



COMPLIANCE COMMITTEE

CC/11/2012/2
12 October 2012

Annual report of the Compliance Committee to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol

Note by the secretariat

1. Under section XII(b) of the “Procedures and mechanisms relating to compliance under the Kyoto Protocol” (annex to decision 27/CMP.1), the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol is to consider the reports of the plenary of the Compliance Committee on the progress of its work.
2. The attached draft is presented to the plenary for its consideration. The plenary will note that some paragraphs may be added or modified based on discussions at its eleventh meeting.



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Item 9 (a) of the provisional agenda
Matters relating to compliance under the Kyoto Protocol
Report of the Compliance Committee

Annual report of the Compliance Committee to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol*

Summary

The seventh annual report of the Compliance Committee to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol covers activities undertaken from 14 October 2011 to 25 October 2012. The report provides a summary of the further consideration by the enforcement branch of the questions of implementation with respect to Croatia, Lithuania, Romania and Ukraine and its consideration of new questions of implementation and a disagreement whether to apply adjustments with respect to Slovakia. It also contains information on discussions by the facilitative branch on provisions relating to facilitation, and discussions of the plenary of the Compliance Committee on [*to be completed after adoption by the plenary of the report*].

* This document was submitted after the due date in order to take into account the outcomes of the ninth meeting of the plenary of the Compliance Committee, which took place on 13 October 2011.

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I. Introduction

A. Mandate

1. Under section III, paragraph 2 (a), of the “Procedures and mechanisms relating to compliance under the Kyoto Protocol” (annex to decision 27/CMP.1; hereinafter referred to as the procedures and mechanisms), the plenary of the Compliance Committee is to report on the activities of the Committee to each ordinary session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP).

B. Scope of the report

2. The seventh annual report of the plenary of the Compliance Committee covers the period from 14 October 2011 to 25 October 2012. It summarizes the work of and matters addressed by the Committee during that period.

C. Action to be taken by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol

3. In accordance with section XII of the procedures and mechanisms, the CMP is to consider the annual report of the Compliance Committee.

4. The CMP may also wish to:

(a) Invite the President of the CMP to undertake consultations on the nominations of members and alternate members of the Compliance Committee, as necessary;

(b) *[possible text on the outcomes of the discussions of the facilitative branch, as forwarded to and agreed on by the plenary];*

(c) *[possible text on the outcomes of the discussions of the enforcement branch, as forwarded to and agreed on by the plenary];*

(d) Invite Parties to make contributions to the Trust Fund for Supplementary Activities to support the work of the Compliance Committee in the biennium 2012–2013 and to express its thanks to Parties that have made contributions during the reporting period;

(e) *[others]*.

II. Organizational Matters

5. The plenary of the Compliance Committee held two meetings during the reporting period. The tenth meeting of the plenary of the Committee was held on 9 February 2012, in Bonn, Germany. The eleventh meeting of the plenary of the Committee was held from 24 to 25 October 2012, also in Bonn, Germany.

6. The facilitative branch met twice in Bonn (from 6 to 8 February 2012 and from 22 to 24 October 2012) and the enforcement branch met six times in Bonn (from 14 to 18 November 2011, from 20 to 21 December 2011, from 7 to 8 and 10 February 2012, from 8 to 9 March 2012, from 9 to 14 July 2012, and from 22 to 24 October 2012). In addition to these meetings, during the reporting period, the bureau of the Compliance Committee used electronic means to allocate of questions of implementation, the enforcement branch used

electronic means to adopt decisions on preliminary examination, expert advice, the review and assessment of a plan submitted pursuant to a final decision of the enforcement branch, and a final decision. The facilitative branch used electronic means to discuss and decide on its response to a letter from Canada dated 5 April 2012. The use of electronic means resulted in the reduction of meeting-related costs.

