



COMPLIANCE COMMITTEE

**CC/2/2006/3
9 May 2006**

**COMPILED COMMENTS
ON THE
DRAFT RULES OF PROCEDURE**

This document contains unedited comments provided by members of the Committee on its draft rules of procedure, compiled by the secretariat as at April 7, 2006.



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ON THE
DRAFT RULES OF PROCEDURE**

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I. Comments by Mr. Mohammad Alam, Enforcement Branch:

1- under section II “ Definition “ “ Rules “ . The following should be defined

Member : -----

Alternate: -----

2- Under section VI “members” “ Rule 12“ . The following should be added.

4- both members and alternates will have the same obligations and the same rights except when it is related to voting only the member or his alternate in his absence do have the right.

5- If a member resign or in other wise unable to complete the assigned term his alternate will Immediately be a member and it will go back to the group from which the member where elected to chose an alternate.

***** “ IT IS KIND OF CABACITY BUILDING “

6- If an alternate resign or in other wise unable to complete the assigned term it will go back to the group from which the member where elected to chose an alternate.

3- A special section for voting should be considered taking different Rules in that section.

4- In the draft ROP Rule 13 after “ Each member “ we can add “ and alternate “ .



II. Comments by Mr. Mark Berman, Facilitative Branch:

I would also refer to a couple of issues that were discussed at our first meeting in Bonn but are not yet reflected in the ROP or have not been fully explored:

We require a rule with respect to the replacement of members who step down. I will leave that to the Secretariat to draft and propose for discussion at the next meeting.

We also require clarity with respect to the role of alternates ie. recognizing that they do not have the right to vote but recognizing their ability to speak in both the branch meetings as well as the Compliance Committee Plenary meetings.

We require further discussion on the transparency of meetings ie. whether they are open to observers. While there are certain aspects of the CDM EB meetings that may be useful, my feeling is that the work of the Compliance Committee is quite different and we need to devise a process that meets our specific needs. In the end, I believe we will have to devise agendas so that part of each meeting is "in camera" and part is not.

We also need to continue the discussion on implications of working in our "personal capacity". Should Annex I Parties pay the the expenses of those members/alternates from those countries? In the case where a member's own country is being discussed, should that member be excused from voting (replaced by the alternate) or does "personal capacity" negate such a need?

Annex

Compliance Committee

Draft rules of procedure*

I. Objective

Rule 1

These rules of procedure shall apply to the meetings of the Compliance Committee, including its Enforcement Branch and Facilitative Branch, as defined in the annex to decision 27/CMP.1. They shall be read together with and in furtherance of the procedures and mechanisms set out in that decision.

Comment: The Executive Board's Rules of Procedure and the JI draft rules of procedure were prepared incorporating directly into them those the rules of procedure which originate in the relevant decisions of the COP/MOP. They have been incorporated by direct citation and identified by insertion as boxed text. The proposed RoP for the Compliance Committee do not to do this making the present draft less "user-friendly" as it requires the reader to look at both the decision of the Parties and the draft RoPs in tandem since critical elements are to be found in both documents. The Compliance Committee may wish to consider following the EB and JI example in order to ensure the RoPs can be used in a single document. While there is a danger that this will result in some elements from the decision being missed, Rule 42 of the draft rules does ensure that the text of the decision and the Protocol will always override the RoPs.

* Explanatory notes on each of the Rules follow the draft text. These have been provided solely to facilitate discussion.



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As a general comment, in light of the implications related to findings by the Enforcement Branch, it may be useful to increase the details on the proceedings within this Branch to provide for due process, delays and the likes. If so, a starting point might be the Appendix 3 to the WTO's Understanding of Rules and Procedures Governing the Settlement of Disputes. This will require that the Committee start from the text of the decision and elaborate rules relating to due process, delays, etc... that will supplement the Compliance decision text.

II. Definitions

Rule 2

1. References in these rules to a numbered section shall be understood as references to the section so numbered in the annex to decision 27/CMP.1.

Comment: See explanatory note. I would prefer the version in the explanatory note since it is simpler, in plain English and more in line with a definition: "References in these rules to a "section" mean the section that bears that number in the Annex to decision 27/CMP.1"

2. For the purposes of these rules:

- (a) "branch" means the Enforcement Branch or the Facilitative Branch established by section II.2;
- (b) "co-chairpersons" means the chairperson of the Enforcement Branch and the chairperson of the Facilitative Branch acting together in the plenary of the Committee in accordance with section III.1;
- (c) "Committee" means the Compliance Committee established by section II.1;
- (d) "Party" means a Party to the Kyoto Protocol to the United Nations Framework Convention on Climate Change;
- (e) "secretariat" means the secretariat referred to in section XVII.

III. Place of meetings

Rule 3

The Committee and its two branches shall meet at the seat of the secretariat, unless the Committee or the branch in question decides otherwise, subject to availability of funds.

Comment: The UNFCCC and the EB RoPs both include the following after the word "otherwise"... " or other appropriate arrangements are made by the secretariat in consultation with the chairperson or co-chairpersons". As currently drafted this means that the Chairs can't have any role in choosing or changing a place of meeting if the committee or branch did not make a decision. It may be wise to keep this flexibility in this rule.

IV. Dates and notice of meetings

Rule 4

At each meeting of the Committee and of a branch, its members shall decide on the dates and duration of their next meeting.



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Comment: Rules 4 and 5 are both to be supplemented by looking at the compliance decision e.g. at least twice a year, desirability of holding meetings in conjunction with other UNFCCC subsidiary bodies, special procedures for hearings for the enforcement branch. This is an example of rules that are incomplete and need to be read with the decision text. Boxed text inclusions would be helpful.

Rule 5

The secretariat shall notify all members of the Committee of the dates of a meeting of the Committee or a branch at least four weeks before it is due to commence, except in the case of a meeting of the Enforcement Branch under the expedited procedures specified in section X when the members shall be notified at least two weeks in advance.

V. Agendas and documentation

Rule 6

The agendas of the Committee and its two branches shall be limited to their respective functions as specified in sections III to V and to matters necessarily related thereto.

Rule 7

1. The secretariat shall draft the provisional agenda for each meeting of the Committee in agreement with the bureau of the committee.
2. The secretariat shall draft the provisional agenda for each meeting of the Enforcement Branch and Facilitative Branch in agreement with the branch's chairperson and vice-chairperson.

Rule 8

The provisional agenda for a meeting shall be distributed by the secretariat to all members of the Committee together with the notification referred to in Rule 5. At the same time, the secretariat shall distribute to the members of the Committee or of the branch in question, the official documents for its own meeting.

Rule 9

1. The secretariat shall, with the agreement of the co-chairpersons, include in a supplementary agenda any items proposed for consideration by a member of the Committee that are received by the secretariat after the provisional agenda has been produced but before the commencement of the meeting. The Committee shall examine the supplementary agenda together with the provisional agenda.
2. The secretariat shall, with the agreement of the chairperson and vice-chairperson of the branch in question, include in a supplementary agenda any item proposed for consideration by a member of the branch that is received by the secretariat after the provisional agenda has been produced but before the commencement of the meeting. The branch shall examine the supplementary agenda together with the provisional agenda.



Rule 10

The Committee or a branch, when adopting its agenda, may decide to add, delete, defer or amend items. Only items that the Committee or branch considers to be urgent, important and sufficiently well prepared may be added to an agenda.

Comment: The drafter has added the “sufficiently well prepared” (see explanatory note). While this is standard rules of procedure text, I would raise the issue relating to sufficiency of notice to an affected Party. Is it reasonable that an agenda could be amended at the last minute to include an item dealing with a question of implementation of a Party? There are no timelines included in section VI on Submissions but section VII.7 refers to a Party having an opportunity to comment in writing. A last minute addition to the agenda would not permit this. It might therefore be worth elaborating this rule to reflect, for example, that items to be added at the meeting, could not include a submission under section VI.

