance under the Kyoto Protocol” (annex to decision 27/CMP.1; hereinafter referred to as the procedures and mechanisms), the plenary of the Compliance Committee is to report on the activities of the Committee to each ordinary session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP).

B. Scope of the report

2. The fourth annual report of the plenary of the Compliance Committee covers the period from 10 October 2008 to 13 October 2009. It summarizes the work of and matters addressed by the Committee during that period.

C. Action to be taken by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol

3. In accordance with section XII of the procedures and mechanisms, the CMP may wish to consider this annual report of the Compliance Committee.

4. The CMP may also wish to:

- (a) Invite the President of the CMP to undertake consultations on the nominations of members and alternate members of the Compliance Committee, as necessary;
- (b) Clarify any action that the Committee could take in relation to its facilitative function and within the context of its mandate, including with respect to the continuing delay in the submission of national communications, as referred to in paragraph 20 below;
- (c) Reconsider, as part of its decision-making on the budget for the biennium 2010–2011, the recommendation made by the plenary of the Committee in paragraph 4 (f) of its third annual report to the CMP,¹ and if appropriate, refer these matters to the Subsidiary Body for Implementation (SBI);
- (d) Conclude as early as possible adequate legal arrangements on privileges and immunities that provide a long-term solution to the issues raised before the CMP and the SBI.

II. Organizational matters

5. The sixth meeting of the plenary of the Compliance Committee was held in Bangkok, Thailand, from 12 to 13 October 2009.

6. The seventh meeting of the facilitative branch was held in Bangkok on 12 October 2009 and the seventh meeting of the enforcement branch was held in Bangkok from 11 to 13 October 2009. In addition to these meetings, during the reporting period the bureau of the Compliance Committee and the enforcement branch used electronic means to take decisions on the allocation of questions of implementation, preliminary examination, expert advice and reinstatement of eligibility to participate in the mechanisms under Articles 6, 12 and 17 of the Kyoto Protocol, thereby reducing meeting-related costs.

¹ FCCC/KP/CMP/2008/5.

7. The agenda and annotations, documentation supporting agenda items, and the chairpersons' report on each meeting of the plenary of the Committee and the facilitative and enforcement branches are available on the UNFCCC website.²

A. Membership in the Compliance Committee

8. In accordance with rule 3, paragraph 1, of the "Rules of procedure of the Compliance Committee of the Kyoto Protocol" (annex to decision 4/CMP.2 and the amendments contained in the annex to 4/CMP.4; hereinafter referred to as the rules of procedure), the term of service of each member and alternate member starts on 1 January of the calendar year immediately following his or her election and ends on 31 December two or four years thereafter, as applicable. The list of members and alternate members whose terms expire on 31 December 2009 is contained in annex I to this report.

9. In accordance with rule 3, paragraph 5, of the rules of procedure, when a member resigns or is otherwise unable to complete the assigned term or the functions of a member or alternate member, the Committee is to request the CMP to elect a new member or alternate member for the remainder of the term at its next session. Mr. Vladimir Tarasenko, an alternate member of the Compliance Committee elected to serve in the enforcement branch until 31 December 2011, passed away on 6 June 2009. The plenary of the Committee expressed its sorrow over the unexpected death of Mr. Tarasenko and expressed its appreciation for his service to the Compliance Committee.

10. In accordance with section IV, paragraph 2, section V, paragraph 2, and section II, paragraph 5, of the procedures and mechanisms, the plenary of the Committee requests the CMP to fill the vacancy in the enforcement branch by electing a member from the Eastern European Group to serve for the remaining period of Mr. Tarasenko's term and to elect five new members to serve in the facilitative branch, five new members to serve in the enforcement branch and an alternate member for each new member, respectively, all for a term of four years.

B. Transparency, communication and information

11. Pursuant to rule 9, paragraph 1, of the rules of procedure, the sixth meeting of the plenary of the Committee, the seventh meeting of the facilitative branch and parts of the seventh meeting of the enforcement branch that were held in public were recorded and broadcast on the Internet through the UNFCCC website.

12. In accordance with rule 12, paragraph 2, of the rules of procedure, all documents of the plenary and the enforcement and facilitative branches have been made available to the public through the UNFCCC website.³

C. Privileges and immunities for members and alternate members of the Compliance Committee

13. In accordance with the conclusions of the SBI at its twenty-sixth session relating to privileges and immunities for individuals serving on constituted bodies established under the Kyoto Protocol,⁴ the plenary notes that in the reporting period, no disputes, complaints or claims relating to the Compliance

² <http://unfccc.int/kyoto_protocol/compliance/items/2875.php>.

