



FACILITATIVE BRANCH

Tenth meeting

11–12 October 2011
Bonn, Germany

Report on the meeting

1. Opening of the meeting

1. Mr. Kunihiko Shimada, chairperson of the facilitative branch, declared the meeting open. He extended a warm welcome to Mr. Siarhei Nikitsin, who was attending his first meeting as alternate member of the branch.
2. Noting that this was the first meeting attended by Mr. Dan Bondi Ogolla in his capacity as Secretary to the Compliance Committee, the chairperson welcomed Mr. Bondi Ogolla to the branch and to the Committee.
3. At the request of the chairperson, the secretariat provided information on participation and quorum, as well as on key administrative and logistical arrangements. The secretariat confirmed that there was a quorum for the meeting, that all members and alternate members present had signed the Oath of Service, and that the meeting was being webcast live on the Internet.

2. Adoption of the agenda

4. The branch reviewed and adopted the provisional agenda (CC/FB/10/2011/1).

3. Provisions related to facilitation: Advice and facilitation

5. The chairperson provided a summary of discussions held by the branch at previous meetings and informed the branch that, to facilitate discussions under this item, he had requested the secretariat to prepare a background note on the provision of advice and facilitation by the branch under section IV of the “Procedures and mechanisms relating to compliance under the Kyoto Protocol”¹ and “Rules of procedure of the Compliance Committee of the Kyoto Protocol”² (document CC/FB/10/2011/2).
6. The discussion by the branch demonstrated convergence of views on the facilitative role of the branch. With respect to the mandate of the branch under section IV (Facilitative

¹ This and subsequent references to sections, as well as references to the procedures and mechanisms, refer to the annex to decision 27/CMP.1.

² This and subsequent references to rules, as well as to rules of procedure, refer to those contained in the annex to decision 4/CMP.2 as amended by decision 4/CMP.4.



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Branch), paragraphs 4 to 6, there was broad agreement that paragraph 4 outlines the overall mandate of the branch to provide advice and facilitation to Parties in implementing the Kyoto Protocol, and for promoting compliance by Parties with their commitments under the Protocol, while paragraphs 5 and 6 address specific issues the branch is mandated to address in the context of that overall mandate.

7. With regard to the overall mandate under section IV, paragraph 4, the branch considered that the reference to having to “take into account the circumstances pertaining to the questions before it” should not be interpreted to necessarily refer to “questions of implementation”. It was rather a reference to the issues before it, which could include questions of implementation. The action by the branch in the case of Monaco’s delay in submitting its fifth national communication, was an example of the branch developing its practice pursuant to section IV, paragraph 4, in the absence of a question of implementation. Another example of a situation in which the branch could act under its overall mandate in section IV, paragraph 4, was a referral by the enforcement branch of a question of implementation to the facilitative branch under section IX (Procedures for the Enforcement Branch), paragraph 12.
8. The branch agreed that section IV, paragraph 5, mandated it to address specific questions of implementation, falling outside the mandate of the enforcement branch. Section IV, paragraph 6, on the other hand, mandated the branch to provide advice and facilitation with the aim of promoting compliance and providing for early warning of potential non-compliance, without reference to the need for a question of implementation.
9. The branch was of the view that action under section IV, paragraphs 4 to 6, is triggered by the reports submitted to the Compliance Committee under section VI (Submissions), paragraphs 1–3. Action under paragraphs 4 and 6 may be triggered by reports submitted to the Compliance Committee under section VI, paragraph 3, as well as taking into account rule 24, paragraph 3, of the rules of procedure and the reports of the Conference of the Parties, the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol and the subsidiary bodies under the Convention and the Protocol. In its deliberations on such issues, the branch took note of the general procedures applicable to consideration of questions of implementation contained in section VIII.
10. In terms of the consequences to be applied by the branch under section XIV (Consequences applied by the Facilitative Branch), it was generally agreed that while sub-paragraphs (b) and (d) clearly referred to consequences to be applied by the branch in the case of a Party in relation to which a question of implementation had been raised (“the Party concerned” as defined in section VI, paragraph 2), sub-paragraphs (a) and (c) referred to consequences to be applied by the branch outside of its consideration of questions of implementation, in the context of its mandate under section IV, paragraphs 4 and 6.
11. With regard to the need to further clarify its practice and/or procedures on how to discharge its responsibilities, the branch agreed that it was premature to attempt to formalize its developing practice at this stage. The branch agreed to continue to develop its practice on