Rule 11

1. Relevant factual and technical information relating to ~~an issue~~ a question of implementation currently under consideration by a branch may be submitted in writing to the secretariat by any competent intergovernmental or non-governmental organization. If the chairperson of the branch concerned is satisfied that the information could be relevant to the ~~issue~~ question of implementation under consideration, the secretariat shall distribute it as soon as practicable to the members of the Enforcement Branch or Facilitative Branch, as appropriate.

Comment: Rule 11 is an example of an element from the Compliance Decision being included but requiring the reader to look to the Decision text to fully understand. Section VIII deals with information that can be presented to a branch, information from intergovernmental and non-governmental organizations is one of several items. This rule is meant to supplement section VIII.4 and clarify that it is the chair that decides on the relevance of the information provided and that it is only information relating to “an issue currently under consideration” since under section VI the only triggers for “questions of implementation” are from the expert review teams, the Party itself or another Party. The use of the words “an issue” instead of “a question of implementation” in the draft rule, raises a question of whether the information to be provided is to relate to a specific question of implementation. The compliance mechanism created by the decision is clear that the Committee is only to deal with submissions dealing with specific cases of non-compliance. Therefore the technical and factual information should only relate to a specific question of implementation and it would be preferable to use the wording of the decision.

The drafter notes that the Committee may wish to consider criteria to determine the competency of IGOS and NGOs and we agree that this is an item that should be further discussed. The Committee could begin by examining the criteria used for admittance of IGOS and NGOs as observers to the UNFCCC and examine the criteria used for other international organizations dealing with technical matters such as the IPCC or GEOSS or WMO to help define such criteria.

2. The branch to which such information is distributed shall consider it in the context of the agenda item to which it relates.

3. Any intergovernmental or non-governmental organization whose information has been distributed to a branch for consideration shall be informed individually by the secretariat of the final decision to which the information relates.



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Comment: It is not clear that this last para. is necessary since all decisions of the committee are to be made public in any event. There does not seem to be a valid reason for requiring individual notification to the inter-governmental or non-governmental organization concerned since there is no obligation to consider the information submitted in the first place.

VI. Members

Rule 12

1. The term of service of a member, or alternate member, of the Committee shall start on 1 January of the calendar year immediately following his/her election and shall end on 31 December, two or four years thereafter, as applicable.
2. Any reference in these rules to a member shall be considered to include a reference to his/her alternate when such alternate acts in place of the member.
3. During the absence of a member from all or part of a meeting of the Committee or of the branch to which he/she has been elected, his/her alternate shall act as the member.

Rule 13

Each member of the Committee shall, with respect to any matter that is under consideration by the Committee or the branch to which he/she has been elected, act in an independent and impartial manner and avoid direct or indirect conflicts of interest. Any interest that may constitute a conflict of interest or appearance of a conflict of interest or which might be incompatible with the requirements of independence and impartiality expected of a member of the Committee shall be disclosed as soon as possible to the secretariat which shall forthwith notify the members of the Committee. The member shall refrain from participating in the work of the Committee or the branch concerned in relation to such matter.

VII. Officers

Rule 14

The chairperson and vice-chairperson of each branch shall serve in those capacities until their successors have been elected.

Rule 15

1. In addition to exercising the powers conferred upon him or her elsewhere in these rules, a chairperson or co-chairpersons shall:
 - (a) Declare the opening and closure of the meeting;
 - (b) Preside over the meeting;
 - (c) Ensure the observance of these rules;
 - (d) Accord members the right to speak;
 - (e) Put questions to the vote and announce decisions;



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- (f) Rule on any points of order; and
 - (g) Subject to these rules, have complete control over the proceedings and maintain order.
2. A chairperson or co-chairperson may also propose to the meeting:
- (a) The closure of the list of speakers;
 - (b) A limitation on the time to be allowed to speakers and on the number of times a member may speak on an issue;
 - (c) The adjournment or closure of debate on an issue; and
 - (d) The suspension or adjournment of the meeting.
3. A chairperson, in the exercise of his or her functions, remains under the authority of the Committee or, as the case may be, of the Enforcement Branch or Facilitative Branch.

Rule 16

1. If a co-chairperson is temporarily absent from a meeting of the Committee or any part thereof, the vice-chairperson of the branch of which he or she is a member shall act as co-chairperson.
2. If the chairperson is temporarily absent from a meeting of his or her branch or of any part thereof, the vice-chairperson of that branch shall act as chairperson.

Rule 17

If a chairperson or co-chairperson resigns or is otherwise unable to complete the assigned term or the functions of his or her office, the branch in question shall elect, in accordance with the terms of section II.4, a replacement from among its existing members for the unexpired period of that officer's mandate.

VIII. Participation in proceedings of Committee and its branches

Rule 18

Where a Party is the subject of proceedings before the Enforcement Branch or the Facilitative Branch, it shall be invited to participate in the branch's consideration of its case. The Party shall not, however, take part in the elaboration and adoption of the decision of the branch. The decision shall be forwarded to the Party for information as soon as possible.

Comment: In light of the implications related to findings by the Enforcement Branch, it may be useful to increase the details on the proceedings within this Branch to provide for due process, delays and the likes. If so, a starting point might be the Appendix 3 to the WTO's Understanding of Rules and Procedures Governing the Settlement of Disputes.

This is another instance where the text of the compliance decision needs to be closely examined and the rules of procedures elaborated to supplement it. See Section VIII.2 and Section IX. It is not clear whether Rule 18 is



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meant to supplement these rules or how this would work. Emphasis should be put on transparency for the affected Party.

Rule 19

The members of the Committee and any Party that participates in the proceedings of a branch shall protect the confidentiality of any information that the Committee or the branch receives in confidence.

IX. Secretariat

Rule 20

1. The secretariat shall ~~prepare~~ compile the documents for each meeting of the Committee in consultation with the co-chairpersons.
2. The secretariat shall ~~prepare~~ compile the documents for the meetings of each branch in consultation with the chairperson and vice-chairperson of that branch.
3. In addition, the secretariat shall:
 - (a) Arrange for the ~~preparation~~ compilation, reproduction and distribution of the documents;
 - (b) Arrange for the custody and preservation of the documents of each meeting in the archives of the secretariat;
 - (c) Provide resources for the work of the Compliance Committee in accordance with the approved budget; and
 - (d) Perform such other tasks as the Committee or its branches may require in relation to their respective functions.

X. Conduct of Business

Rule 21

Meetings of the Committee and its branches shall be held in private, unless its members decide otherwise.

Comment: In the Explanatory Notes under this Rule, another rule is elaborated that I would like to see added as a second para.

Rule 22

1. No one may speak at a meeting of the Committee or a branch without having previously obtained the permission of its chairperson. Subject to rules 23, 24 and 26, the chairperson shall ~~in general~~ call upon members in the order in which they signify their wish to speak. The secretariat shall maintain a list of speakers. The chairperson may call a member to order if his or her remarks are not relevant to the issue under discussion.



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2. A meeting may, on a proposal from its chairperson or a member, decide to limit the time allowed to each speaker and the number of times a member may speak on an issue. When it has been decided to so limit the time for debate and a member exceeds the allotted time, he or she shall be called to order without delay.

Rule 23

At any time during the discussion of an item, a member may raise a point of order, which shall be ruled upon immediately by the chairperson in accordance with these rules. Any member may appeal against the ruling. The appeal shall be put to a vote immediately and the ruling shall stand unless it is overturned by a majority of the members present and voting. A member may not, in raising a point of order, speak on the substance of the item under discussion

Rule 24

1. Any motion by a member of the Committee calling for a decision on the competence of the Committee to discuss a matter or to adopt a proposal or an amendment to a proposal shall be decided upon by the Committee before the matter is discussed or a decision is taken on the proposal or amendment in question.

Comment: I would prefer shall be "put to the vote" rather than "decided upon" since this is the expression used in other sections of these RoPs.