³ Documents relating to the plenary are available at <http://unfccc.int/kyoto_protocol/compliance/plenary/items/3788.php>. Documents relating to the facilitative branch are available at <http://unfccc.int/kyoto_protocol/compliance/facilitative_branch/items/3786.php> and documents relating to the enforcement branch are available at <http://unfccc.int/kyoto_protocol/compliance/enforcement_branch/items/3785.php>.

⁴ FCCC/SBI/2007/15, paragraphs 163–168.

Committee or to individuals serving on the Committee with regard to their official functions have been raised.

14. At its sixth meeting, the plenary of the Committee heard a report by the secretariat on the current state of negotiations on legal arrangements for privileges and immunities within the SBI, and the proposals that have been submitted for consideration by the Conference of the Parties and the CMP. The plenary reiterates the importance of concluding as early as possible adequate legal arrangements on privileges and immunities that provide a long-term solution to the issues raised before the CMP and the SBI.

III. Work undertaken in the reporting period

A. Reports of expert review teams under Article 8 of the Kyoto Protocol and other information received by the plenary of the Compliance Committee

15. In accordance with section VI, paragraph 3, of the procedures and mechanisms, the secretariat forwarded to the Compliance Committee the reports from the expert review teams of the centralized in-depth reviews of the fourth national communications of Austria, Belarus, Croatia, Italy, the Russian Federation and Ukraine.

16. Also in accordance with section VI, paragraph 3, of the procedures and mechanisms, the secretariat forwarded to the Compliance Committee the report of the review of the initial report (IRR) of Australia.

17. Further, in accordance with section VI, paragraph 3, of the procedures and mechanisms and paragraph 49 of the annex to decision 22/CMP.1, the secretariat forwarded to the Compliance Committee the annual status reports of annual inventories of Australia, Austria, Belarus, Belgium, Bulgaria, Canada, Croatia, the Czech Republic, Denmark, Estonia, the European Community, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Monaco, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, the Russian Federation, Slovakia, Slovenia, Spain, Sweden, Switzerland, Ukraine and the United Kingdom of Great Britain and Northern Ireland.

18. Similarly, in accordance with section VI, paragraph 3, of the procedures and mechanisms, the secretariat forwarded to the Compliance Committee the reports of the individual review of the greenhouse gas inventories submitted in 2007 and 2008 by Austria, Belgium, Bulgaria, Canada, the Czech Republic, Denmark, Estonia, the European Community, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Monaco, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, the Russian Federation, Slovenia, Spain, Sweden, Switzerland, Ukraine and the United Kingdom of Great Britain and Northern Ireland.

19. In accordance with section VI, paragraph 1, of the procedures and mechanisms, the secretariat forwarded to the Compliance Committee the IRR of Croatia, which indicated two questions of implementation. In accordance with section VI, paragraph 2, of the procedures and mechanisms, the report was also made available to Croatia. Information on the work of the enforcement branch with respect to these questions of implementation is set out in chapter III C below.

20. At its sixth meeting, the plenary of the Committee considered the information provided to it by the secretariat on the status of submission and review of reports under the Kyoto Protocol (document CC/6/2009/2) and noted, with increasing concern, that to date, nearly four years after the deadline set out in decision 4/CP.8 in relation to decision 22/CMP.1, Luxembourg has failed to submit its fourth national

communication containing the supplementary information required under Article 7, paragraph 2, of the Kyoto Protocol despite the concern expressed by the CMP in this regard.⁵

21. The plenary of the Committee recalls that paragraph 139 of the annex to decision 22/CMP.1 provides that if the national communication of a Party included in Annex I is not submitted within six weeks after the due date, the delay is to be brought to the attention of the CMP and the Compliance Committee and made public. The plenary further recalls that in its second annual report to the CMP, it invited the CMP to clarify whether it requests the Compliance Committee to take any specific action when such delays have been brought to its attention by the secretariat, and notes that the CMP, in its decision 5/CMP.3, expressed concern regarding such delays.

22. The plenary of the Committee invites the CMP to clarify any action that the Committee could take in relation to its facilitative function and within the context of its mandate, including with respect to the continuing delay mentioned in paragraph 20 above.

23. At its fifth meeting, the plenary of the Committee decided to continue to keep the issues of consistency in the review process and resource limitations, including the lack of available experts, under review in its future meetings. At its sixth meeting, the plenary took note with satisfaction of the report of the secretariat on the status of submission and review of reports under the Kyoto Protocol indicating that progress has been made in addressing the issues of resource limitations and lack of available experts, and that activities are being organized which address, inter alia, the issue of consistency of reviews. However, the plenary of the Committee also noted that issues of consistency of reviews have been raised by two Parties concerned in questions of implementation which were considered by the enforcement branch. The plenary will therefore continue addressing the issue of consistency of reviews, including its implications for the work of both branches, at its next meeting.

