



FACILITATIVE BRANCH

Twelfth meeting

22–23 October 2012
Bonn, Germany

Report on the meeting

1. Opening of the meeting

1. Mr. Adrian Roberts, vice-chairperson of the facilitative branch, declared the meeting open and informed the meeting that Mr. Khalid Abuleif was unable to attend the meeting. Consequently, in accordance with rule 6, paragraph 1, of the “Rules of procedure of the Compliance Committee of the Kyoto Protocol”,¹ the vice-chairperson chaired the meeting.

2. At the request of the chairperson, the secretariat provided information on participation and quorum, as well as key administrative, logistical and housekeeping arrangements. The secretariat confirmed that the meeting was being webcast live on the Internet, and that an audio recording was being made of the entire meeting.

3. The secretariat also informed the meeting that the meeting did not have quorum to take decisions. As proposed by the chairperson, the members and alternate members agreed to proceed with the meeting on the understanding that any decisions would only be adopted upon receipt of the required additional votes by electronic means, in accordance with previous practice of the Compliance Committee. At the commencement of the afternoon meeting on Tuesday, 23 October 2012, the secretariat confirmed that quorum had been achieved by the arrival of Mr. Najmadeen Jalouta. The chairperson welcomed Mr. Jalouta, who was attending his first meeting as a member of the branch.

2. Adoption of the agenda

4. The branch reviewed and agreed to apply the provisional agenda (CC/FB/12/2012/1). Upon completion of a vote by electronic means, the branch adopted the agenda.

3. Organization of work

5. The branch agreed to organize its consideration of the items under its agenda in the following manner:

- (a) First, to consider consistency of reviews under Article 8;

¹ 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.



- (b) Second, to consider issues arising from reports of in-depth reviews of fifth national communications and information submitted pursuant to Article 7 of the Kyoto Protocol.

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

6. Under this item, the branch considered the correspondence between the chairperson of the branch and Canada dated 9 February 2012, 5 April 2012, 16 May 2012 and 22 May 2012, contained in the Annex to this report. On a proposal by the chairperson, the branch agreed, upon completion of electronic voting, to conclude its consideration of the matter.

7. The branch also decided, upon completion of electronic voting, to publish the correspondence and to recommend to the plenary that the correspondence be included in the annual report of the Compliance Committee to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.²

8. The branch considered a paper entitled ‘Background paper on information on trends in relation to the commitments under Article 3, paragraph 1, of the Kyoto Protocol found in reports of the in-depth reviews of the fifth national communications of Parties included in Annex I’³ (the background paper) prepared by the secretariat pursuant to a request made by the branch at its sixth meeting.⁴

9. In particular, the branch considered paragraphs 15 and 16 of the background paper, especially in relation to particular issues raised by expert review teams (ERTs) concerning Austria, Canada, Croatia and Italy. In its consideration of these matters, the branch applied the indicative working arrangements for its provision of advice and facilitation under section IV, paragraph 6 (a), of the “Procedures and mechanisms relating to compliance under the Kyoto Protocol” contained in the annex to decision 27/CMP.1⁵ (the indicative working arrangements).⁶

10. In relation to Canada, the branch noted that it had addressed the issues raised by the ERT in the “Report of the in-depth review of the fifth national communication of Canada” (FCCC/IDR.5/CAN) through the correspondence referred to in paragraph 6 above.

11. With respect to Italy, the branch recalled its conclusions made at its eleventh meeting,⁷ namely that branch had concluded that the information available was not sufficient in order for it to engage in an early warning exercise with regard to Italy and had agreed not to proceed with the matter at this

² CC/11/2012/2.

³ CC/FB/12/2012/2.

⁴ CC/FB/6/2008/2, paragraph 7.

⁵ This and subsequent references to sections, as well as references to procedures and mechanisms, refer to the annex to decision 27/CMP.1.

⁶ CC/FB/11/2012/2, annex I.

⁷ CC/FB/11/2012/2, paragraph 12.



COMPLIANCE COMMITTEE

CC/FB/12/2012/3
9 November 2012

time, but to revisit it once later reports of the individual review of the annual submission of Italy became available.

12. In accordance with rule 9, paragraph 1, the branch agreed to consider information in relation to Croatia and Austria in closed session given that information concerned individual Parties and could be of a sensitive nature.

13. With respect to Croatia, the chairperson and a member brought to the attention of the branch a possible conflict of interest by providing information regarding their previous involvement in negotiations concerning Croatia. The branch considered the information provided and concluded that there was no conflict of interest given that the appeal by Croatia had been withdrawn and the questions of implementation had been resolved.