2. Any motion by a member of the branch calling for a decision on the competence of a branch to discuss a matter or to adopt a proposal or an amendment to a proposal shall be decided upon (*please see comment below*) by that branch before the matter is discussed or a decision is taken on the proposal or amendment in question.

Comment: I would prefer shall be "put to the vote" rather than "decided upon" since this is the expression used in other sections of these RoPs.

Rule 25

1. Proposals and amendments to proposals by a member of the Committee for consideration by the Committee shall normally be presented in writing to the secretariat which shall circulate copies to the other members of the Committee.

2. Proposals and amendments to proposals by a member of a branch for consideration by the branch shall normally be presented in writing to the secretariat which shall circulate copies to the other members of the branch in question.

3. As a general rule, no proposal shall be discussed or decided upon at any meeting unless copies of it were circulated to the members at least the day before. The chairperson may, however, permit the discussion and consideration of amendments to proposals or of procedural motions even though those amendments or motions have not been circulated or have been circulated only the same day.



Rule 26

1. Subject to Rule 20, the following motions shall have precedence, in the order indicated below, over all other proposals or motions:
 - (a) To suspend the meeting;
 - (b) To adjourn the meeting;
 - (c) To adjourn debate on a question under discussion;
 - (d) For closure of the debate on a question under discussion.
2. Permission to speak on a motion falling within paragraph 1 (a) to (d) shall be granted only to the member proposing the motion and to one speaker against the motion, after which it shall immediately be put to a vote.

Rule 27

A proposal or motion may be withdrawn by the member who proposed it at any time before voting on it has begun, provided that the proposal or motion has not been amended. A proposal or motion withdrawn may be reintroduced by any other member of the Committee or branch in question.

Rule 28

When a proposal has been adopted or rejected, it may not be reconsidered during the same meeting, unless the Committee or branch by a three-quarters majority of its members present and voting decides in favour of reconsideration.

Comment: This is the rule that is in the decision and is also being applied by the EB etc... I can agree to keeping three-quarters. It should be noted, however, that this rule does not reflect the special voting rules of the enforcement branch section II.9. This is another example where clarity would be achieved by including the specific rules from the decision in this text. Or making specific reference to it such as, subject to section II.9.

The meeting shall not proceed to a vote on such a proposal unless one member speaks in support of the mover of the motion to reconsider. Permission to speak shall, however, be accorded only to the mover and one supporter, after which the motion shall immediately be put to the vote.

Rule 29

If two or more proposals relate to the same issue, the meeting shall, unless it decides otherwise, decide on the proposals in the order in which they have been submitted. The meeting may, after each decision on a proposal, decide whether or not to take a decision on the next proposal.



Rule 30

1. Any member may request that part of a proposal or of an amendment to a proposal be decided on separately. If objection is made to the request for division, the chairperson shall permit two members to speak, one in favour of and the other against the motion, after which a decision shall immediately be taken on it.

2. If the motion referred to in paragraph 1 is adopted, those parts of the proposal or of the amendment to the proposal which have been approved shall then be decided on as a whole. If all the operative parts of the proposal or amendment have been rejected, the proposal or amendment shall be considered to have been rejected as a whole.

Rule 31

A motion is considered to be an amendment to a proposal if it in any way adds to, deletes from or revises that proposal. The meeting shall decide on an amendment before it decides on the proposal to which it relates and, if the amendment is adopted, the amended proposal shall then be voted on.

Rule 32

If two or more amendments to a proposal are moved, the meeting shall first decide on the amendment furthest removed in substance from the original proposal, then on the amendment next furthest removed therefrom, and so on, until decisions have been made on all the amendments.

Rule 33

Voting on a single proposal shall normally be by show of hands. A roll call shall be taken if one is requested by any member. It shall be taken in the English alphabetical order of the names of the Parties from which the members participating in the meeting come, beginning with the member whose name is drawn by lots by the chairperson.

Rule 34

The vote of each member participating in a roll call vote shall be recorded in the report of the meeting.

Rule 35

After the chairperson has announced the beginning of voting, no member shall interrupt the voting except on a point of order in connection with the actual conduct of the voting. The chairperson may permit members to explain their votes, either before or after the voting, and may limit the time allowed for such explanations.



Rule 36

In the absence of consensus, the elections referred to in section II.4 and rule 17 shall be decided by means of a secret ballot.

Rule 37

1. If, when one person is to be elected, no candidate obtains in the first ballot a majority of the votes cast by the members of the branch present and voting, a second ballot restricted to the two candidates obtaining the largest number of votes shall be taken. If in the second ballot the votes are equally divided, the chairperson shall decide between the candidates by drawing lots.

2. In the case of a tie in the first ballot among three or more candidates obtaining the largest number of votes, a second ballot shall be held. If a tie results among more than two candidates, the number shall be reduced to two by lot and the balloting, restricted to them, shall continue in accordance with the procedure set forth in paragraph 1 of this rule.

XI. Languages

Rule 38

The working language of the Committee and its branches shall be English.

Rule 39

A representative of a Party taking part in the proceedings of a branch may speak in a language other than the working language if that Party provides for interpretation into the working language of the branch.

Rule 40

Decisions of the Committee and its branches shall be drawn up in English and translated into the other official languages.

XII. Amendments to rules of procedure

Rule 41

Amendments to these rules of procedure shall be adopted by consensus of the Committee and submitted to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol for approval.

XIII. Overriding authority of the Protocol and decision 27/CMP.1

Rule 42

In the event of a conflict between any provision in these rules and any provision in the Kyoto Protocol or decision 27/CMP.1, the provision of the Protocol or, as the case may be, the decision shall prevail.



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III. Comments by Ms. Johanna G. Susanna De Wet, Enforcement Branch:

1. Reference is made to the decision that additional comments on the draft rules of procedure of the Compliance Committee can be made before the end of March 2006.
2. I wish to confirm the various comments that I made during the first meeting of the Committee. As notes were taken by the Secretariat at the meeting, I will not raise it again. However, I am of the view that there are areas where rules might be needed that are not currently addressed in the draft rules before us.
3. Some areas, where I believe rules might be necessary to deal with the situations, are the following:
 - Rules applicable when questions of implementation are referred from the Enforcement Branch to the Facilitation Branch.
 - Rules applicable to the preliminary examination of questions of implementation by the relevant branch within the three week period.
 - Rules applicable to expert advice obtained by the branches. How will this be done, from whom and how will it be presented?
 - Rules applicable to the use of electronic systems (internet) to consider questions.
4. The position of alternates should also be considered and care should be taken to ensure that the rules applicable to members can in practice also apply to alternates.
5. The Secretariat is requested to investigate the matter, referring to comparable examples, and to propose appropriate draft texts.



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IV. Comments by Mr. Raúl Estrada-Oyuela, Chair, Enforcement Branch:

I would like to share with you a number of comments and questions on the Rules of Procedure, particularly on matters relating to possible future submissions.

Having in mind Decision 27, II, 2) may be advisable to include a definition in the rules to clarify “Committee” and “Plenary of the Committee” as suggested by Sebastian.

We need a procedure to complete in 3 weeks the preliminary examination of VII.3

Who will draft the “statement identifying the question of implementation” required in VII.4?

Should the “party concerned” be allowed to make a presentation before the preliminary examination is completed? Decision 27 has nothing on that possibility.

We need some formalities for communications to parties concerned, e mail or faxes are not adequate ways in my view. Designation of a representative by the party concerned should also be formal.

Formalities for competent IGOs and NGOs communications (VIII.4) also need to be formally addressed to the Committee.

We need to clarify the meaning of “shall be made available to the Party concerned” (VIII.6)

The opportunity to comment in writing (VIII.8) needs a time frame

In case the Party concerned doesn’t provide a further submission (IX.7), the only possibility for the Enforcement Branch is to confirm the preliminary finding. Could the Rules of Procedure add some flexibility?

Who will inform the Committee on the disagreement referred to in X.5?

