



Rules of Procedure

Working Paper

1. Pursuant to section III, paragraph 2 of the “procedures and mechanisms relating to compliance under the Kyoto Protocol,” the Committee is to develop any further rules of procedure that may be needed, for adoption by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (COP/MOP) by consensus.
2. The attached draft rules of procedure compiles and integrates comments on the Working Paper dated 23 June 2006 received from members and alternate members of the Compliance Committee as at 15 August 2006.
3. Textual suggestions have been integrated into the text of the Working Paper dated 23 June 2006. New text that was not found in the Working Paper of 23 June 2006 is underscored; brackets indicate a proposal to delete existing text as well as options. Grammatical and editorial changes have been made solely to clarify text.
4. Comments on the Working Paper dated 23 June 2006 have been included in the annex that follows the text.



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Draft Rules of Procedure of the Compliance Committee of the Kyoto Protocol

Part 1: Conduct of Business

1. SCOPE

Rule 1

These rules of procedure shall apply to the Compliance Committee, including its enforcement branch and facilitative branch, as defined in the 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 these procedures and mechanisms.

2. DEFINITIONS

Rule 2

For the purposes of these rules section numbers refer to the section so numbered in the annex to decision 27/CMP.1, unless otherwise noted, and:

- (a) “Committee” means the Compliance Committee established by section II, paragraph 1;
- (b) “Plenary” means the plenary of the Committee as set out in section III;
- (c) “Branch” means the facilitative branch or the enforcement branch as set out in sections IV and V;
- (d) “Bureau” means the bureau of the Committee constituted in accordance with section II, paragraph 4;
- (e) “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, paragraph 1;
- (f) “Member” means a member of the Committee elected under section II, paragraph 3;
- (g) “Alternate member” means an alternate member elected under section II, paragraph 5;
- (h) “Party” means a Party to the Kyoto Protocol to the United Nations Framework Convention on Climate Change;
- (i) “Party concerned” means a Party in respect of which a question of implementation is raised, as set out in section VI, paragraph 2;



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- (j) ["Diplomatic agent" means the head of the mission or a member of the diplomatic staff of the mission of a Party who is accredited to the Federal Republic of Germany;]
- (k) ["Representative" means the officer designated by the Party concerned to represent it during the consideration of a question of implementation;]
- (l) "Secretariat" means the secretariat referred to in section XVII;
- (m) ["Closed" means that only members and alternate members, secretariat officials, representatives of the Party concerned, and any individual invited by the plenary or a branch may be present, observe or hear the proceedings;]
- (n) ["Open" means that members and alternate members of the Committee and secretariat officials, and any Party and UNFCCC accredited observer may be present, observe or hear the proceedings].

3. MEMBERS

Rule 3

1. The term of service of each member and alternate member shall start on 1 January of the calendar year immediately following his or her election and shall end on 31 December, two or four years thereafter, as applicable.
2. Subject to these rules, alternate members [shall][are entitled to][shall have the right to] participate in the proceedings of the plenary or the respective branch to which they belong, without the right to vote. An alternate member may cast a vote only if serving as the member.
3. During the absence of a member from all or part of a meeting of the plenary or of the branch to which he or she has been elected, his or her alternate shall serve as the member.
4. When a member resigns or is otherwise unable to complete the assigned term or the functions of a member, his or her alternate shall serve as a member for the same branch, *ad interim*.
5. 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 shall request the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol to elect a new member or alternate member for the remainder of the term at its next session.

Rule 4

1. Each member and alternate member shall serve in their individual capacities and, with respect to any matter that is under consideration by the Committee, act in an independent and impartial manner and avoid conflicts of interest.



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2. Each member and alternate member shall take and agree to respect a written oath of service before assuming his or her service. The oath of service shall read as follows:

“I solemnly declare that I will perform my duties and exercise my authority as member/alternate member of the Compliance Committee established in decision 27/CMP.1 honourably, faithfully, impartially and conscientiously.”

“I further solemnly declare that, subject to my responsibilities within the Compliance Committee, I shall not disclose, even after the termination of my functions, any confidential [or proprietary] information coming to my knowledge by reason of my duties in the Compliance Committee.”

“I shall disclose immediately to the Executive Secretary of the United Nations Framework Convention on Climate Change any interest in any matter under discussion before the Compliance Committee which may constitute a conflict of interest or which might be incompatible with the requirements of independence and impartiality expected of a member or alternate member of the Compliance Committee and I shall refrain from participating in the work of the Compliance Committee in relation to such matter.”