B. Consideration by the enforcement branch of a question of implementation with respect to Greece

24. In the previous reporting period, the enforcement branch considered a question of implementation with respect to Greece.⁶ As part of its consideration, the branch adopted a final decision on 17 April 2008 (see document CC-2007-1-8/Greece/EB) confirming that Greece was not in compliance with the “Guidelines for national systems under Article 5, paragraph 1, of the Kyoto Protocol” (decision 19/CMP.1) and the “Guidelines for the preparation of information required under Article 7 of the Kyoto Protocol” (decision 15/CMP.1). Pursuant to the final decision, Greece submitted a plan in accordance with section XV, paragraph 2, of the procedures and mechanisms. At its sixth meeting held from 6 to 7 October 2008, the enforcement branch requested Greece to submit a revised plan (see document CC-2007-1-10/Greece/EB).

25. In response to the request by the enforcement branch, Greece submitted a revised plan on 27 October 2008. On the same date, Greece also submitted a request to reinstate its eligibility to participate in the mechanisms under Articles 6, 12 and 17 of the Kyoto Protocol.

26. On 13 November 2008, the enforcement branch decided, by electronic means, that there no longer continued to be a question of implementation, and that Greece is fully eligible to participate in the mechanisms under Articles 6, 12 and 17 of the Kyoto Protocol (see document CC-2007-1-13/Greece/EB).

27. In accordance with section III, paragraph 2 (a), of the procedures and mechanisms, the decision described in paragraph 26 above is listed in annex II to this report.

⁵ Decision 5/CMP.3.

⁶ Details of this consideration that occurred in the previous reporting period can be found in chapter III B of the third annual report of the Compliance Committee to the CMP (FCCC/KP/CMP/2008/5).

C. Consideration by the enforcement branch of the questions of implementation with respect to Croatia

28. On 27 August 2009, the Compliance Committee received two questions of implementation indicated in the IRR of Croatia.⁷ The bureau of the Compliance Committee allocated the questions of implementation to the enforcement branch on 28 August 2009. On 8 September 2009, the enforcement branch took a decision to proceed (see document CC-2009-1-2/Croatia/EB) with the questions of implementation.

29. The first question of implementation relates to Croatia's calculation of its assigned amount and its compliance with Article 3, paragraphs 7 and 8, of the Kyoto Protocol and the modalities for the accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol (decision 13/CMP.1). The second question of implementation relates to Croatia's calculation of its commitment period reserve and its compliance with the modalities for the accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol (decision 13/CMP.1).

30. The enforcement branch received a written submission from Croatia on 9 October 2009 and, on 11 October 2009, held a hearing at the request of the Party. In its preliminary finding dated 13 October 2009 (see document CC-2009-1-6/Croatia/EB), the branch reached the determination that Croatia was not in compliance with Article 3, paragraphs 7 and 8, of the Kyoto Protocol and the modalities for the accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol (decision 13/CMP.1).

31. In accordance with section III, paragraph 2 (a), of the procedures and mechanisms, the decisions taken by the enforcement branch with respect to Croatia during the reporting period are listed in annex II to this report.

D. Consideration by the facilitative branch of provisions related to facilitation

32. At its sixth meeting the facilitative branch agreed to continue discussions at its next meeting on how it can carry out its responsibility to provide advice and facilitation with the aim of promoting compliance and providing for early warning of potential non-compliance under section IV, paragraph 6 (a), of the procedures and mechanisms.

33. Following a proposal of the facilitative branch arising from discussions at its seventh meeting, the plenary of the Committee agreed to invite the CMP to provide clarity on the issue raised in paragraph 22 above. The facilitative branch further agreed to continue discussions on this matter at its eighth meeting.

IV. Participation of members and alternate members

34. The CMP, by its decision 5/CMP.3, requested the secretariat, in its preparation for the budget for the biennium 2010–2011, to provide information to Parties on the consequences of the proposal by the Compliance Committee to extend funding for the costs of travel and participation in meetings of the Committee to all its members and alternate members. In addition to this information, the CMP, by its decision 4/CMP.4, requested the secretariat to provide information to Parties on the implications of the proposal of the Compliance Committee that the United Nations rules and regulations on official travel applied to United Nations staff also be applied to eligible members and alternate members of the Compliance Committee, with a view to the CMP considering this proposal at its fifth session, including taking any decision in this regard, as appropriate.

⁷ FCCC/IRR/2008/HRV.

35. The plenary of the Committee notes that the proposed programme budget for the biennium 2010–2011⁸ provides information on the consequences of the proposal by the Committee to extend funding for the costs of travel and participation in meetings of the Committee to all its members and alternate members. The plenary also notes that information on implications of the proposal by the Compliance Committee to apply the United Nations rules and regulations on official travel for staff to eligible members and alternate members of the Compliance Committee was also made available to Parties during consultations on the programme budget for the biennium 2010–2011 that were held during the thirtieth session of the SBI.