If the Party concerned appeals a decision on its eligibility (XI) to the MOP/COP, will that appeal suspend the implementation of the decision?



V. Comments by Mr. Hironori Hamanaka, Chairperson, Facilitative Branch:

◆ *Role of the Secretariat (Draft Rule 20(3c))*

- I would like to suggest that Draft Rule 20(3c) should remain as it is, and that the secretariat shall provide resources for the work of the Compliance Committee in accordance with the approved budget.
- I believe it is extremely important for us to avoid attempting anything that would undermine our credibility. Certainly, trying to establish Rules that may incur significant increase in the core budget approved by the COP/MOP will trigger unfavorable reactions from many Parties to the Protocol.
- In this regard, while I recognize that it may be necessary to have additional meetings other than those held in conjunction with the meetings of subsidiary bodies under the Convention, these additional meetings should be also held in Bonn in order to limit the increase in expenditure as low as possible.

◆ *Privacy of Sessions (Draft Rule 21)*

- I would like to suggest that Draft Rule 21 should remain as it is, and that sessions of the Compliance Committee should be held in private, unless its members decide otherwise, based on the following reasons:
 - “The Party concerned” should be given opportunities to state its honest view, which could be better realized without the presence of those who are not the members of the Committee.
 - Confidential information may be presented at the Committee meetings.
 - Only the members of the Committee and their alternates, and the members of the secretariat are allowed to make comments during the Committee meetings. However, 1) those designated by the Party concerned, and/or 2) those invited by the Co-chairs of the Committee as experts in the field relevant to the deliberations at the Committee may make comments during the Committee meetings.
- Upon the agreement of the members of the Committee to be present, Co-chairs may open the plenary sessions to non-members as observers. When the plenary session is opened to non-members, the session can be web-cast. Co-chairs of the Committee can halt the web-cast whenever they recognize the necessity to do so.
- For the sessions under the Branches, unless otherwise decided by the Chair/Vice-Chair, upon the agreement of the members of the Branches to be present, meetings should be held strictly in private.

◆ *Inputs from IGOs and NGOs*

- I would like to propose additional Rule for inputs from IGOs and NGOs as follows.
- The Co-chairs of the Committee, upon the agreement among the members to be present, can request IGO/NGO representatives to present their expert views in the plenary sessions.
- In addition, accredited IGOs/NGOs can submit their comments in writing to the Committee. Co-chairs of the Plenary can circulate the submitted comments as the



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references for discussions in the plenary session, if the contents are deemed to be relevant to the discussions at the Committee. The same is true for meetings of each Branch of the Committee.

- ◆ *Privileges and Immunities of the Compliance Committee Members*
 - In discussing the issue of privileges and immunities, the content and the extent of privileges and immunities to be conferred should be fully examined by clarifying the following points.
 1. Specific cases in which privileges and immunities are deemed necessary (actual precedents, possible cases which might occur in relation to provisions of the Protocol, frequency of occurrence, alternative measures to process the cases)
 2. Contents of privileges and immunities to be conferred
 3. Subjects to which privileges and immunities are to be conferred (Do they cover only members, or substituted members, too? How about non-members including invited experts in case plenary sessions are open? How should we define exact tasks to which privilege and immunities are to be conferred?)
 4. Possible benefits and implications for the Parties by conferring those privileges and immunities (This point will contribute to the discussion under SBI Agenda item 13 (c))
 - In discussing the issue of privileges and immunities, I would like to point out the need to avoid any misunderstanding that we are attempting to increase the core budget as is the case with my comment on Draft Rule 20(3c) above.



VI. Comments by Mr. Tuomas Kuokkanen, Enforcement Branch:

Note by the Secretariat

1. Pursuant to paragraph 2 (d) of section III of the “Procedures and mechanisms relating to compliance under the Kyoto Protocol,” the Compliance Committee is to develop any further rules of procedure that may be needed, including rules on confidentiality, conflict of interest, submission of information by intergovernmental and non-governmental organizations, and translation, for adoption by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, by consensus.
2. This note contains the draft rules of procedure prepared by the secretariat based on the rules of procedure contained in document FCCC/CP/1996/2, and on decision 27/CMP.1, as well as the rules of procedure adopted under other relevant multilateral agreements.

Draft rules of procedure*

I. Objective

Rule 1

These rules of procedure shall apply to the meetings of the Compliance Committee, including its Enforcement Branch and Facilitative Branch, as defined in the annex to decision 27/CMP.1. They shall be read together with and in furtherance of the procedures and mechanisms set out in that decision.

II. Definitions

Rule 2

3. References in these rules to a numbered section shall be understood as references to the section so numbered in the annex to decision 27/CMP.1.
4. For the purposes of these rules:
 - (a) “branch” means the eEnforcement bBranch or the fFacilitative bBranch established by section II.2;
Comment: In decision 27/CMP1 the titles of the two branches are not written with capital letters. The same change should be made throughout the text.
 - (b) “co-chairs” means the chair of the Enforcement Branch and the chair of the Facilitative Branch acting together in the plenary of the Committee in accordance with section III.1;

* Explanatory notes on each of the Rules follow the draft text. These have been provided solely to facilitate discussion.



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- (c) "Committee" means the Compliance Committee established by section II.1;
- (d) "Party" means a Party to the Kyoto Protocol to the United Nations Framework Convention on Climate Change;
- (e) "secretariat" means the secretariat referred to in section XVII;
- (f) "plenary" means the plenary established by section II.2;
- (h) "bureau" means the bureau established by section II.2.

III. Place of meetings

Rule 3

The plenary and two branches of the Committee and its two branches shall meet at the seat of the secretariat, unless the Committee or the branch in question decides otherwise, subject to availability of funds.

Comments: Decision 27/COMP 1 speaks about the plenary and two branches of the Committee but not about the meetings of the Compliance Committee. The whole text should be checked from this point of view and references to Committee meetings should in most instances be replaced by references to the plenary meetings.

IV. Dates and notice of meetings

Rule 4

At each meeting of the plenary ~~Committee~~ and of a branch, its members shall decide on the dates and duration of their next meeting.

Rule 5

The secretariat shall notify all members of the Committee of the dates of a meeting of the plenary ~~Committee~~ or a branch at least four weeks before it is due to commence, except in the case of a meeting of the Enforcement Branch under the expedited procedures specified in section X when the members shall be notified at least two weeks in advance.

V. Agendas and documentation

Rule 6

The agendas of the plenary and two branches of the Committee ~~and its two branches~~ shall be limited to their respective functions as specified in sections III to V and to matters necessarily related thereto.

Rule 7

(a) The secretariat shall draft the provisional agenda for each meeting of the plenary and two branches of the Committee in agreement with the bureau of the ~~Ceommittee~~.



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Comments: Hereinafter I have not amended the text in light of the comments 1 and 2 but the same comments apply to the rest of the rules.

(b) The secretariat shall draft the provisional agenda for each meeting of the Enforcement Branch and Facilitative Branch in agreement with the branch's chair and vice-chair.

Rule 8

The provisional agenda for a meeting shall be distributed by the secretariat to all members of the Committee together with the notification referred to in Rule 5. At the same time, the secretariat shall distribute to the members of the Committee or of the branch in question, the official documents for its own meeting.

Rule 9

(c) The secretariat shall, with the agreement of the co-chairs, include in a supplementary agenda any items proposed for consideration by a member of the Committee that are received by the secretariat after the provisional agenda has been produced but before the commencement of the meeting. The Committee shall examine the supplementary agenda together with the provisional agenda.

(d) The secretariat shall, with the agreement of the chair and vice-chair of the branch in question, include in a supplementary agenda any item proposed for consideration by a member of the branch that is received by the secretariat after the provisional agenda has been produced but before the commencement of the meeting. The branch shall examine the supplementary agenda together with the provisional agenda.