14. The branch considered the “Report of the in-depth review of the fifth national communication of Croatia” (FCCC/IDR.5/HRV) and information contained in the annual submissions of Croatia submitted in 2011 and 2012.⁸

15. The branch concluded that the information available was not sufficient in order for it to engage in an early warning exercise with regard to Croatia. The branch agreed not to proceed with the matter at this time, but to revisit it once later reports of the individual review of the annual submission of Croatia become available, at which time the branch will also take into account any outcomes of its deliberations with regard to consistency of reviews under Article 8 of the Kyoto Protocol.

16. With respect to Austria, the branch considered the “Report of the in-depth review of the fifth national communication of Austria” (FCCC/IDR.5/AUT) and information contained in the annual submissions of Austria submitted in 2011 and 2012.⁹

17. The branch concluded that the information available was not sufficient in order for it to engage in an early warning exercise with regard to Austria. The branch agreed not to proceed with the matter at this time, but to revisit it once later reports of the individual review of the annual submission of Austria become available, at which time the branch will also take into account any outcomes of its deliberations with regard to consistency of reviews under Article 8 of the Kyoto Protocol.

18. In its consideration of the background paper, the branch recalled that its early warning function is based on information contained in review reports and, as such, its ability to engage in an early warning exercise depends heavily on the timeliness and accuracy of such information. The branch

⁸ See the 2011 National Inventory submissions at http://unfccc.int/national_reports/annex_i_ghg_inventories/national_inventories_submissions/items/5888.php and the 2012 National Inventory submissions at http://unfccc.int/national_reports/annex_i_ghg_inventories/national_inventories_submissions/items/6598.php.

⁹ See the 2011 National Inventory submissions at http://unfccc.int/national_reports/annex_i_ghg_inventories/national_inventories_submissions/items/5888.php and the 2012 National Inventory submissions at http://unfccc.int/national_reports/annex_i_ghg_inventories/national_inventories_submissions/items/6598.php.



COMPLIANCE COMMITTEE

CC/FB/12/2012/3
9 November 2012

also recalled its conclusions made at its eleventh meeting that its role was to provide advice and facilitation to individual Parties to the joint fulfilment agreement between the EU and 15 of its Member States (“the EU bubble”) on compliance with their commitments under Article 3, paragraph 1, of the Kyoto Protocol.¹⁰

19. The branch reviewed its indicative working arrangements and concluded that it was premature to revise the arrangements at this stage but that the arrangements should be kept under review.

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

20. The branch continued its exchange of views on the issue of consistency of reviews. The secretariat informed the branch that, in response to a request made by the branch at its eleventh meeting,¹¹ the enforcement branch, at its eighteenth meeting, suggested that the facilitative branch should give priority to national systems, with a special focus on land use, land-use change and forestry.¹²

21. The chairperson recalled that the plenary, at its ninth meeting, requested the secretariat to make arrangements for the bureau of the Compliance Committee to attend the ninth meeting of the inventory lead reviewers.¹³ This meeting was held from 27–29 March 2012 in Bonn and the vice-chairpersons of the enforcement and facilitative branch attended as observers.

22. The chairperson reported to the branch on his participation at the meeting referred to in paragraph 21 above. In accordance with rule 9, paragraph 1, the report was made in a closed session because the chairperson was reporting back on a meeting that was held in closed session.

23. The branch also received further information on the issue from a member of the enforcement branch, who was nominated by the bureau to contribute to the work of the branch, in accordance with section II, paragraph 7.

24. The chairperson informed the branch of bureau consultations which had explored the possibility of holding a workshop on the issue of consistency of reviews, which would be held in conjunction with the lead reviewers’ meeting and a meeting of the Compliance Committee. The branch supported the idea of such a workshop and noted the possibility of convening it in March 2013, subject to the availability of resources.

25. As input into the further development of the scope of the workshop, the branch noted that consistency is important because of fairness, which in turn generates confidence in the reporting, review and compliance system. The branch also noted that consistency issues may arise across Parties and through time and that, in this regard, different Parties in similar positions should be treated similarly and that Parties should be treated consistently from one year to another. The branch further

¹⁰ CC/FB/11/2012/2, paragraph 9.

¹¹ CC/FB/11/2012/2, paragraph 16.

¹² CC/EB/18/2012/3, paragraph 24.

