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Item X of the provisional agenda

**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 ninth 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 19 September 2013 to 5 September 2014. The report provides a summary of: the continued consideration by the facilitative branch of the potential early warning exercise and the provision of advice and facilitation; the consideration by the enforcement branch of the delay in the submission by a Party included in Annex I of its national inventory report and the effects of a Party's withdrawal from the Kyoto Protocol on its reporting obligations; and the discussions of the plenary of the Compliance Committee on the scope of its next joint workshop with inventory lead reviewers, privileges and immunities for members and alternate members of the Committee, and the implications of decision 1/CMP.8 for the work of the Committee.

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I. Introduction

A. Mandate

1. In accordance with 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 (hereinafter referred to as the plenary) 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 ninth annual report of the Compliance Committee covers the period from 19 September 2013 to 5 September 2014. 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 is to consider the annual report of the Compliance Committee.

4. The CMP may also wish:

(a) To invite the President of the CMP to undertake consultations on the nomination of members and alternate members of the Committee, as necessary (see para. 13 below);

(b) To invite Parties to make contributions to the Trust Fund for Supplementary Activities to support the work of the Committee in the biennium 2014–2015 and to express its gratitude to the Parties that made contributions during the reporting period (see para. 40 below);

(c) To address the matter of privileges and immunities for individuals serving on constituted bodies under the Kyoto Protocol as a matter of urgency (see paras. 18 and 19 below).

II. Organizational matters

5. The plenary held two meetings during the reporting period. The fourteenth meeting of the plenary was held on 18 March 2014 and the fifteenth meeting on 4 and 5 September 2014, both in Bonn, Germany.

6. The facilitative branch and the enforcement branch both met twice in Bonn (on 18 March 2014 and 4 September 2014).

7. In addition to those meetings, the secretariat organized an induction event, which was held in Bonn on 17 March 2014. The event was held in conjunction with the March meetings of the branches and the plenary and was aimed, in particular, at facilitating the work of the new members and alternate members of the Committee, whose terms commenced in 2013 and 2014. The event offered an introduction to the work and role of the

Compliance Committee and the secretariat, and included detailed presentations on substantive issues relating to the work of the Committee. It was attended by three inventory lead reviewers, who contributed to the discussions of the Committee and helped to maintain the momentum of the dialogue between the Committee and inventory lead reviewers.

8. The agenda and annotations, documentation supporting agenda items and chairpersons' reports for the meetings of the plenary and of the facilitative and enforcement branches are available on the UNFCCC website.¹

A. Election of the chairpersons and vice-chairpersons of the enforcement and facilitative branches of the Compliance Committee

9. In accordance with section II, paragraph 4, of the procedures and mechanisms, on 18 March 2014, at its fifteenth meeting, the facilitative branch elected by acclamation Mr. Delano Ruben Verwey as chairperson and Mr. Ladislaus Kyaruzi as vice-chairperson, while, at its twenty-fourth meeting, the enforcement branch elected Ms. Rueanna Haynes as chairperson and Mr. Gerhard Loibl as vice-chairperson by acclamation. Those chairpersons and vice-chairpersons constitute the new bureau of the Compliance Committee.

10. The plenary and the branches expressed their appreciation for the work of the members of the previous bureau, namely Mr. Khalid Abuleif, chairperson of the facilitative branch, and Mr. René Lefeber, chairperson of the enforcement branch.

B. Membership of the Compliance Committee

11. In accordance with rule 3, paragraph 5, of the "Rules of procedure of the Compliance Committee of the Kyoto Protocol" (annex to decision 4/CMP.2, as amended by decisions 4/CMP.4 and 8/CMP.9; hereinafter referred to as the rules of procedure), when a member or alternate 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.

12. The plenary wishes to note its profound sadness at the passing away earlier in 2014 of Mr. Marc Pallemmaerts, an alternate member of the Compliance Committee, elected to serve in the enforcement branch until 31 December 2015. Mr. Pallemmaerts contributed greatly to the work of the Committee, on which he served in various capacities since its establishment, including as a member of the facilitative branch from 2006 to 2011, as its vice-chairperson from 2008 to 2010 and, since 2012, as an alternate member of the enforcement branch.