3. [Any Party which possesses or comes into possession of any evidence which may indicate a conflict of interest or which might be incompatible with the requirements of independence and impartiality expected of a member or alternate member of the Committee, may at the earliest possible time and on a confidential basis, submit such evidence to the [Executive Secretary of the United Nations Framework Convention on Climate Change] [chairperson of the branch concerned].]

Option 1:

4. Where the [Executive Secretary of the United Nations Framework Convention on Climate Change][chairperson of the branch in question] receives any disclosure from a member or alternate member [or evidence from a Party under this rule], he or she shall forthwith [notify [the chairperson of] the relevant branch][inform[, through the chairperson,] the members and alternate members of the relevant branch].

Option 2:

4. [Where [the Executive Secretary of the United Nations Framework Convention on Climate Change][chairperson of the branch in question] receives evidence from a Party, he or she shall forthwith notify [the chairperson of the relevant branch as well as] the member or alternate member concerned. The chairperson concerned shall submit the evidence to the [plenary][branch] for its consideration, unless the member or alternate member informs the chairperson that he/she will refrain from participating in the work of the Committee in relation to the matter to which the evidence relates. The chairperson concerned shall inform the [plenary][branch] that the member or alternate



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member will refrain from participating in the work of the Committee in relation to the matter that is the subject of the disclosure.]

5. [A][the] branch] [The plenary] may decide to excuse [a][the] member or alternate member from consideration of one or more questions of implementation and the elaboration and adoption of a decision of a branch, after having provided a reasonable opportunity for the member or alternate member to be heard.

5.bis If the relevant branch considers that a material violation of the requirements of independence and impartiality expected of a member or alternate member of the Committee has occurred, it may decide to suspend, or recommend to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol to revoke, the membership of any member or alternate member concerned, after having provided a reasonable opportunity for the member or alternate member to be heard.

6. [All decisions taken under this rule shall be noted in the annual report of the Committee to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.]

4. OFFICERS

Rule 5

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

- (a) Declare the opening and closure of the meeting;
- (b) Preside over the meeting;
- (c) Ensure the observance of these rules;
- (d) Accord 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. An officer chairing a meeting 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 they 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. Any officer chairing a meeting, in the exercise of his or her functions, remains under the authority of the plenary or, as the case may be, of the enforcement branch or facilitative branch.



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Rule 6

1. If a chairperson is temporarily unable to fulfil the functions of his or her office, the vice-chairperson of the relevant branch [of which he or she is a member] shall act as co-chairperson of the plenary and as chairperson of that branch *ad interim*.
2. If the chairperson and the vice-chairperson of the same branch are temporarily unable to fulfil the functions of their offices at the same time, [then] the branch shall elect a chairperson for that branch *ad interim* having regard to section II, paragraph 4.
3. If a chairperson or vice-chairperson of a branch resigns or is otherwise unable to complete the assigned term or the functions of his or her office, the branch shall elect, in accordance with section II, paragraph 4, a replacement from among its members for the remainder of the term of that officer.

5. AGENDA

Rule 7

1. In agreement with the bureau, the secretariat shall draft the provisional agenda for each meeting of the plenary.
2. In agreement with the chairperson and vice-chairperson of the relevant branch, the secretariat shall draft the provisional agenda of each meeting of that branch. The provisional agenda for each meeting shall be circulated to members and alternate members at least four weeks before the opening of the meeting.
3. The proposed agenda of each meeting of the plenary and each meeting of a branch [shall][may] include any item proposed by a member.
4. The plenary or a branch, when adopting its agenda, may decide to add urgent and important items and to delete, defer or amend items.

6. MEETINGS AND DELIBERATIONS

Rule 8

1. Notice of meetings shall be sent to the members and alternate members, as well as any other participants, at least four weeks before the opening of the meeting, to the extent possible under the applicable timeframes.
2. The secretariat shall make all documents of the plenary and the branches available to the public, subject to section VIII, paragraph 6 as well as any guidance provided by the Committee.



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Rule 9

1. Meetings of the plenary and the branches shall be [open][held in public], unless the plenary or branch of its own accord or at the request of the Party concerned decides otherwise. Such decision shall include reasons therefor. [The plenary or branch may decide, at any time, to [open or close a meeting][hold a meeting in private].]
2. [The [consideration of a question of implementation by a branch, and] elaboration and adoption of a decision of the branch, shall be closed.] [Only members and alternate members and secretariat officials may be present during the elaboration and adoption of a decision of a branch.]]
3. [Hearings shall be held in public, unless the enforcement branch decides, of its own accord or at the request of the Party concerned, that part or all of the hearing shall take place in private.]