¹³ UNFCCC/KP/CMP/2011/5, paragraph 28.



COMPLIANCE COMMITTEE

CC/FB/12/2012/3
9 November 2012

noted the usefulness of examining how mandatory language is used in ERT reports, in particular with respect to identifying questions of implementation and their resolution; and also how the reports might signal the risk of potential non-compliance and the need for early warning.

26. In its discussions the branch considered that a workshop could create a dialogue promoting mutual comprehension between the Compliance Committee and lead reviewers and that one of its main purposes could be to develop a common understanding of consistency and how it works within the context of each body.

6. Other matters

27. An issue was raised concerning interpretation at meetings and translation of documents into all six official languages of the United Nations, especially in relation to any workshop on consistency of reviews, in order to ensure full participation by all members and alternate members.

28. An issue was also raised concerning whether, as part of its function to provide advice and facilitation, the branch could request expert advice. The branch agreed to consider this matter further in its future review of the indicative working arrangements.

7. Closure of the meeting

29. The chairperson of the branch declared the meeting closed on 23 October 2012, at 17:00 hrs.

8. Attendance

30. 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) HIAHEMZIZOU, Rafik Mr.	NASR, Mohamed I. Mr.
5) JALOUTA , Najmadeen B.M. Mr.*	HAIDER FARMAN, Ali Abbas Mr.
6) PAZ CASTRO , Luis Mr.	LIMA , Antonio Monteiro Mr.
7) ROBERTS , Adrian Mr.	HALLSTRÖM , Per Mr.
8) SEDYAKIN , Valeriy Mr.	NIKITSIN , Siarhei Mr.
9) SHIMADA , Kunihiro Mr.	<i>Vacant</i> ⁺
10) VERWEY , Delano Ruben Mr.	DYBKA , Dariusz Mr.

*Mr. Jalouta was absent on 22 October 2012 and the morning of 23 October 2012.

⁺Mr. Berman resigned.



COMPLIANCE COMMITTEE

CC/FB/12/2012/3
9 November 2012

Annex

**Provision of advice and facilitation in accordance with section IV, paragraph 6(a), of the
“Procedures and mechanisms relating to compliance under the Kyoto Protocol”:
correspondence between the facilitative branch and Canada**

Letter from the chairperson of the facilitative branch to Canada dated 9 February 2012

Dear Mr. Christie,

I am writing to you in my capacity as chairperson of the facilitative branch of the Compliance Committee of the Kyoto Protocol. I have the honour to draw your attention to the Report of the in-depth review of the fifth national communication of Canada (FCCC/IDR.5/CAN, dated 10 November 2011), which was discussed at the eleventh meeting of the branch.

In accordance with decision 27/CMP.1, section IV, paragraphs 4 and 6(a), the branch has the responsibility of providing advice and facilitation to the Parties with the aim of promoting compliance and providing for early warning of potential non-compliance with regard to implementing commitments under the Protocol, including commitments under Article 3, paragraph 1, of the Protocol.

Canada's projected emissions, as noted in 'Box 1' on page 32 of the Compilation and synthesis of supplementary information incorporated in fifth national communications submitted in accordance with Article 7, paragraph 2, of the Kyoto Protocol (document FCCC/SBI/2011/INF.2), are said to be 21 per cent above the base year in 2008–2012, which is described as well above Canada's Kyoto target of minus 6 per cent, without indication of whether and how Canada plans to attain its Kyoto target.

The branch notes the conclusions of the expert review team (ERT) contained in document FCCC/IDR.5/CAN, in paragraphs 125 to 127, where the ERT noted with strong concern that, on the basis of information provided in Canada's fifth national communication, and during the review, Canada could potentially become non-compliant with its commitments under Article 3, paragraph 1, of the Kyoto Protocol.

The branch also notes that in paragraph 127 of document FCCC/IDR.5/CAN, the ERT stated that Canada has clarified that it is not planning to make significant use of the Kyoto Protocol mechanisms to meet its target under the first commitment period of the Kyoto Protocol.

The branch further noted that Canada submitted to the Depositary its notification of withdrawal from the Kyoto Protocol and that such withdrawal will be effective as of 15 December 2012. While the branch agreed that the consequences of withdrawal after 15 December 2012 will have to be assessed at a later stage, Canada, for the time being, remains a Party to the Protocol.