Rule 10

The Committee or a branch, when adopting its agenda, may decide to add, delete, defer or amend items. Only items that the Committee or branch considers to be urgent, important and sufficiently well prepared may be added to an agenda.

Rule 11

(e) Relevant factual and technical information relating to an issue currently under consideration by a branch may be submitted in writing to the secretariat by any competent intergovernmental or non-governmental organization. If the chair of the branch concerned is satisfied that the information could be relevant to the issue under consideration, the secretariat shall distribute it as soon as practicable to the members of the Enforcement Branch or Facilitative Branch, as appropriate.

(f) The branch to which such information is distributed shall consider it in the context of the agenda item to which it relates.

(g) Any intergovernmental or non-governmental organization whose information has been distributed to a branch for consideration shall be informed individually by the secretariat of the final decision to which the information relates.



VI. Members

Rule 12

1. The term of service of a member, or an alternate member, of the Committee shall start on 1 January of the calendar year immediately following his/her election and shall end on 31 December, two or four years thereafter, as applicable.
2. Any reference in these rules to a member shall be considered to include a reference to his/her alternate when such alternate acts in place of the member.
3. During the absence of a member from all or part of a meeting of the Committee or of the branch to which he/she has been elected, his/her alternate shall act as the member.



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Rule 13

Each member of the Committee shall, with respect to any matter that is under consideration by the Committee or the branch to which he/she has been elected, act in an independent and impartial manner and avoid direct or indirect conflicts of interest. Any interest that may constitute a conflict of interest or which might be incompatible with the requirements of independence and impartiality expected of a member of the Committee shall be disclosed as soon as possible to the secretariat which shall forthwith notify the members of the Committee. The member shall refrain from participating in the work of the Committee or the branch concerned in relation to such matter.

VII. Officers

Rule 14

The chair and vice-chair of each branch shall serve in those capacities until their successors have been elected.

Rule 15

1. In addition to exercising the powers conferred upon him or her elsewhere in these rules, a chair shall:

- (a) Declare the opening and closure of the meeting;
- (b) Preside over the meeting;
- (c) Ensure the observance of these rules;
- (d) Accord members the right to speak;
- (e) Put questions to the vote and announce decisions;
- (f) Rule on any points of order; and
- (g) Subject to these rules, have complete control over the proceedings and maintain order.

2. A chair may also propose:

- (a) The closure of the list of speakers;
- (b) A limitation on the time to be allowed to speakers and on the number of times a member may speak on an issue;
- (c) The adjournment or closure of debate on an issue; and
- (d) The suspension or adjournment of the meeting.



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3. A chair, in the exercise of his or her functions, remains under the authority of the Committee or, as the case may be, of the Enforcement Branch or Facilitative Branch.



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1. If a co-chair is temporarily absent from a meeting of the Committee or any part thereof, the vice-chair of the branch of which he or she is a member shall act as co-chair.
2. If the chair is temporarily absent from a meeting of his or her branch or of any part thereof, the vice-chair of that branch shall act as chair.

Rule 17

If a chair or co-chair resigns or is otherwise unable to complete the assigned term or the functions of his or her office, the branch in question shall elect, in accordance with the terms of section II.4, a replacement from among its existing members for the unexpired period of that officer's mandate.

VIII. Participation in proceedings of Committee and its branches**Rule 18**

Where a Party is the subject of proceedings before the Enforcement Branch or the Facilitative Branch, it shall be invited to participate in the branch's consideration of its case. The Party shall not, however, take part in the elaboration and adoption of the decision of the branch. The decision shall be forwarded to the Party for information as soon as possible.

Rule 19

The members of the Committee and any Party that participates in the proceedings of a branch shall protect the confidentiality of any information that the Committee or the branch receives in confidence.

IX. Secretariat**Rule 20**

1. The secretariat shall prepare the documents for each meeting of the Committee in consultation with the co-chairs.
2. The secretariat shall prepare the documents for the meetings of each branch in consultation with the chair and vice-chair of that branch.
3. In addition, the secretariat shall:
 - (a) Arrange for the preparation, reproduction and distribution of the documents;
 - (b) Arrange for the custody and preservation of the documents of each meeting in the archives of the secretariat;



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- (c) Provide resources for the work of the Compliance Committee in accordance with the approved budget; and
- (d) Perform such other tasks as the Committee or its branches may require in relation to their respective functions.

X. Conduct of Business

Rule 21

Meetings of the Committee and its branches shall be held in private, unless its members decide otherwise.

Rule 22

1. No one may speak at a meeting of the Committee or a branch without having previously obtained the permission of its chair. Subject to rules 23, 24 and 26, the chair shall in general call upon members in the order in which they signify their wish to speak. The secretariat shall maintain a list of speakers. The chair may call a member to order if his or her remarks are not relevant to the issue under discussion.
2. A meeting may, on a proposal from its chair or a member, decide to limit the time allowed to each speaker and the number of times a member may speak on an issue. When it has been decided to so limit the time for debate and a member exceeds the allotted time, he or she shall be called to order without delay.

Rule 23

At any time during the discussion of an item, a member may raise a point of order, which shall be ruled upon immediately by the chair in accordance with these rules. Any member may appeal against the ruling. The appeal shall be put to a vote immediately and the ruling shall stand unless it is overturned by a majority of the members present and voting. A member may not, in raising a point of order, speak on the substance of the item under discussion.

Rule 24

1. Any motion by a member of the Committee calling for a decision on the competence of the Committee to discuss a matter or to adopt a proposal or an amendment to a proposal shall be decided upon by the Committee before the matter is discussed or a decision is taken on the proposal or amendment in question.
2. Any motion by a member of the branch calling for a decision on the competence of a branch to discuss a matter or to adopt a proposal or an amendment to a proposal shall be decided upon by



that branch before the matter is discussed or a decision is taken on the proposal or amendment in question.

Rule 25

1. Proposals and amendments to proposals by a member of the Committee for consideration by the Committee shall normally be presented in writing to the secretariat which shall circulate copies to the other members of the Committee.
2. Proposals and amendments to proposals by a member of a branch for consideration by the branch shall normally be presented in writing to the secretariat which shall circulate copies to the other members of the branch in question.
3. As a general rule, no proposal shall be discussed or decided upon at any meeting unless copies of it were circulated to the members at least the day before. The chair may, however, permit the discussion and consideration of amendments to proposals or of procedural motions even though those amendments or motions have not been circulated or have been circulated only the same day.

Rule 26

1. Subject to Rule 23 , the following motions shall have precedence, in the order indicated below, over all other proposals or motions:
 - (a) To suspend the meeting;
 - (b) To adjourn the meeting;
 - (c) To adjourn debate on a question under discussion;
 - (d) For closure of the debate on a question under discussion.
2. Permission to speak on a motion falling within paragraph 1 (a) to (d) shall be granted only to the member proposing the motion and to one speaker against the motion, after which it shall immediately be put to a vote.

Rule 27

A proposal or motion may be withdrawn by the member who proposed it at any time before voting on it has begun, provided that the proposal or motion has not been amended. A proposal or motion withdrawn may be reintroduced by any other member of the Committee or branch in question.

Rule 28



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When a proposal has been adopted or rejected, it may not be reconsidered during the same meeting, unless the Committee or branch by a three-quarters majority of its members present and voting decides in favour of reconsideration. The meeting shall not proceed to a vote on such a proposal unless one member speaks in support of the mover of the motion to reconsider. Permission to speak shall, however, be accorded only to the mover and one supporter, after which the motion shall immediately be put to the vote.

Rule 29

If two or more proposals relate to the same issue, the meeting shall, unless it decides otherwise, decide on the proposals in the order in which they have been submitted. The meeting may, after each decision on a proposal, decide whether or not to take a decision on the next proposal.

Rule 30

1. Any member may request that part of a proposal or of an amendment to a proposal be decided on separately. If objection is made to the request for division, the chair shall permit two members to speak, one in favour of and the other against the motion, after which a decision shall immediately be taken on it.
2. If the motion referred to in paragraph 1 is adopted, those parts of the proposal or of the amendment to the proposal which have been approved shall then be decided on as a whole. If all the operative parts of the proposal or amendment have been rejected, the proposal or amendment shall be considered to have been rejected as a whole.