Rule 10

1. A notification or other document sent by the secretariat to a Party shall be considered to have been received when the secretariat has received a written confirmation of receipt from the Party or the expedited delivery courier. The date of receipt by a Party of a notification or other document sent by the secretariat to the Party shall be considered to be the date indicated in a written confirmation of receipt from the Party or the expedited delivery courier. Such confirmation may be provided by electronic means.

Option 1:

2. The date of receipt of a submission, request or other document by the secretariat shall be considered to be the date of receipt by the Committee.

Option 2:

2. The date of the first day of the plenary after receipt by the secretariat of the submission, request or other document should be considered as the date of receipt of the submission, request or other document by the Committee.

Option 1:

3. [The date of receipt by the [plenary or branch][Committee] of a communication sent by electronic means shall be the date of receipt by the last member [constituting a quorum] of the [plenary or branch] [Committee]. A notification or other document shall be considered to have been received within 12 hours of its dispatch, unless an out-of-office reply has been received by the secretariat within that time frame.]



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Option 2:

3. [The date of the first day of the branch meeting after receipt by the secretariat of the submission, request or other document should be considered as the date of receipt of the submission, request or other document by the branch.]

7. USE OF ELECTRONIC MEANS

Rule 11

1. The Committee may use electronic means for transmission, distribution and storage of documentation.
2. The Committee may elaborate and take decisions in a written procedure using electronic means. [This procedure may be elaborated in [future] working arrangements in accordance with rule 31.]
3. *Any decision in accordance with paragraph [1] 2 of this rule shall be deemed to be taken at the headquarters of the secretariat.*

8. SECRETARIAT

Rule 12

1. The secretariat shall make arrangements for meetings of the Committee and provide it with services as required.
- [1.] 2. The secretariat, under the overall guidance of the Committee, shall arrange for the preparation, compilation, [reproduction,] distribution and availability of all documents of the Committee.
- [2.] 3. The secretariat shall send notifications and other documents, and receive submissions, requests and other documents, [on behalf of the Committee] as defined in the procedures and mechanisms relating to compliance under the Kyoto Protocol, contained in the annex to decision 27/CMP.1. It shall ensure that the date of despatch and receipt of such documents may be readily verified.
- [3.] 4. The secretariat shall maintain the registry of the Committee, take custody of and preserve all documents of the Committee[, and ensure that the date of despatch and receipt of such documents may be readily verified].
- 4.bis The secretariat shall provide the facilitative branch with information, as part of the necessary supplementary information to the annual inventory report of each Party included in Annex I with matters relating to Article 3, paragraph 14 of the Kyoto Protocol.



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4.ter The secretariat shall make all documents of the plenary and the branches available to the public, subject to section VIII, paragraph 6, as well as any guidance provided by the Committee.

[4.] 5. In addition, the secretariat shall perform any other [work][functions] that the Committee [or its branches] may require.

9. LANGUAGES

Rule 13

[2.] 1. [Subject to][Without prejudice to [the provisions of]] section VIII, paragraph 9, the working language of the Committee [and its branches] shall be English.

[1.] 2. A representative of a Party taking part in the proceedings of a branch may speak in a language other than the working language of the Committee if the Party provides for interpretation.

3. Decisions of the branches that are final including the information on which the decisions are based shall be made available in all official languages of the United Nations.

Part 2: Consideration of questions of implementation by the Branches

[10. GENERAL PROVISIONS [FOR THE BRANCHES]

Rule 14

Option 1:

[The Committee will receive, through the secretariat, questions of implementation indicated in reports of expert review teams, together with any written comments by the Party which is subject to the report relating to:

- (a) The functions of national systems for the estimation of anthropogenic greenhouse gas emissions by sources and removals by sinks established under Article 5, paragraph 1 of the Kyoto Protocol;
- (b) Information on the national registry submitted as supplementary information under Article 7, paragraph 1 of the Kyoto Protocol;
- (c) assigned amounts pursuant to Article 3, paragraphs 7 and 8 of the Kyoto Protocol;
- (d) Adjustments to inventories under Article 5, paragraph 2 of the Kyoto Protocol;
- (e) Eligibility and supplementarity relating to mechanisms pursuant to Articles 6, 7 and 12 of the Kyoto Protocol;
- (f) Information on the minimization of adverse impacts in accordance with Article 3, paragraph 14 of the Kyoto Protocol, including failure to submit such supplementary information which is considered to be a potential problem;