36. The plenary further notes with regret that the recommendation made by the SBI to the CMP relating to the core programme budget for the biennium 2010–2011 maintains the current practice for the travel of members of constituted bodies.⁹ The plenary urges reconsideration by the SBI and the CMP of the Committee's earlier request contained in paragraph 4 (f) of its third annual report to the CMP (FCCC/KP/CMP/2008/5).¹⁰

⁸ FCCC/SBI/2009/2.

⁹ Under this practice, funding is offered and is limited to members and alternate members from eligible developing country Parties and Parties with economies in transition, in spite of the fact that all members and alternate members serve in their individual capacity, and is limited to an air ticket by the most direct route and the least costly fare, plus daily subsistence allowance at the established United Nations rate.

¹⁰ In its third annual report to the CMP, the Compliance Committee invited the CMP to ensure that the Committee is treated consistently with other constituted bodies under the Kyoto Protocol when it comes to funding the costs of travel and participation. In this regard, the Committee urged the CMP to invite the SBI to take into account, in its consideration of the proposed UNFCCC budget for the biennium 2010–2011, the proposals of the Compliance Committee that the CMP:

- (a) Extend funding for the costs of travel and participation in meetings of the Compliance Committee to all its members and alternate members;
- (b) Authorize the secretariat to consider requests for funding related to travel and participation in Compliance Committee meetings by members and alternate members who are currently not eligible for

V. Availability of resources

A. Budget for the work of the Compliance Committee

37. For the biennium 2008–2009, USD 1,022,500 was approved in the core budget of the UNFCCC for activities related to the Compliance Committee. In addition, of the USD 1,034,685 under the item “Support to the Compliance Committee” of the resource requirements of the Trust Fund for Supplementary Activities, contributions of USD 368,943 were received for the biennium. The Committee expresses its thanks to the following Parties that made contributions to the Trust Fund for Supplementary Activities to support the work of the Compliance Committee in the biennium 2008–2009: Belgium, Japan, Spain, Switzerland and the United Kingdom of Great Britain and Northern Ireland.

B. Resources required for the biennium 2010–2011

38. For the biennium 2010–2011, EUR 1,228,181¹¹ has been proposed for approval by the CMP at its fifth session in the core budget of the UNFCCC for activities related to the Compliance Committee. In addition, EUR 591,000 is to be provided from the Trust Fund for Supplementary Activities.

such funding, as a temporary measure until such an extension of eligibility for funding is made, subject to the availability of resources and on a case-by-case basis;

- (c) Follow the same United Nations rules and regulations on official travel as those applied to United Nations staff for the travel of eligible members and alternate members.

¹¹ This amount does not include programme support costs (overheads) and the working capital reserve.

Annex I

**Members and alternate members of the Compliance Committee
whose terms expire on 31 December 2009**

Enforcement Branch

Member	Alternate	Group
Ms. Johanna G. S. De Wet	Mr. Joseph A. Amougou	Africa
Mr. Su Wei	Mr. Mohammad Alam	Asia
Mr. Raúl Estrada-Oyuela	Ms. Patricia Iturregui Byrne	Latin America and the Caribbean
Mr. Sebastian Oberthür	Mr. Tuomas Kuokkanen	Annex I Parties ¹
Mr. Bernard Namanya	Ms. Gladys K. Ramothwa	Non-Annex I Parties ²

Facilitative Branch

Member	Alternate	Group
Mr. Ismail A. R. El Gizouli	Mr. Ratemo W. Michieka	Africa
Mr. Khalid M. Abuleif	Mr. Jai-Chul Choi	Asia
Ms. María Andrea Albán Durán	Mr. Ato J. Lewis	Latin America and the Caribbean
Mr. Kunihiko Shimada	Mr. Mark Berman	Annex I Parties ¹
Mr. Javad Aghazadeh Khoei	Mr. Paata Janelidze	Non-Annex I Parties ²

¹ Parties included in Annex I to the Convention.

² Parties not included in Annex I to the Convention.

Annex II**Decisions taken by the enforcement branch of the Compliance Committee in the reporting period with respect to Greece and Croatia*****GREECE (CC-2007-1/Greece/EB)**

Title	Document No.	Date
Decision under paragraph 2 of section X	CC-2007-1-13/Greece/EB	13 November 2008

CROATIA (CC-2009-1/Croatia/EB)

Title	Document No.	Date
Decision on preliminary examination	CC-2009-1-2/Croatia/EB	8 September 2009
Expert advice: Croatia	CC-2009-1-3/Croatia/EB	24 September 2009
Preliminary finding	CC-2009-1-6/Croatia/EB	13 October 2009

* These decisions are available in all six official languages of the United Nations at http://unfccc.int/kyoto_protocol/compliance/enforcement_branch/items/3785.php.