Rule 31

A motion is considered to be an amendment to a proposal if it in any way adds to, deletes from or revises that proposal. The meeting shall decide on an amendment before it decides on the proposal to which it relates and, if the amendment is adopted, the amended proposal shall then be voted on.

Rule 32

If two or more amendments to a proposal are moved, the meeting shall first decide on the amendment furthest removed in substance from the original proposal, then on the amendment next furthest removed therefrom, and so on, until decisions have been made on all the amendments.

Rule 33

Voting on a single proposal shall normally be by show of hands. A roll call shall be taken if one is requested by any member. It shall be taken in the English alphabetical



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order of the names of the Parties from which the members participating in the meeting come, beginning with the member whose name is drawn by lots by the chair.

Rule 34

The vote of each member participating in a roll call vote shall be recorded in the report of the meeting.

Rule 35

After the chair has announced the beginning of voting, no member shall interrupt the voting except on a point of order in connection with the actual conduct of the voting. The chair may permit members to explain their votes, either before or after the voting, and may limit the time allowed for such explanations.

Rule 36

In the absence of consensus, the elections referred to in section II.4 and rule 17 shall be decided by means of a secret ballot.

Rule 37

1. If, when one person is to be elected, no candidate obtains in the first ballot a majority of the votes cast by the members of the branch present and voting, a second ballot restricted to the two candidates obtaining the largest number of votes shall be taken. If in the second ballot the votes are equally divided, the chair shall decide between the candidates by drawing lots.
2. In the case of a tie in the first ballot among three or more candidates obtaining the largest number of votes, a second ballot shall be held. If a tie results among more than two candidates, the number shall be reduced to two by lot and the balloting, restricted to them, shall continue in accordance with the procedure set forth in paragraph 1 of this rule.



XI. Languages

Rule 38

The working language of the Committee and its branches shall be English.

Rule 39

A representative of a Party taking part in the proceedings of a branch may speak in a language other than the working language if that Party provides for interpretation into the working language of the branch.

Rule 40

Decisions of the Committee and its branches shall be drawn up in English and translated into the other official languages.

XII. Amendments to rules of procedure

Rule 41

Amendments to these rules of procedure shall be adopted by consensus of the Committee and submitted to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol for approval.

XIII. Overriding authority of the Protocol and decision 27/CMP.1

Rule 42

In the event of a conflict between any provision in these rules and any provision in the Kyoto Protocol or decision 27/CMP.1 and any amendments thereto, the provision of the Protocol or, as the case may be, the decision shall prevail.



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VII. Comments by Mr. Marc Pallemarts, Facilitative Branch:

I just want to confirm the view I expressed during the first meeting that section X is much too detailed and needs to be substantially shortened.

Regarding the issue of public access to documents and meetings, I am attaching two documents from some useful inspiration could be drawn:

- the RoP of the MOP of the Aarhus Convention and its subsidiary bodies
- the Almaty Guidelines on the implementation of the principles of the Aarhus Convention international environmental forums

Both these documents are also available in French and Russian at
<http://www.unece.org/env/pp/mop.htm>



ece.mp.pp.2.add.2.e.pdf



ece.mp.pp.2005.2.add.5.e.pdf



VIII. Comments by Ms. Gladys K. Ramothwa, Enforcement Branch:

IV. Dates and Notice of Meetings

Rule 5: The four weeks stipulated in the Rule for notifying members of the Committee of the dates of the meeting is rather short. Due note should be taken of communication problems and unavailability of technologies especially in developing countries in Africa. A notification of at least six weeks would enable members to make the necessary travel arrangements including visa requests and other pertinent issues.

V. Agendas and Documentation

Rule 7: The draft Agendas for the Committee and its two branches may be circulated to members and alternates after consultation with the Bureau and the respective chairs for any further input.

Rule 9: Supplementary agendas - proposed items should be communicated to members of the Committee and Branch at least two weeks before the start of the meeting to facilitate preparation for discussions on such items.

Rule 11:1 Technical information received from a non-governmental organization about a Party may require verification by the Secretariat with the concerned Party to avoid possible conflict or misunderstanding.

X. Conduct of Business

Rule 23: Seeking clarification

Is an alternate member allowed to raise a point of order or appeals against a ruling?



IX. Comments by Mr. Valeriy Sedyakin, Facilitative Branch:

In main documents(such as The Marrakesh Accords) there are references to facilitative and enforcement branches, not to Committee.

And for example the document 27/CMP.1 says :

V.4 The enforcement branch shall be responsible for determining whether a Party included in Annex I is not in compliance with:

(a) Its quantified emission limitation or reduction commitment under Article 3, paragraph 1, of the Protocol;

(b) The methodological and reporting requirements under Article 5, paragraphs 1 and 2, and Article 7, paragraphs 1 and 4, of the Protocol; and

(c) The eligibility requirements under Articles 6, 12 and 17 of the Protocol.

On the other hand, in some documents there are references to Compliance Committee as a whole,

according to 27/CMP.1:

III.2-" The functions of the plenary shall be:

(a) To report on the activities of the Committee, including a list of decisions taken by the branches, to each ordinary session of the Conference of the Parties serving as the meeting of the Parties to the Protocol"

VIII.1-" Following the preliminary examination of questions of implementation, the procedures set out in this section shall apply to the Committee, except where otherwise provided in these procedures and mechanisms".

The functions of the Committee as a whole are reflected in III section "Plenary of the Committee" of 27/CMP.1 only.

The draft rules don't take into account that Compliance Committee consist of two branches. If one branch have made decision must the Committee confirm these decision or not?

If not, it will be a decision of the enforcement branch of the Committee only, but not of the Compliance Committee.

From my point of view the Committee has to elaborate the rules of interaction/cooperation between the Committee and two branches.

I. The draft rules don't take into account that Compliance Committee consist of two branch. If one branch have made decision must the plenary of Committee confirm these decision or not?

For example The document 27/CMP.1 says only:

V.4 The enforcement branch shall be responsible for determining whether a



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Party included in Annex I is not in compliance with:

- (a) Its quantified emission limitation or reduction commitment under Article 3, paragraph 1, of the Protocol;*
- (b) The methodological and reporting requirements under Article 5, paragraphs 1 and 2, and Article 7, paragraphs 1 and 4, of the Protocol; and*
- (c) The eligibility requirements under Articles 6, 12 and 17 of the Protocol.*

If not, it will be decision of the enforcement branch of the Committee only, but not of the Compliance Committee.

On the other hand, according to 27/CMP.1:

III.2-" The functions of the plenary shall be:

- (a) To report on the activities of the Committee, including a list of decisions taken by the branches, to each ordinary session of the Conference of the Parties serving as the meeting of the Parties to the Protocol"*

VIII.1-" Following the preliminary examination of questions of implementation, the procedures set out in this section shall apply to the Committee, except where otherwise provided in these procedures and mechanisms"

From my point of view the Committee has to have the rules of interaction/cooperation between the Committee and two branches.

II. It is needed to reflect a role of alternate members.

For example:

Rule 5

The secretariat shall notify all members *and alternate members* of the Committee of the dates of a meeting of the Committee or a branch at least four weeks before it is due to commence, except in the case of a meeting of the Enforcement Branch under the expedited procedures specified in section X when the members shall be notified at least two weeks in advance.

Rule 8

The provisional agenda for a meeting shall be distributed by the secretariat to all members and alternate members of the Committee together with the notification referred to in Rule 5. At the same time, the secretariat shall distribute to the members of the Committee or of the branch in question, the official documents for its own meeting.