7. The agenda and annotations, documentation supporting agenda items and the chairpersons' report on each meeting of the plenary of the Committee and of the facilitative and enforcement branches are available on the UNFCCC website.¹

A. Election of the chairpersons and vice-chairpersons of the enforcement and facilitative branches of the Compliance Committee

8. In accordance with section II, paragraph 4, of the procedures and mechanisms, the enforcement branch elected Mr. René Lefebvre as chairperson and Ms. Rueanna Haynes as vice-chairperson by acclamation on 7 February 2012, and the facilitative branch elected Mr. Khalid Abuleif as chairperson and Mr. Adrian Roberts as vice-chairperson by acclamation on 6 February 2012. These chairpersons and vice-chairpersons constitute the new bureau of the Committee.

9. The plenary expressed appreciation for the work of the members of the previous bureau, namely, Ms. Sandea de Wet, chairperson of the enforcement branch, Mr. Kunihiko Shimada, chairperson of the facilitative branch, Mr. René Lefebvre, vice-chairperson of the enforcement branch, and Mr. Javad Aghazadeh Khoei, vice-chairperson of the facilitative branch.

B. Membership in the Compliance Committee

10. In accordance with rule 3, paragraph 5, of the "Rules of procedure of the Compliance Committee of the Kyoto Protocol" (annex to decision 4/CMP.2; hereinafter referred to as the rules of procedure), 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 Compliance Committee is to request the CMP to elect a new member or alternate member for the remainder of the term at its next session.

11. Mr. Mark Berman, an alternate member nominated by Parties included in Annex I (Annex I Parties) and elected to serve in the facilitative branch until 31 December 2013, resigned from the Committee as of 16 April 2012. In accordance with section II, paragraph 5 and section IV, paragraph 2, of the procedures and mechanisms and rule 3, paragraph 5 of the rules of procedure, the plenary of the Compliance Committee requests the CMP to fill the vacancy in the facilitative branch by electing an alternate member from Annex I Parties to serve for the remaining period of Mr. Berman's term.

C. Transparency, communication and information

12. In accordance with rule 9, paragraph 1, of the rules of procedure, the tenth and eleventh meetings of the plenary of the Committee, the eleventh and twelfth meetings of the facilitative branch and the parts of the sixteenth, seventeenth, eighteenth, nineteenth, twentieth and twenty-first meetings of the enforcement branch that were held in public were recorded and broadcast on the Internet through the UNFCCC website.

¹ <http://unfccc.int/kyoto_protocol/compliance/items/2875.php>.

13. In accordance with rule 12, paragraph 2, of the rules of procedure, all documents of the plenary of the Committee and the enforcement and facilitative branches have been made available to the public through the UNFCCC website.²

D. Privileges and immunities for members and alternate members of the Compliance Committee

14. At its eleventh meeting, the plenary of the Compliance Committee received an oral report by the secretariat on the current state of negotiations under the Subsidiary Body for Implementation (SBI) on legal arrangements for privileges and immunities for individuals serving on constituted bodies under the Kyoto Protocol. Having considered the information provided, the Committee [*possible text on the outcomes of the discussions of the plenary*].

E. Use of electronic means of decision making

15. Pursuant to rule 11, paragraph 2, of the rules of procedure, the Committee may elaborate and take decisions using electronic means. During the reporting period, the bureau of the Compliance Committee used electronic means to take a decision on the allocation of the questions of implementation with respect to Slovakia. The enforcement branch also used electronic means to take decisions on a further eight occasions. These decisions related to: a preliminary examination with respect to Slovakia; expert advice with respect to Lithuania, Romania, Slovakia and Ukraine; the review and assessment of a plan submitted by Lithuania pursuant to a final decision of the enforcement branch; a final decision with respect to Slovakia; and a decision not to initiate the procedure referred to in section X, paragraph 1, of the procedures and mechanisms with respect to Lithuania. The use of this means of decision-making on these occasions reduced the need for actual meetings, thereby reducing meeting-related costs.