13. In accordance with section II, paragraph 5, and section V, paragraph 2, of the procedures and mechanisms, and rule 3, paragraph 5, of the rules of procedure, the plenary requests the CMP to fill the vacancy in the enforcement branch by electing an alternate member from the Western European and other States to serve for the remainder of Mr. Pallemmaerts' term.

14. The plenary expressed its hope that Parties will keep in mind the issue of gender balance when making nominations for membership of the Compliance Committee.

¹ <http://unfccc.int/kyoto_protocol/compliance/items/2875.php>.

C. Transparency, communication and information

15. In accordance with rule 9, paragraph 1, of the rules of procedure, meetings of the plenary and of the facilitative and enforcement branches held in the reporting period were recorded and broadcast on the Internet via the UNFCCC website, with the exception of the parts of those meetings that were held in private in accordance with the same rule.

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

17. At its fourteenth meeting, the plenary considered the report prepared by Mr. Lefebvre and the Secretary to the Compliance Committee on the outcomes of the first session of the dialogue with the compliance bodies of other multilateral environmental agreements on national reporting issues, which was held as part of the tenth meeting of the Basel Implementation and Compliance Committee.³

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

18. At its fifteenth meeting, the plenary noted the oral report delivered by the secretariat on the current state of negotiations on legal arrangements for privileges and immunities for individuals serving on constituted bodies under the Kyoto Protocol.

19. The plenary recalled that, in a number of its earlier annual reports, it had invited the CMP to ensure that any legal arrangements for privileges and immunities to be adopted by the CMP would cover the members and alternate members of the Compliance Committee. The plenary emphasized the importance that it attaches to the privileges and immunities of the members and alternate members of the Committee, taking into account the role played by the Committee. In that regard, it reiterated that the attribution of immunity from jurisdiction and the freedom to travel to attend meetings of the Committee are necessary elements for its work and their absence could affect the effectiveness of its operations. The Committee invited the CMP to address this issue as a matter of urgency.

E. Use of electronic means of decision-making

20. Pursuant to rule 11, paragraph 2, of the rules of procedure, the Compliance Committee may elaborate and take decisions using electronic means. During the reporting period, neither the branches nor the plenary needed to resort to electronic means for their decision-making.

² 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>.

³ CC/14/2014/2.

III. Work undertaken in the reporting period

A. Activities of the plenary

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

21. In accordance with section VI, paragraph 3, of the procedures and mechanisms, the secretariat forwarded to the Compliance Committee the reports of the individual reviews of the annual submissions submitted in 2013 by Australia, Austria, Belgium, Bulgaria, Croatia, the Czech Republic, Denmark, Estonia, the European Union, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Monaco, the Netherlands, New Zealand, Poland, Romania, Slovenia, Spain, Sweden, Switzerland, Ukraine and the United Kingdom of Great Britain and Northern Ireland.

22. Also in accordance with section VI, paragraph 3, of the procedures and mechanisms and decision 22/CMP.1, annex, paragraph 49, the secretariat forwarded to the Committee the annual status reports of the annual inventories submitted in 2014 by Australia, Austria, Belgium, Bulgaria, Croatia, the Czech Republic, Denmark, Estonia, the European Union, 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.

23. Similarly, in accordance with section VI, paragraph 3, of the procedures and mechanisms, the secretariat forwarded to the Committee the reports of the technical reviews of the sixth national communications (NC6s) submitted in 2014 by Austria, Croatia, Denmark, the European Union, Finland, France, Italy, Latvia, Luxembourg, the Netherlands, New Zealand, Portugal, Spain, Sweden and Switzerland.

24. In accordance with decision 13/CMP.1, paragraph 4, the secretariat forwarded to the Committee the sixth annual compilation and accounting report for Parties to the Convention with commitments inscribed in Annex B to the Kyoto Protocol and the addendum thereto.⁴

25. At its fifteenth meeting, the plenary noted the information provided to it by the secretariat on the status of submission and review of reports under the Kyoto Protocol.

2. Consistency of reviews under Article 8 of the Kyoto Protocol

26. At its fourteenth meeting, the plenary decided to convene a closed session to hear a report from the chairperson of the facilitative branch on his participation in the 11th meeting of inventory lead reviewers, which was held in Bonn from 3 to 5 March 2014. The overriding reason for holding that part of the meeting in private was the fact that the chairperson was reporting back on a closed meeting.