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- (g) Any potential problems in and factors influencing the fulfilment of commitments identified during the review; and,
- (h) Whether the aggregate anthropogenic carbon dioxide emissions from the commitment period exceed the quantities of emission reduction units, certified emission reductions (CERs), temporary CERs, long/term CERs, assigned amount units, and removal units in the retirement account of the Party for the commitment period pursuant to Article 3, paragraph 1 of the Kyoto Protocol.]

Option 2:

[In accordance with section VI, paragraph 1, the Committee shall receive, through the secretariat, questions of implementation indicated in reports of expert review teams under Article 8 of the Kyoto Protocol, together with any written comments by the Party which is subject to the report, as provided for in decisions 13/CMP.1, 15/CMP.1, 19/CMP.1 22/CMP.1, 27/CMP.1 and 31/CMP.1 of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.]

Rule 14bis

1. A submission by a Party raising a question of implementation with respect to itself [shall set out][will only be considered to meet the requirements under section VII, paragraph 2(a) if it sets out]:
 - (a) The name of the Party making the submission;
 - (b) A statement identifying the question of implementation;
 - (c) [The name of the Party concerned;] and
 - (d) A reference to the provisions of the Kyoto Protocol and decision 27/CMP.1 that form the basis for raising the question of implementation.
2. [The submission may also set out][To expedite the consideration of the submission, it should also set out]:
 - (a) Any provisions of the decisions of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol and the subsidiary bodies that are applicable to the question of implementation;
 - (b) [A description of the information that is material to the question of implementation;]
 - (c) The branch from which action is sought[, and an indication of the consideration required by the branch; and]
 - (d) The action requested from the branch; and
 - (e) A list of all documents annexed to the submission.
- [3. In addition, a submission by any Party with respect to any other Party shall be:
 - (a) Supported by corroborating information;
 - (b) Sent to the diplomatic agent of the Party concerned by the secretariat.]



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Rule 15

1. A submission by a Party raising a question of implementation with respect to another Party [shall set out] [will only be considered to meet the requirements under section VII, paragraph 2(a) if it sets out]:

- (a) The name of the Party making the submission;
- (b) A statement identifying the question of implementation;
- (c) The name of the Party concerned; [and]
- (d) A reference to the provisions of the Kyoto Protocol and decision 27/CMP.1 that form the basis for raising the question of implementation; and
- (e) Corroborating information supporting the question of implementation.

2. [The submission may also set out][To expedite the consideration of the submission, it should also set out]:

- (a) Any provisions of the decisions of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol and the subsidiary bodies that are applicable to the question of implementation;
- (b) [A description of information that is material to the question of implementation;]
- (c) The branch from which action is sought[, and an indication of the consideration required by the branch; and]
- (d) The action requested from the branch; and
- (e) A list of all documents annexed to the submission.

Option 1:

3. In addition, a submission by any Party with respect to any other Party shall be:
- (a) supported by corroborating information;
 - (b) sent to the diplomatic agent of the Party concerned by the secretariat.

Option 2:

3. In accordance with section VI, paragraph 2, the secretariat shall send the submission to the diplomatic agent of the Party concerned.

Rule 15bis

The secretariat shall make a question of implementation submitted under section VI, paragraph 1 available to the national focal point of the Party concerned designated in accordance with decision 14/CP.2, paragraph 29 of FCCC/SBI/1996/9 and paragraph 74 of FCCC/SBSTA/1996/8, unless a Party has informed the Committee in writing that such questions shall be made available to the diplomatic agent of that Party.



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Rule 16

Option 1 :

1. Comments by the Party concerned on information relevant to the consideration of a question of implementation submitted in accordance with decision 27/CMP.1 should set out:

Option 2:

1. Comments submitted by the Party concerned on information relevant to the question of implementation and the decision to proceed in accordance with section VII, paragraph 7, on information considered by the relevant branch in accordance with section VIII, paragraph 6, on a decision of the relevant branch in accordance with section VIII, paragraph 8, and written submissions by the Party concerned in accordance with sections IX and X should set out:

Option 3:

1. Comments and written submissions by the Party concerned in accordance with the provisions of section VII-X should set out:

- (a) The name of the Party concerned;
- (b) [A [precise] statement of its] the position [of the Party concerned] on the information, decision or question of implementation under consideration, including the grounds therefor;

2. The comments and written submissions may also set out:

[(c)](a) [Any additional information;]

[(d)](b) The action requested from the branch;

[(e)](c) An identification of any information provided by the Party that it requests not to be made available to the public in accordance with section VIII, paragraph 6; and

[(f)](d) A list of all documents annexed to the submission or comment.