16. During the reporting period, electronic means of decision-making were also used to facilitate decision-making due the lack of quorum at meetings of the enforcement branch:

(a) At the sixteenth meeting of the enforcement branch, in conjunction with those members and alternate members present and voting, electronic means were used to collect additional votes to enable the branch to take decisions on: the review and assessment of a plan submitted by Romania pursuant to a final decision of the enforcement branch; a preliminary finding with respect to Lithuania; and the review and assessment of a plan submitted by Croatia pursuant to a final decision of the enforcement branch.

(b) At the seventeenth meeting of the enforcement branch, in conjunction with those members and alternate members present and voting, electronic means were used to collect additional votes so as to enable the branch to take a decision on the review and assessment of a plan submitted by Ukraine pursuant to a final decision of the enforcement branch.

(c) At the nineteenth meeting of the enforcement branch, in conjunction with those members and alternate members present and voting, electronic means were used to collect additional votes to enable the branch to take a decision under section X, paragraph

² Documents relating to the plenary of the Compliance Committee are available at <http://unfccc.int/kyoto_protocol/compliance/plenary/items/3788.php>. Documents relating to the facilitative branch are available at <http://unfccc.int/kyoto_protocol/compliance/facilitative_branch/items/3786.php> and documents relating to the enforcement branch are available at <http://unfccc.int/kyoto_protocol/compliance/enforcement_branch/items/3785.php>.

2, of the procedures and mechanisms reinstating Ukraine's eligibility to participate in the mechanisms under Articles 6, 12 and 17 of the Kyoto Protocol.

(d) At the sixteenth, seventeenth and nineteenth meetings of the enforcement branch, in conjunction with those members and alternate members present and voting, electronic means were used to collect additional votes to enable the branch to adopt the agenda for each respective meeting.

17. The use of electronic means of decision-making on these occasions enabled enforcement branch meetings to proceed when urgent and unforeseeable circumstances resulted in the late withdrawal of members and alternate members from attendance at scheduled meetings.

18. The facilitative branch also used electronic means to discuss its response to a letter from Canada dated 5 April 2012 and to decide on sending a second letter, informing Canada that the branch would further consider this issue at its twelfth meeting, with a view to closing its consideration of the matter and drawing the attention to the branch's intention to publish the correspondence. The use of electronic decision-making enabled the branch to respond promptly to Canada, while avoiding the need for an additional meeting.

III. Work undertaken in the reporting period

A. Reports of expert review teams under Article 8 of the Kyoto Protocol and other information received by the plenary of the Compliance Committee

19. In accordance with section VI, paragraph 3, of the procedures and mechanisms, the secretariat forwarded to the Compliance Committee the reports from the expert review teams of the centralized in-depth reviews of the fifth national communications (the IDRs of NC5s) of Australia, Belarus, Bulgaria, Canada, European Union, Iceland, Liechtenstein, Luxembourg, Monaco, Romania, Russian Federation and Slovenia.

20. Similarly, in accordance with section VI, paragraph 3, of the procedures and mechanisms, the secretariat forwarded to the Compliance Committee the reports of the individual review of the annual submissions submitted in 2011 (2011 ARR) by Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Monaco, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland [and *[any other ARRs to be received during the reporting period]*].

21. Also in accordance with section VI, paragraph 3, of the procedures and mechanisms and paragraph 49 of the annex to decision 22/CMP.1, the secretariat forwarded to the Compliance Committee the annual status reports of annual inventories submitted in 2012 of Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, European Union, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Monaco, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Russian Federation, Slovakia, Slovenia, Spain, Sweden, Switzerland, Ukraine, and United Kingdom.

22. In accordance with section VI, paragraph 1, of the procedures and mechanisms, the secretariat forwarded to the Compliance Committee the 2011 ARR of Slovakia, which indicated questions of implementation and a disagreement whether to apply adjustments.