X. Comments by Mr. Oleg Shamanov, Enforcement Branch:

Draft rules of procedure

I. Objective Scope (?)

Rule 1

These rules of procedure shall apply to the meetings of the Compliance Committee, including its Enforcement Branch and Facilitative Branch, as defined in *Procedures and mechanisms relating to compliance under the Kyoto Protocol contained in the annex to decision 27/CMP.1** They shall be read together with and in furtherance of ~~the these~~ *Procedures and mechanisms* ~~procedures and mechanisms set out in that decision.~~

II. Definitions

Rule 2

[1. References in these rules to a numbered section shall be understood as references to the section so numbered in the annex to decision 27/CMP.1.] *Move this para to footnote.*

~~2.~~ For the purposes of these rules:

- (a) “branch” means the Enforcement Branch or the Facilitative Branch established by ~~§~~Section *(to capitalize all references to specific section)* II.2;**
- (b) “co-chairs” means the chair of the Enforcement Branch and the chair of the Facilitative Branch acting together in the plenary of the Committee in accordance with section III.1;
- (c) “Committee” means the Compliance Committee established by section II.1;
- (d) “Party” means a Party to the Kyoto Protocol to the United Nations Framework Convention on Climate Change;
- (e) “secretariat” means the secretariat referred to in section XVII.

III. Place of meetings

Rule 3

The Committee and its two branches shall meet at the seat of the secretariat, unless the Committee ~~or the branch in question~~ decides otherwise, subject to availability of funds.

*See [to indicate index of the document containing Decision 27/CMP.1.]

** References in these rules to a numbered section shall be understood as references to the section so numbered in *Procedures and mechanisms relating to compliance under the Kyoto Protocol contained in the annex to decision 27/CMP.1*



IV. Dates and notice of meetings

Rule 4

At each meeting of the Committee and of a branch, its members shall decide on the dates and duration of their next *ordinary* meeting.

Rule 5

The secretariat shall notify all members of the Committee of the dates of a meeting of the Committee or a branch at least four weeks before it is due to commence, except in the case of a meeting of the Enforcement Branch under the expedited procedures specified in section X when the members shall be notified at least two weeks in advance.

V. Agendas and documentation

Rule 6

The agendas of the Committee and its two branches shall be limited to their respective functions as specified in sections III to V and to matters necessarily related thereto.

Rule 7

1. The secretariat shall draft the provisional agenda for each meeting of the Committee in agreement with the bureau of the eCommittee.
2. The secretariat shall draft the provisional agenda for each meeting of the Enforcement Branch and Facilitative Branch in agreement with the branch's chair and vice-chair.
3. *The provisional agenda for each meeting of the Committee and each meeting of the Enforcement Branch and Facilitative Branch shall include all items proposed by members of the Committee.*

Rule 8

The provisional agenda for a meeting shall be distributed by the secretariat to all members of the Committee together with the notification referred to in Rule 5. At the same time, the secretariat shall distribute to the members of the Committee or of the branch in question, the official documents for ~~its own~~ *the* meetings.

Rule 9

1. The secretariat shall, ~~with the agreement of the co-chairs,~~ include in a supplementary agenda any items proposed for consideration by a member of the Committee that are received by the secretariat after the provisional agenda has been produced but before the commencement of the meeting. The Committee shall examine the supplementary agenda together with the provisional agenda.
2. The secretariat shall, ~~with the agreement of the chair and vice chair of the branch in question,~~ include in a supplementary agenda any item proposed for consideration by a



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member of the branch that is received by the secretariat after the provisional agenda has been produced but before the commencement of the meeting. The branch shall examine the supplementary agenda together with the provisional agenda.

Rule 10

The Committee or a branch, when adopting its agenda, may decide to add, delete, defer or amend items. Only items that the Committee or branch considers to be urgent, important and sufficiently well prepared may be added to an agenda.

Rule 11

~~1. — Relevant factual and technical information relating to an issue currently under consideration by a branch may be submitted in writing to the secretariat by any competent intergovernmental or non-governmental organization. If the chair of the branch concerned is satisfied that the information could be relevant to the issue under consideration, the secretariat shall distribute it as soon as practicable to the members of the Enforcement Branch or Facilitative Branch, as appropriate.~~

~~2. — The branch to which such information is distributed shall consider it in the context of the agenda item to which it relates.~~

~~3. — Any intergovernmental or non-governmental organization whose information has been distributed to a branch for consideration shall be informed individually by the secretariat of the final decision to which the information relates.~~

VI. Members

Rule 12

1. The term of service of a member, or alternate member, of the Committee shall start on 1 January of the calendar year immediately following his/her election and shall end on 31 December, two or four years thereafter, as applicable.

2. Any reference in these rules to a member shall be considered to include a reference to his/her alternate when such alternate acts in place of the member.

3. During the absence of a member from all or part of a meeting of the Committee or of the branch to which he/she has been elected, his/her alternate shall act as the member.

Rule 13

Each member of the Committee shall, with respect to any matter that is under consideration by the Committee or the branch to which he/she has been elected, act in an independent and impartial manner and avoid direct or indirect conflicts of interest. *If a member of the Committee considers that with respect to the matter under consideration by the Committee or the branch to which he/she has been elected there is an* ~~Any~~ interest that may constitute a conflict of interest or which might be incompatible with the requirements of independence and impartiality expected of a member of the Committee *he/she shall so inform the bureau*



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of the Committee be disclosed as soon as possible to the secretariat which. *The bureau of the Committee* shall forthwith notify *through the secretariat* the members of the Committee. The member shall refrain from participating in the work of the Committee or the branch concerned in relation to such matter.

VII. Officers

Rule 14

The chair and vice-chair of each branch shall serve in those capacities until their successors have been elected.

Rule 15

1. In addition to exercising the powers conferred upon him or her elsewhere in these rules, a chair shall:

- (a) Declare the opening and closure of the meeting;
- (b) Preside over the meeting;
- (c) Ensure the observance of these rules;
- (d) Accord members the right to speak;
- (e) Put questions to the vote and announce decisions;
- (f) Rule on any points of order; and
- (g) Subject to these rules, have complete control over the proceedings and maintain order.

2. A chair may also propose:

- (a) The closure of the list of speakers;
- (b) A limitation on the time to be allowed to speakers and on the number of times a member may speak on an issue;
- (c) The adjournment or closure of debate on an issue; and
- (d) The suspension or adjournment of the meeting.

3. A chair, in the exercise of his or her functions, remains under the authority of the Committee or, as the case may be, of the Enforcement Branch or Facilitative Branch.

Rule 16

1. If a co-chair is temporarily absent from a meeting of the Committee or any part thereof, the vice-chair of the branch of which he or she is a member shall act as co-chair.



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2. If the chair is temporarily absent from a meeting of his or her branch or of any part thereof, the vice-chair of that branch shall act as chair.

Rule 17

If a chair or co-chair resigns or is otherwise unable to complete the assigned term or the functions of his or her office, the branch in question shall elect, in accordance with the terms of section II.4, a replacement from among its existing members for the unexpired period of that officer's mandate.

~~VIII. Participation in proceedings of Committee and its branches~~

~~Rule 18~~

~~Where a Party is the subject of proceedings before the Enforcement Branch or the Facilitative Branch, it shall be invited to participate in the branch's consideration of its case. The Party shall not, however, take part in the elaboration and adoption of the decision of the branch. The decision shall be forwarded to the Party for information as soon as possible.~~

VIII. Confidentiality of information

Rule 19

The members of the Committee and any Party that participates in the proceedings of ~~a branch~~ *the Committee or its branches* shall ~~protect the confidentiality of~~ *not disclose* any information that the Committee or ~~the branch~~ *its branches* receives in confidence.

IX. Secretariat

Rule 20

1. The secretariat shall prepare the documents for each meeting of the Committee in consultation with the co-chairs.
2. The secretariat shall prepare the documents for the meetings of each branch in consultation with the chair and vice-chair of that branch.
3. In addition, the secretariat shall:
 - (a) Arrange for the preparation, reproduction and distribution of the documents;
 - (b) Arrange for the custody and preservation of the documents of each meeting in the archives of the secretariat;
 - (c) Provide resources for the work of the Compliance Committee in accordance with the approved budget; and
 - (d) Perform such other tasks as the Committee or its branches may require in relation to their respective functions.