Rule 17

1. Any submission or comment under rules 14bis, 15 and 16 shall be signed by [the diplomatic agent][the diplomatic agent or another authorized representative][the diplomatic agent and/or the designated focal point to the UNFCCC] of the Party and be delivered to the secretariat in hard copy and by electronic means.

2. Copies of any relevant documents in support of the submission or comment shall be annexed to it. [The Party concerned shall be as restrained as possible in selecting documents to be annexed to the submission or comment.]



Rule 18

Option 1:

1. [The bureau shall,] within seven days from receipt of a question of implementation, [the bureau shall endeavour to] decide on its allocation [of a question of implementation] to the appropriate branch. The bureau may allocate questions of implementation by employing electronic means in accordance with rule 11.

Option 2:

1 The bureau shall endeavour to decide on [its] [the] allocation of a question of implementation to the appropriate branch within seven days. The bureau may allocate questions of implementation by employing electronic means in accordance with rule 11.

2. Decision on allocation of any question of implementation to any branch shall be taken by consensus or by majority vote of the bureau.

[2.] 3. The secretariat shall forthwith notify members and alternate members of the branch of the question of implementation and send them all [relevant] [available] materials.

Rule 19

Option 1:

1. Within five days from receipt of a question of implementation by the members and alternate members of the branch, members of the branch shall endeavour to communicate with the secretariat [using electronic means] to give an indication whether to proceed or not to proceed with the question of implementation. During this period, they may also request deliberations on the question of implementation.

Option 2:

1. The preliminary examination of questions of implementation may be conducted by electronic means in accordance with rule 11.

2. A decision to proceed shall include:

- (a) A statement identifying the question of implementation;
- (b) Reference to information on which the question of implementation is based; and
- (c) [A draft][An indicative] schedule for the further consideration of the question and, in the case of the enforcement branch, the date available for a hearing.

3. A decision not to proceed shall include the reasons for not proceeding with the question of implementation.



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Rule 20

If a branch decides to seek expert advice, it shall:

- (a) Identify the experts to be consulted;
- (b) Define the question on which expert opinion is sought; and
- (c) Lay down the procedures to be followed.

Rule 21

1. An intergovernmental organization or a nongovernmental organization [admitted as an observer by the United Nations Framework Convention on Climate Change] may furnish, on its own initiative, information relevant to a question of implementation before a branch and shall do so in the form of a written statement to be filed with the secretariat before the adoption of the final decision.
2. Such information [shall not be considered part of the file on the question of implementation and] shall not require comment from the Party concerned, unless the branch decides otherwise. The secretariat shall inform members and alternate members of the branch and the Party concerned of the information.

Rule 22

1. A preliminary finding or a final decision shall contain:
 - (a) The name of the Party concerned;
 - (b) [The] [A] statement identifying the question of implementation[, including] [and the] provisions of the Kyoto Protocol and decision 27/CMP.1 that form the basis for [raising] the question of implementation;
 - (c) A description of the information considered in the deliberations, including a confirmation that the Party concerned was given an opportunity to comment in writing on all information considered;
 - (d) A summary of the proceedings, including an indication, in the case of a final decision of the enforcement branch, of whether its preliminary finding or any part of it as specified is confirmed;
 - (e) The substantive decision of the question of implementation, including the consequences applied, if any;
 - (f) Conclusions and reasons for the decision; and
 - (g) The place and date of the decision[; and]
 - (h) [The names of the members who participated in the adoption of the decision].
2. A decision of the enforcement branch under section X, paragraphs 2 to 5, shall contain the elements listed in paragraph 1 above, *mutatis mutandis*.



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Option 1:

3. The Party concerned may submit written comments on a decision that is final to the secretariat within forty-five days from receipt of the notification of the decision. The secretariat shall circulate these comments to the members and alternate members of the relevant branch. The comments shall also be included in the Committee's annual report to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.