27. Having considered the above-mentioned report, the plenary recalled its intention to organize further joint workshops with inventory lead reviewers.⁵ In that regard, at its fifteenth meeting, the plenary discussed the scope of such a workshop, to be held in 2015 in conjunction with the next meetings of inventory lead reviewers and of the plenary, the enforcement branch and the facilitative branch. The plenary considered suggestions made by members and alternate members of the Committee on the scope of a joint workshop.

⁴ CC/2013/1.

⁵ CC/12/2013/3, paragraph 7.

Taking into account the suggestions made, the plenary agreed that such a workshop could provide an opportunity to jointly examine examples of the different types of review reports under the Kyoto Protocol, with a view to facilitating an understanding of the language used in the reports, in particular qualifying terms, and the modalities of how the reports are prepared. The joint workshop could also address key challenges arising in relation to the reporting and review of activities under Article 3, paragraphs 3 and 4, of the Kyoto Protocol. The plenary requested the bureau of the Committee, with the assistance of the secretariat, and in consultation with inventory lead reviewers, to make arrangements to hold such a workshop in early 2015, in conjunction with the sixteenth meeting of the plenary and the 12th meeting of inventory lead reviewers.

3. Implications for the work of the Compliance Committee arising from the timing of the entry into force of the Doha Amendment to the Kyoto Protocol

28. At its fifteenth meeting, the plenary continued to consider possible implications for its work in the second commitment period arising from decision 1/CMP.8 and the provisions of the annex to decision 27/CMP.1 related to the first commitment period. In particular, the plenary agreed to further consider any implications for its work arising from the timing of the entry into force of the Doha Amendment to the Kyoto Protocol. The plenary took note of the update provided by the secretariat on the status of ratification of the Doha Amendment and agreed to continue its consideration of this agenda item at its next meeting.

B. Activities of the enforcement branch

1. Delay in the submission by a Party included in Annex I of its national inventory report for 2014

29. At its twenty-fifth meeting, the enforcement branch considered the delay in the submission by Monaco of its 2014 national inventory report (NIR). The deadline for the submission of the 2014 NIRs was 15 April 2014.⁶ Monaco submitted its 2014 NIR on 30 June 2014.

30. In accordance with paragraph 3(a) of decision 15/CMP.1, a Party included in Annex I shall fail to meet the methodological and reporting requirements under Article 7, paragraph 1, of the Kyoto Protocol for the purpose of the eligibility requirements under the Protocol if, inter alia, the Party concerned has failed to submit an annual inventory of anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montreal Protocol, including the NIR and the common reporting format (CRF), within six weeks of the submission date established by the Conference of the Parties (i.e. in this particular case, 27 May 2014). In the view of the enforcement branch, this is an issue that merits further consideration.

31. The branch requested the secretariat to convey the report on its twenty-fifth meeting to the expert review team (ERT) established to consider Monaco's 2014 annual submission and to inform the ERT of the discussions and considerations of the branch related to this agenda item. It noted that the matter of Monaco's late submission of its 2014 NIR may come before the branch in the future, should the ERT reviewing Monaco's 2014 annual submission raise it as a question of implementation.

⁶ See decisions 3/CP.1, 9/CP.2, 11/CP.4 and 3/CP.5.

2. Effects of a Party's withdrawal from the Kyoto Protocol on its reporting obligations

32. At its twenty-fourth meeting, the enforcement branch requested the secretariat to prepare a background paper on Canada's withdrawal from the Kyoto Protocol and the effects on Canada's reporting obligations under the Kyoto Protocol, for consideration at its twenty-fifth meeting, with a view to determining whether it should bring the matter to the attention of the plenary.

33. At its twenty-fifth meeting, the branch noted that Canada's NIR and CRF tables submitted on 15 April 2013 (Canada's 2013 annual submission) had been reviewed in accordance with decision 19/CP.8 pursuant to the decision of the ERT established to consider Canada's 2013 annual submission. Canada's 2013 annual submission and its NIR and CRF tables submitted on 11 April 2014 (its 2014 annual submission) contain national inventory data for 2011 and 2012, respectively. Therefore, the question arises as to whether Canada's 2013 and 2014 annual submissions should be reviewed in accordance with decision 22/CMP.1, as Canada remained a Party to the Kyoto Protocol until its withdrawal took effect on 15 December 2012. In the view of the branch, this is a question that merits further consideration.