COMPLIANCE COMMITTEE

**CC/FB/12/2012/3
9 November 2012**

Consequently, the branch concluded at its eleventh meeting that it was seized of an early warning issue with regard to Canada's potential non-compliance. Before deliberating further on the issue, the branch would like to offer the opportunity to Canada to engage in a dialogue with the branch to clarify Canada's response to the concerns raised by the ERT, either in writing or orally at a meeting of the branch.

The branch would appreciate receiving a response in writing indicating:

- Whether Canada would like to engage in a dialogue with the branch (and, if so, whether it wishes to make oral representations at the next meeting of the branch or whether it prefers to respond in writing); and
- Whether Canada wishes the branch to provide any advice and facilitation on Canada's implementation of its commitments under the Kyoto Protocol, including commitments under Article 3, paragraph 1, of the Protocol.

The branch would appreciate receiving a response in writing as soon as possible but no later than 16 April 2012, with a view to engaging with the branch at its twelfth meeting, which is tentatively scheduled to take place in June 2012, when the branch will resume its consideration of this issue.

Sincerely yours,

(signed)

Khalid M. Abuleif
Chairperson, Facilitative Branch
Compliance Committee of the Kyoto Protocol



COMPLIANCE COMMITTEE

CC/FB/12/2012/3
9 November 2012

Letter from Canada to the chairperson of the facilitative branch dated 5 April 2012

Dear Mr. Abuleif,

In my capacity as Canada's Chief Negotiator and Ambassador for Climate Change, I am responding to your letter of February 9, 2012, in which you invite Canada to engage in a dialogue with the facilitative branch of the Compliance Committee of the Kyoto Protocol, specifically, regarding the conclusions of the expert review team on Canada's fifth national communication.

The Government of Canada understands that, as this is the first time the facilitative branch has been seized of an early warning issue, the branch is developing its methods and procedures for this process. The Government appreciates your proposed approach to solicit Canada's views, including whether we wish the facilitative branch to provide advice and facilitation regarding implementation of the Kyoto Protocol emission reduction commitment.

It is our understanding that in such a process the facilitative branch would provide early warning of potential non-compliance with Article 3, paragraph 1 of the Kyoto Protocol. However, as you are aware, Canada submitted to the Depositary its notification of withdrawal from the Kyoto Protocol, which will take effect on December 15, 2012. As a consequence, Canada will no longer be a Party to the Kyoto Protocol when compliance would be assessed. On this basis, we are of the view that there is, therefore, little value in further engagement with the facilitative branch at this time.

Having said that, I would like to take this opportunity to make clear that the Government of Canada takes the challenges of climate change seriously. As climate change is a global problem requiring a global solution, we are taking action on international, continental and domestic fronts.

We stand firm on our commitment under the Copenhagen Accord to reduce greenhouse gas emissions by 17 percent below 2005 levels, or a target of 607 megatonnes, by 2020. Current measures now in place or in the process of being implemented by all levels of government in Canada are expected to reduce emissions by about a quarter of the reductions needed to achieve the 2020 target. For instance, in October 2010, new light duty vehicle regulations for model years 2010-2016, the first ever national GHG regulations in Canada, came into force. These regulations establish a common North American standard. Also, on August 19, 2011, the Government of Canada released the proposed draft regulations to reduce emissions from the coal-fired electricity sector.

All provincial and territorial governments have also established climate change mitigation targets and are implementing their own strategies to achieve those targets in a manner that reflects differing individual circumstances and their responsibilities under the Canadian Constitution. In aggregate, GHG reduction targets established by the provinces and territories are collectively close to the federal government's 2020 target. As mentioned, Canada's target is 607 megatonnes, while combined provincial and territorial targets amount to 625 megatonnes. The fact that all levels of government are driving towards similar outcomes supports enhanced collaboration and provides positive reinforcement.

While we have made progress, we recognize that a lot of work remains. As part of our climate change plan, regulated GHG performance standards are being developed for the remaining major sources of emissions with a focus on the oil and gas sector and other industrial emitters.



COMPLIANCE COMMITTEE

CC/FB/12/2012/3
9 November 2012

I would also like to note that a new report, released on November 7, 2011 by the International Institute for Sustainable Development (IISD)¹ confirms that the Government's regulatory approach is delivering results and contributing to a national effort to reduce emissions toward Canada's 2020 target. It states that "Canada's federal government is finally establishing the policy architecture to reduce greenhouse gas emissions".