Option 2:

3. Comments in writing on a final decision submitted within forty-five days from the receipt of that decision by the Party concerned shall be circulated by the secretariat to the members and alternate members of the relevant branch and shall be included in the Committee's annual report to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.

[11. PROVISIONS FOR THE FACILITATIVE BRANCH]

Rule 23

1. [A Party concerned [shall] [should] be given an opportunity to make a [presentation] [statement] before the facilitative branch[, as appropriate] [and to provide comments in writing on the preliminary conclusions of the facilitative branch].]
2. [The facilitative branch shall endeavor to complete its consideration within twenty weeks. The facilitative branch may extend this timeframe as appropriate.]]

[12. PROVISIONS FOR THE ENFORCEMENT BRANCH]

Rule 24

1. A request for a hearing by the Party concerned [[shall] [should] include] [should identify]:
 - (a) [Reasons for requesting a hearing;]
 - (b) [A description of] the issues that [it][the Party] proposes to raise and any documents that it intends to discuss during the hearing; and
 - (c) [The names and qualifications] of any individuals whose expert testimony or opinion it will present at the hearing.
2. [The Party concerned, when choosing individuals to represent it during the hearing, should refrain from nominating individuals who were members or alternate members of the Committee in the [three] [four] years preceding the date of the [submission] [hearing].]



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Rule 25

1. Any referral of a question of implementation to the facilitative branch shall be made through a decision by the enforcement branch with a statement identifying the question of implementation and the information on which the question is based.
2. The secretariat shall notify the Party concerned of the decision.
3. A question of implementation referred by the enforcement branch to the facilitative branch shall not require a preliminary examination.]

[13. EXPEDITED PROCEDURES FOR THE ENFORCEMENT BRANCH

Rule 26

Option 1:

[1. When the enforcement branch receives a report from the expert review team indicating that there is no longer a question of implementation with respect to the eligibility of the Party concerned, the enforcement branch shall, within three weeks from receipt of the report, decide to reinstate the eligibility of the Party concerned, unless it considers that there continues to be a question of implementation.

2. In the case of a request submitted directly to the enforcement branch by a Party concerned to reinstate its eligibility, the enforcement branch shall, within twenty weeks from receipt of the request, decide to reinstate the eligibility of the Party concerned or decide that there continues to be a question of implementation.]

Option 2:

The plenary may elaborate and adopt working arrangements on the expedited procedures under section X, paragraphs 2 to 5, in accordance with rule 29.]

[Rule 27

In case of a disagreement relating to adjustments to inventories and corrections to the compilation and accounting database, the enforcement branch shall [meet for deliberations] [consider the case] within three weeks of being informed in writing of such disagreement and [at][within] that time, may adopt a decision to seek expert advice.]]



Part 3: General Provisions

14. AMENDMENT

Rule 28

Option 1:

Any amendment of these rules approved by the plenary shall be submitted to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol for adoption.

Option 2:

1. These rules of procedure may be amended by a decision of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol in terms of section 2, paragraph 2(d) after the plenary of the Committee has approved the proposed amendment and reported on the matter to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.

2. The plenary of the Committee may develop any further rules of procedure that may be needed for adoption by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol in terms of section III, paragraph 2(d).

[15. WORKING ARRANGEMENTS

Rule 29

Option 1:

[1. The plenary may elaborate and adopt further working arrangements, in particular on electronic decision-making, the allocation and preliminary examination of questions of implementation, the consideration by the branches, and the expedited procedures for the enforcement branch under section X, paragraph 2 to 5, as necessary and appropriate.]

Option 2:

[1. The plenary may elaborate and adopt further working arrangements, including on officers, agenda, meetings and deliberations, electronic decision-making, secretariat and consideration of questions of implementation by the branches, as necessary and appropriate.]



Option 3:

- [1. The plenary may elaborate and adopt further working arrangements, as necessary and appropriate to complement and give effect to these rules of procedure.]
2. Any such working arrangements shall be made public and be included in the annual report of the Committee to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.]

16. OVERRIDING AUTHORITY

Rule 30

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 the decision, as the case may be, shall prevail.



ANNEX: COMMENTS BY MEMBERS AND ALTERNATE MEMBERS

1. SCOPE

Rule 1

The rules of procedure must be a clear document. There was a debate on whether it was going to be a stand-alone document or a document to be supported by decision 27/CMP.1. My view is that it has to be as close as possible to being a stand-alone document. Nevertheless we should avoid conflicting views with decision 27/CMP.1 or even overlaps, wherever possible.