the basis of the overall and specific mandates under section IV, paragraph 4 to 6, and the rules of procedure. In this context, rule 24, paragraphs 1 and 2, which outline procedures to be followed by the branch in the context of its consideration of a question of implementation, should not be read as implying a limitation to the power of the branch to act in order to discharge its broader mandate under section IV, as it did in the case of Monaco.

4. Issues arising from the report on in-depth reviews of fifth national communications and information submitted pursuant to Article 7 of the Kyoto Protocol

12. Under this item, and in the context of its mandate set out in section IV, paragraph 6 (a), the branch discussed ways to address concerns with regard to potential non-compliance by Parties with their commitments under Article 3, paragraph 1, of the Protocol, identified in or on the basis of review reports received by it under section VI, paragraph 3.

13. The branch noted that its function of providing advice and facilitation under section IV, paragraph 6 (a), could be triggered only by the information contained in review reports made available to it pursuant to section VI, paragraph 3.

14. The branch agreed that, where concerns with regard to potential non-compliance by a Party are raised in a report under Article 8 of the Kyoto Protocol, it will consider how the matter can be best addressed, including through seeking further information from the relevant expert review team or the Party involved, as appropriate.

15. The branch also noted the importance of applying the principles of due process and fair and equal treatment when considering whether and how it was appropriate to engage in provision of advice and facilitation under section IV, paragraph 6 (a), in connection with a particular case arising from a report under Article 8 of the Protocol.

16. In addition, the branch in considering information submitted to it under section VI, paragraph 3, noted that the “Report of the in-depth review of the fifth national communication of Italy”³ and the “Report of the individual review of the annual submission of Canada submitted in 2010”⁴ point to potential problems in the fulfilment of these Parties’ commitments, which the branch considered to engage its role under section IV, paragraph 6 (a), relating to promoting compliance and providing for early warning of potential non-compliance.

17. In this regard, the branch agreed to continue its consideration of information contained in all reports submitted to it under section VI, paragraph 3, including those relating to Canada and Italy, at its future meetings with a view to determining any appropriate action it may need to take under section IV, paragraph 6 (a).

³ FCCC/IDR.5/ITA.

⁴ FCCC/ARR/2010/CAN.



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5. Other matters

18. The branch emphasized the importance of having all relevant reports available in time for its deliberations, in particular in the case of Parties which were the subject of prior consideration by the branch. To that end, it requested the secretariat to facilitate the timely availability of relevant reports to the Compliance Committee.

6. Closure of the meeting

19. The chairperson of the branch declared the meeting closed at 18:30 hrs.

7. Attendance

20. The names of members and alternate members present at the meeting are bolded below.

Members (in alphabetical order)	Alternate Members
1) ABULEIF , Khalid Mr.	YOO, Yeon-Chul Mr.
2) AGHAZADEH KHOEI , Javad Mr.	IVANOVA, Jadranka Ms.
3) COYE-FELSON , Janine E. Ms.	ST. LOUIS, Teddy Mr.
4) DIXELIUS , Anna Ms.	NOTARO , Nicola Mr.
5) <i>vacant</i> [‡]	NASR , Mohamed I. Mr. ⁺
6) JALOUTA , Najmadeen B.M. Mr.	ICHSANA ISHAK , Inar Ms. ⁺
7) PALLEMAERTS , Marc Mr.	ROBERTS , Adrian Mr.
8) PEDRO CUESTA , Pedro Luis Mr.	LIMA , Antonio Monteiro Mr.
9) SEDYAKIN , Valeriy Mr.	NIKITSIN , Siarhei Mr.
10) SHIMADA , Kunihiko Mr.	BERMAN, Mark Mr.

[‡] Mr. Tahar Hadj-Sadok resigned.

⁺ Served as member.