On the international front, Canada has been, and will continue to be an active participant in the UNFCCC negotiations towards a new international climate change agreement. In our view, the Copenhagen Accord, agreed by leaders in 2009, represented a significant first step in that direction in that it included mitigation commitments by all major economies, covering over 80% of global emissions. A year later, the Cancun Agreements set out the framework necessary to deliver on the Copenhagen Accord and confirmed that all major emitters must take action to address climate change.

The Durban Platform for Enhanced Action took yet another step forward by setting out a negotiating mandate to develop a new, international agreement applicable to all Parties and thus including all major emitters, to be adopted in 2015 and implemented from 2020. Canada will engage constructively with international partners to successfully conclude these negotiations.

The Government also continues to demonstrate its commitment to addressing climate change by providing its fair share of international climate finance in support of mitigation and adaptation efforts by developing countries. On December 5, 2011, Minister Kent announced that Canada will contribute in total \$1.2 billion in new and additional fast-start financing by the end of our 2012/13 fiscal year. This is Canada's largest ever contribution to support international efforts to address climate change, and will assist developing countries to adapt to the effects of a changing climate, invest in clean energy, and promote sustainable forest and agriculture.

Canada is also working with international partners outside the formal United Nations process to address climate change. These processes bring together smaller groups of countries and address more manageable issues in an informal setting; thus having the potential to deliver more immediate results.

These efforts include initiatives under the G8, the G20, the Major Economies Forum on Energy and Climate Change, as well as efforts to address short-lived climate pollutants such as black carbon, methane and hydrofluorocarbons. In this way, Canada is working with key countries to find practical solutions to addressing climate change.

Going forward, Canada will continue to provide clarity on its plan to meet its 2020 target through the processes set out for this purpose under the Convention.

Sincerely,

(signed)

Guy Saint-Jacques
Chief Negotiator and Ambassador for Climate Change

¹ Mind the Gap: The state-of-play in Canadian greenhouse gas mitigation – Dave Sawyer, Director of Climate Change and Energy, IISD.



COMPLIANCE COMMITTEE

**CC/FB/12/2012/3
9 November 2012**

Letter from the chairperson of the facilitative branch to Canada dated 16 May 2012

Excellency,

I wish to thank you for your letter sent to me as the chairperson of the facilitative branch of the Compliance Committee of the Kyoto Protocol, in which you replied to the invitation by the branch to engage in a dialogue regarding the conclusions of the expert review team on Canada's fifth national communication as well as the branch's offer to provide advice and facilitation on Canada's commitments under the Protocol, including its commitments under Article 3, paragraph 1, of the Protocol.

At the outset, I wish to clarify that the branch recognizes that Canada will no longer be a Party to the Kyoto Protocol as of 15 December 2012, in view of Canada's submission to the depositary of its notification of withdrawal from the Protocol. However, for the time being Canada remains a Party to the Protocol and is subject to the procedures and mechanisms relating to compliance under the Protocol, including the facilitative branch mandate to provide advice and facilitation to the Parties with the aim of promoting compliance and providing for early warning of potential non-compliance with regard to implementing commitments under the Protocol, including commitments under Article 3, paragraph 1, of the Protocol, during the relevant commitment period.

In that context, the branch acknowledges that Canada has declined its offer to further engage in a dialogue and to provide any advice and facilitation on Canada's commitments under the Protocol, including commitments under Article 3, paragraph 1, of the Protocol. The branch will further consider these issues at its next meeting, which is now tentatively scheduled for October 2012, with a view to close its consideration of the matter.

I also wish to bring to your attention that, in accordance with its past practice and in order to ensure transparency, the branch intends to publish the correspondence with Canada as an annex to the report on its next meeting as well as in the next annual report of the Compliance Committee to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP). I would welcome Canada's views on the publication of such correspondence, if any, and would appreciate if such views could be communicated to me before the meeting in the fall.

Finally, I take this opportunity to wish the Canadian Government all the best in its continued efforts to deal with and reduce the effects of climate change.

Sincerely yours,

(signed)

Khalid M. Abuleif
Chairperson, Facilitative Branch
Compliance Committee of the Kyoto Protocol



COMPLIANCE COMMITTEE

**CC/FB/12/2012/3
9 November 2012**

Correspondence from Canada to the chairperson of the facilitative branch dated 22 May 2012

Dear Mr. Abuleif,

Thank you for your letter of 16 May 2012 in which you asked for Canada's views on the publication of the correspondence between the Committee and Canada. I would like to inform you that Canada agrees to the publication of such correspondence.

Yours sincerely,

Guy Saint-Jacques
Chief Negotiator and Ambassador for Climate Change
Government of Canada