X. Conduct of Business

Rule 21

Meetings of the Committee and its branches shall be held in ~~private~~ *public*, unless *the Committee or its branches* ~~its members~~, *of its own accord or at the request of the Party*, decide otherwise.

Rules 22 to 37 below reproduce, by and large, the relevant provisions of Rules of Procedures of the Conference of the Parties of the UNFCCC and its Subsidiary Bodies. As such they can be collapsed into simple notion, stipulating that with regard to Conduct of Business the Rules of Procedures of the Conference of the Parties of the UNFCCC and its Subsidiary Bodies shall apply mutatis mutandis.

Rule 22

1. No one may speak at a meeting of the Committee or a branch without having previously obtained the permission of its chair. Subject to rules 23, 24 and 26, the chair shall in general call upon members in the order in which they signify their wish to speak. The secretariat shall maintain a list of speakers. The chair may call a member to order if his or her remarks are not relevant to the issue under discussion.

2. A meeting may, on a proposal from its chair or a member, decide to limit the time allowed to each speaker and the number of times a member may speak on an issue. When it has been decided to so limit the time for debate and a member exceeds the allotted time, he or she shall be called to order without delay.

Rule 23

At any time during the discussion of an item, a member may raise a point of order, which shall be ruled upon immediately by the chair in accordance with these rules. Any member may appeal against the ruling. The appeal shall be put to a vote immediately and the ruling shall stand unless it is overturned by a majority of the members present and voting. A member may not, in raising a point of order, speak on the substance of the item under discussion.

Rule 24

1. Any motion by a member of the Committee calling for a decision on the competence of the Committee to discuss a matter or to adopt a proposal or an amendment to a proposal shall be decided upon by the Committee before the matter is discussed or a decision is taken on the proposal or amendment in question.

2. Any motion by a member of the branch calling for a decision on the competence of a branch to discuss a matter or to adopt a proposal or an amendment to a proposal shall be decided upon by that branch before the matter is discussed or a decision is taken on the proposal or amendment in question.



Rule 25

1. Proposals and amendments to proposals by a member of the Committee for consideration by the Committee shall normally be presented in writing to the secretariat which shall circulate copies to the other members of the Committee.
2. Proposals and amendments to proposals by a member of a branch for consideration by the branch shall normally be presented in writing to the secretariat which shall circulate copies to the other members of the branch in question.
3. As a general rule, no proposal shall be discussed or decided upon at any meeting unless copies of it were circulated to the members at least the day before. The chair may, however, permit the discussion and consideration of amendments to proposals or of procedural motions even though those amendments or motions have not been circulated or have been circulated only the same day.

Rule 26

1. Subject to Rule 20, the following motions shall have precedence, in the order indicated below, over all other proposals or motions:
 - (a) To suspend the meeting;
 - (b) To adjourn the meeting;
 - (c) To adjourn debate on a question under discussion;
 - (d) For closure of the debate on a question under discussion.
2. Permission to speak on a motion falling within paragraph 1 (a) to (d) shall be granted only to the member proposing the motion and to one speaker against the motion, after which it shall immediately be put to a vote.

Rule 27

A proposal or motion may be withdrawn by the member who proposed it at any time before voting on it has begun, provided that the proposal or motion has not been amended. A proposal or motion withdrawn may be reintroduced by any other member of the Committee or branch in question.

Rule 28

When a proposal has been adopted or rejected, it may not be reconsidered during the same meeting, unless the Committee or branch by a three-quarters majority of its members present and voting decides in favour of reconsideration. The meeting shall not proceed to a vote on such a proposal unless one member speaks in support of the mover of the motion to reconsider. Permission to speak shall, however, be accorded only to the mover and one supporter, after which the motion shall immediately be put to the vote.



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Rule 29

If two or more proposals relate to the same issue, the meeting shall, unless it decides otherwise, decide on the proposals in the order in which they have been submitted. The meeting may, after each decision on a proposal, decide whether or not to take a decision on the next proposal.

Rule 30

1. Any member may request that part of a proposal or of an amendment to a proposal be decided on separately. If objection is made to the request for division, the chair shall permit two members to speak, one in favour of and the other against the motion, after which a decision shall immediately be taken on it.

2. If the motion referred to in paragraph 1 is adopted, those parts of the proposal or of the amendment to the proposal which have been approved shall then be decided on as a whole. If all the operative parts of the proposal or amendment have been rejected, the proposal or amendment shall be considered to have been rejected as a whole.

Rule 31

A motion is considered to be an amendment to a proposal if it in any way adds to, deletes from or revises that proposal. The meeting shall decide on an amendment before it decides on the proposal to which it relates and, if the amendment is adopted, the amended proposal shall then be voted on.

Rule 32

If two or more amendments to a proposal are moved, the meeting shall first decide on the amendment furthest removed in substance from the original proposal, then on the amendment next furthest removed therefrom, and so on, until decisions have been made on all the amendments.

Rule 33

Voting on a single proposal shall normally be by show of hands. A roll call shall be taken if one is requested by any member. It shall be taken in the English alphabetical order of the *family* names of ~~the Parties from which~~ the members participating in the meeting ~~come~~, beginning with the member whose name is drawn by lots by the chair.

Rule 34

The vote of each member participating in a roll call vote shall be recorded in the report of the meeting.

Rule 35

After the chair has announced the beginning of voting, no member shall interrupt the voting except on a point of order in connection with the actual conduct of the voting. The chair may permit members to explain their votes, either before or after the voting, and may limit the time allowed for such explanations.



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Rule 36

In the absence of consensus, the elections referred to in section II.4 and rule 17 shall be decided by means of a secret ballot.

Rule 37

1. If, when one person is to be elected, no candidate obtains in the first ballot a majority of the votes cast by the members of the branch present and voting, a second ballot restricted to the two candidates obtaining the largest number of votes shall be taken. If in the second ballot the votes are equally divided, the chair shall decide between the candidates by drawing lots.

2. In the case of a tie in the first ballot among three or more candidates obtaining the largest number of votes, a second ballot shall be held. If a tie results among more than two candidates, the number shall be reduced to two by lot and the balloting, restricted to them, shall continue in accordance with the procedure set forth in paragraph 1 of this rule.

XI. Languages

Rule 38

Without prejudice to Section VIII.9 The working language of the Committee and its branches shall be English.

Rule 39

A representative of a Party taking part in the proceedings of ~~a branch~~ *the Committee or its branches* may speak in a language other than the working language *of the Committee and its branches* if ~~that the~~ *the* Party provides for interpretation into the working language ~~of the branch~~.

Rule 40

Decisions of the Committee and its branches shall be ~~drawn up in English and translated into~~ *made available in the other all official languages of the United Nations*.

XII. Amendments to rules of procedure

Rule 41

Amendments to these rules of procedure shall be ~~adopted~~ *agreed upon* by consensus of the Committee and submitted to the Conference of the Parties serving as the meeting of the Parties to the ~~Kyoto Protocol for approval~~ *adoption in terms of Section III.2(d)*.



XIII. Overriding authority of the Protocol and *Procedures and mechanisms relating to compliance under the Kyoto Protocol contained in the annex to decision 27/CMP.1*

Rule 42

In the event of a *any* conflict between any provision ~~in~~ of these rules and any provision ~~in~~ of the ~~Kyoto~~ Protocol or *Procedures and mechanisms relating to compliance under the Kyoto Protocol contained in the annex to decision 27/CMP.1*, ~~the provision of the Protocol or, as the case may be, *Procedures and mechanisms relating to compliance under the Kyoto Protocol contained in the annex to decision 27/CMP.1*~~ ~~the decision~~ shall prevail.

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