2. DEFINITIONS

Definitions should be arranged alphabetically.

Rule 2

Paragraphs 2(m) and 2(m) defining the terms “closed” and “open” will become redundant as a result of changes in rule 9.

Members of the public should also be admitted to parts of meetings that are held in public.

There is no need for definition of the term “representative” in paragraph 2(k).

3. MEMBERS

Rule 4

The decision to excuse a member will be taken based on a disclosure from this member or alternate member or evidence from a Party. Since there is a very direct link between paragraph 4 and paragraph 5, these two paragraphs should be joined together. Otherwise it is not clear on what basis a branch can excuse a member or alternate, it could even seem that the branch could do that at any time, on its own initiative.

6. MEETINGS AND DELIBERATIONS

Rule 9

*According rule 2(m) of the draft rules of procedure, “closed” means only members and alternate members, secretariat officials, **representatives of the party concerned**, and any individual invited by the plenary or a branch may be present, observe or hear the proceedings.*



Rule 10

There should be a separate section on DATES OF RECEIPT and this rule should be moved to Part 3.

The rule in paragraph 3 can hardly be established and raises complications: e.g. notification would need to be sent to all regarding when the clock starts ticking, and how would one then verify when that second notification is received? This whole issue needs more thinking. Since it concerns electronic communication and decision-making, it should be carefully elaborated in the context of working arrangements to be elaborated under rules 11 and 29.

8. SECRETARIAT

This section should be moved to Part 3.

Rule 12

It is necessary to include a rule on public access to documents, as discussed at the first meeting of the Committee.

Delete sections 10, 11, 12, and 13. The provisions contained in these sections encroach upon the prerogatives of the Parties to the Protocol; they lump together issues of functional procedures for the Committee and fundamental matters of substance relating to compliance (the only appropriate format for considering the latter would be formal inter-governmental negotiating process involving all the Parties to the Protocol).

10. GENERAL PROVISIONS FOR THE BRANCHES

Rule 14

This provision is redundant and questionable. The rule is not required, but if kept needs to be amended/shortened.

It is not useful to detail the nature of the questions of implementation that may be raised in reports of expert review teams. Thus the detail in items (a) to (h) should be deleted.

This article should be excluded because the overall mandate and responsibility of the Committee and Branches are indicated in 27/CMP.1.

Rule 18

This provision provides for a time line that has not yet been tested and should therefore be incorporated in the Working Arrangements.



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Electronic means should be used for distribution of information and exchanging of opinions only. If the branch or the secretariat wants to use electronic means for other purposes (e.g. voting, fixing timelines.), all members and alternate members have to have an electronic signature, to be used as needed (when a member is on a business trip, or on holiday), and to confirm receipt of messages at a minimum.

Rule 19

This provision provides for a time line that has not yet been tested and should therefore be incorporated in the Working Arrangements.

The procedure of preliminary examination by using electronic means needs more reflection during the elaboration of working arrangements – it does not help to try to fix bits and pieces that may easily turn out to be unhelpful once the full procedure for electronic decision-making is elaborated.

Any question of implementation rising by the Party of Protocol or an expert review team has to be examined by the deliberation.

11. PROVISIONS FOR THE FACILITATIVE BRANCH

Rule 23

The rule is not necessary, because decision 27/CMP.1 does not envisage a preliminary procedure for the facilitative branch and representation and the making of presentations is dealt with in section VIII.2.

12. PROVISIONS FOR THE ENFORCEMENT BRANCH

Rule 24

Once a member of the Committee has finished his or her term, there is no reason to prevent him or her from participating as a country representative in a hearing. It could also prevent parties from involving experienced specialist in the procedure. Moreover, paragraph 2 of rule 24 is not and cannot be binding for Parties, and should be deleted.

13. EXPEDITED PROCEDURES FOR THE ENFORCEMENT BRANCH

Rule 26

This additional procedure in paragraph 1 is not envisaged by decision 27/CMP.1 and would seem to conflict with section X.4.

This procedure in paragraph 2 seems to conflict with sections X.2 and X.3.



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Rule 27

It may not be necessary to meet or at a later date or to proceed on the basis of electronic means. The deadline of section X.5 for the adoption of a decision would seem to suffice.

There is no need to impose a “physical” meeting in these cases. The way in which the branch operates should be left open (as it is the case, for example, in rule 26).
