



Report to the Compliance Committee on the deliberations in the facilitative branch relating to the submission entitled “Compliance with Article 3.1 of the Kyoto Protocol”

1. On 31 May 2006, the facilitative branch of the Compliance Committee began a preliminary examination of the submission by South Africa, as Chairman of the Group of 77 and China, on behalf of the Group of 77 and China entitled “Compliance with Article 3.1 of the Kyoto Protocol,” in accordance with section VII, paragraph 2 of the annex to decision 27/CMP.1. It continued its deliberations on 20 June 2006. The branch could not come to a consensus at this time.
2. The branch made a number of attempts to arrive at a consensus. When all efforts to reach agreement on a decision by consensus had been exhausted, a vote was taken electronically on 21 June 2006, resulting in the failure to adopt either a decision to proceed or a decision not to proceed by a majority of three-fourths of the members present and voting, as required by section II, paragraph 9 of the annex to decision 27/CMP.1 in relation to section VII, paragraphs 4 and 6 of the annex to decision 27/CMP.1.
3. On the decision to proceed, worded as follows:

“The submission was received by the facilitative branch of the Compliance Committee on 31 May, 2006. The branch decided to defer taking a decision until 20 June 2006. The branch continued its deliberations and undertook the preliminary examination of the question of implementation on 20 June 2006, in accordance with section VII, paragraph 2, of the annex to decision 27/CMP.1. A vote was taken on 21 June 2006 by electronic means.

In accordance with section VII, para 4, of decision 27/CMP.1, the facilitative branch decides to proceed with the question of implementation submitted by South Africa, as Chairman of the Group of 77 and China, on behalf of the Group of 77 and China, with the following statement on the question of implementation:

Failure to submit a national communication containing the supplementary information required pursuant to para 139 of the annex to decision 22/CMP.1, decision 25/CP.8, para 3, articles 7.4 and 8.3 of the Kyoto Protocol.

This decision was taken on the basis that the submission by South Africa, as Chairman of the Group of 77 and China, on behalf of the Group of 77 and China, fully addressed the requirements under section VI.1 (b) and VII.2. (a), (b) and (c).

Therefore, within its mandate provided for under section IV, para 4 and para 6 (c) the Branch shall take the necessary actions to provide advice, facilitation and promotion to each Party concerned.



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The Facilitative Branch shall complete its consideration and agree on the final decision on the submission by South Africa at its September meeting, taking into account the provisions of section VI, VII and VIII of decision 27/CMP.1.”

four (4) members voted for the decision to proceed, four (4) members against and two (2) members abstained.

4. On the decision not to proceed worded as follows:

“The submission was received by the facilitative branch of the Compliance Committee on 31 May, 2006. The branch decided to defer taking a decision until 20 June 2006. The branch continued its deliberations and undertook the preliminary examination of the question of implementation on 20 June 2006, in accordance with section VII, paragraph 2, of the annex to decision 27/CMP.1. A vote was taken on 21 June 2006 by electronic means.

Following a preliminary examination, the branch found that the submission addressed to the compliance committee by South Africa, as Chairman of the Group of 77 and China, on behalf of the Group of 77 and China, could not be regarded as a question of implementation within the meaning of section VII.2 of the annex to decision 27/CMP.1, for the following reasons:

a) The communication was not submitted by a Party on its own behalf through a representative duly authorized for this purpose.

The procedures and mechanisms do not provide for the possibility of groups of Parties making submissions by proxy nor give the facilitative branch a mandate to consider any question of implementation that has not been duly submitted in accordance with section VI.1 of the annex to decision 27/CMP.1.

b) The submission does not clearly and individually name the Parties with respect to which it purports to raise a question of implementation.

c) The submission is not supported by information corroborating the question of implementation it purports to raise, nor does it substantiate that this question relates to any of the specific commitments under the Kyoto Protocol identified in either of paragraphs 5 or 6 of section VII.

Accordingly, the branch decided not to proceed.

This decision not to proceed is without prejudice to the right of any Party to submit a question of implementation with respect to the same matter through its duly authorized representatives.”



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five (5) members voted for the decision not to proceed, five (5) members against and no member abstained.

5. Under the circumstances, the facilitative branch was unable to take a decision on whether to proceed or not to proceed. Consequently, it could not complete the preliminary examination within three weeks from its receipt of the submission, in accordance with section VIII, paragraph 3 of the annex to decision 27/CMP.1

6. The branch noted that Latvia's fourth national communication submitted in accordance with Article 12 of the Convention and decision 4/CP.8 and its progress report submitted in accordance with Article 3.2 of the Kyoto Protocol and decisions 22/CP.7 and 25/CP.8 have been received by the secretariat on 25 May 2006, before the branch began its consideration and that since consideration by the branch began, Slovenia's fourth national communication and its progress report have been received by the secretariat on 12 June 2006. **The decision not to proceed against Latvia (CC-2006-8-3/Latvia/FB) and the decision not to proceed against Slovenia (CC-2006-14-2/Slovenia/FB) were both adopted by a vote of seven for the decision not to proceed, one against, and two abstentions. Accordingly, the branch decided not to proceed against both these Parties.**

7. A copy of this report shall be sent to South Africa, as Chairman of the Group of 77 and China and to the 15 Parties to whom the submission was sent by the secretariat, namely: Austria (CC-2006-1/FB); Bulgaria (CC-2006-2/FB); Canada (CC-2006-3/FB); France (CC-2006-4/FB); Germany (CC-2006-5/FB); Ireland (CC-2006-6/FB); Italy (CC-2006-7/FB); Latvia (CC-2006-8/FB); Liechtenstein (CC-2006-9/FB); Luxembourg (CC-2006-10/FB); Poland (CC-2006-11/FB); Portugal (CC-2006-12/FB); Russian Federation (CC-2006-13/FB); Slovenia (CC-2006-14/FB); and Ukraine (CC-2006-15/FB), in accordance with section VII of the annex to decision 27/CMP.1.