34. The branch requested the secretariat to convey the report on its twenty-fifth meeting to the ERT established to consider Canada's 2014 annual submission and to inform the ERT of the discussions and considerations of the branch related to this agenda item. In addition, the branch concluded that the item should remain on the agenda for its next meeting.

C. Activities of the facilitative branch

Provisions related to facilitation: advice and facilitation

Early warning of potential non-compliance

35. The facilitative branch, at its fifteenth meeting, continued its consideration of whether to commence an early warning exercise with respect to Austria, Croatia and Italy.⁷ It agreed to revisit the matter at its sixteenth meeting and to consider any review reports of the three Parties' 2013 annual submissions and their NC6s that would be available at that time. Following the decision of the branch, at its thirteenth meeting, to explore ways to invite some inventory lead reviewers to attend its meetings,⁸ two reviewers attended its fifteenth meeting at its invitation.

36. At its sixteenth meeting, the facilitative branch considered the reports of the technical reviews of the NC6s and the reports of the individual reviews of the 2013 annual submissions of Austria, Croatia and Italy. On the basis of those reports, and in accordance with the indicative working arrangements on the provision of advice and facilitation under section IV, paragraph 6(a), of the procedures and mechanisms, the branch agreed to conclude its consideration of this matter with respect to all three Parties, noting that they were all on track to meet their commitments under Article 3, paragraph 1, of the Kyoto Protocol for the first commitment period. As regards supplementarity relating to the market-based mechanisms under Articles 6, 12 and 17 of the Kyoto Protocol, the branch noted that Austria had made extensive use of units from those mechanisms. The branch also noted that the Kyoto Protocol provides for the use of those mechanisms for achieving compliance with commitments under Article 3, paragraph 1, of the Kyoto Protocol.

⁷ CC/FB/15/2014/2, paragraphs 7–10.

⁸ FCCC/KP/CMP/2013/3, paragraph 54.

Late submission by Parties included in Annex I of their sixth national communications

37. At its fifteenth meeting, the facilitative branch noted with concern that Monaco was again late in submitting its national communication and wrote to the Party raising that concern and asking whether it could provide any advice and facilitation. A letter from the chairperson of the branch was sent to Monaco on 22 April 2014. Monaco replied on 18 June 2014 by e-mail explaining the delay and informing the branch that it did not require its support. At its sixteenth meeting, the branch considered Monaco's response, dated 18 June 2014. The branch agreed to conclude its consideration of the matter, as Monaco had indicated that it did not require any support.

38. The branch also noted that Slovenia was late in submitting its NC6 and that the Party had informed the secretariat that it would be submitted by the end of the first quarter of 2014. The branch agreed that, if Slovenia's NC6 was not submitted in the first quarter of 2014, it would send Slovenia a letter raising its concern about the late submission and asking whether it could provide any advice and facilitation. Slovenia submitted its NC6 on 17 April 2014 and, therefore, no further action was taken by the branch.

Advice and facilitation

39. The facilitative branch recalled that it had agreed to keep the issue of provisions related to advice and facilitation on the agenda for its future meetings.⁹ In that regard, and in the course of the discussions relating to its early warning function (see paras. 35 and 36 above), the branch raised issues in relation to other information contained in the review reports. The branch agreed to have further discussions at its future meetings on the review reports, including the recommendations contained therein, in the context of providing advice and facilitation to Parties on implementing the Kyoto Protocol.

IV. Budget for the work of the Compliance Committee

40. For the biennium 2014–2015, EUR 1,123,508¹⁰ was approved in the core budget of the UNFCCC for activities related to the Compliance Committee. In addition, EUR 515,079 was approved under the item "Support to the Compliance Committee" of the resource requirements of the Trust Fund for Supplementary Activities. As at 31 July 2014, contributions of USD 14,770 had been received for the biennium. The CMP may wish to express its sincere gratitude 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 2014–2015: Belgium and Japan.

⁹ CC/FB/9/2010/2, paragraph 8.

¹⁰ This amount does not include secretariat-wide operating costs, programme support costs (overheads) or working capital reserve, as defined in decision 27/CP.19.