In accordance with section VI, paragraph 2, of the procedures and mechanisms, the report was also made available to Slovakia. Information on the work of the enforcement branch with respect to these questions of implementation and the disagreement whether to apply adjustments is set out in chapter III F.

23. In accordance with paragraph 4 of decision 13/CMP.1, the secretariat forwarded to the Compliance Committee the fourth annual compilation and accounting report for Annex B Parties to the Kyoto Protocol and the addendum to this report (document CC/2011/1).

24. At its eleventh meeting, the plenary of the Compliance Committee considered the information provided to it by the secretariat on the status of submission and review of reports under the Kyoto Protocol. [*To be completed based on discussions at the eleventh meeting of the plenary.*]

25. At its fifth meeting, the plenary of the Compliance Committee decided to continue to keep the issues of consistency in the review process and resource limitations, including the lack of available experts for the review process, under review at its future meetings.

26. At its eleventh meeting, the plenary of the Compliance Committee [*To be completed based on discussions at the eleventh meeting of the plenary.*]

B. Consideration by the enforcement branch of the questions of implementation with respect to Croatia

27. In the three preceding reporting periods, the enforcement branch considered two questions of implementation with respect to Croatia.³ At its sixteenth meeting on 18 November 2011, the branch adopted a decision on the review and assessment of a plan submitted by Croatia pursuant to a final decision of the enforcement branch (CC-2009-1-11/Croatia/EB). The branch decided, *inter alia*, to defer the consideration of Croatia's request, pursuant to section X, paragraph 2, of the procedures and mechanisms, to reinstate Croatia's eligibility. The branch further decided that, although the measure reflected in Croatia's plan, if implemented in accordance with the decision, was expected to remedy the non-compliance, it did not meet the requirements set out in the final decision of the enforcement branch (CC-2009-1-8/Croatia/EB) taken on 26 November 2009 which gave effect to the consequences contained in paragraph 23 of the preliminary finding of the branch (CC-2009-1-6/Croatia/EB).

28. On 27 December 2011, Croatia transmitted, via a letter to the Secretary to the Compliance Committee, a revised plan (CC-2009-1-12/Croatia/EB) related to the calculation of its assigned amount and commitment period reserve. In its revised plan, Croatia indicated that it was now prepared to accept the values of the assigned amount and the commitment period reserve, as calculated by the expert review team (ERT) that reviewed its initial report, and that it had written to the secretariat to confirm its acceptance of these calculations. In this plan, Croatia reiterated its request for the reinstatement of its eligibility to participate in the mechanisms under Articles 6, 12 and 17 of the Kyoto Protocol. On 30 December 2011, the secretariat responded to Croatia indicating that the value for Croatia's assigned amount and initial value for the commitment period reserve, as

³ Details of this consideration that occurred in the three previous reporting periods can be found in chapter III B of the fourth annual report of the Compliance Committee to the CMP (FCCC/KP/CMP/2009/17), chapter III B of the fifth annual report of the Compliance Committee to the CMP (FCCC/KP/CMP/2010/6) and chapter III B of the sixth annual report of the Compliance Committee (FCCC/KP/CMP/2011/5).

determined by the ERT that conducted the review Croatia's initial report, had been entered into the compilation and accounting database.

29. At its eighteenth meeting, the enforcement branch considered Croatia's request for reinstatement of its eligibility to participate in the mechanisms under Articles 6, 12 and 17 of the Kyoto Protocol and the revised plan referred to in paragraph 25 above. On 8 February 2012, at its eighteenth meeting, the enforcement branch, in accordance with section X, paragraph 2, of the procedures and mechanisms, adopted a decision to reinstate Croatia's eligibility (CC/2009-1-14/Croatia/EB). In that decision, the enforcement branch concluded that there no longer continued to be a question of implementation. Croatia was fully eligible to participate in the mechanisms under Articles 6, 12 and 17 of the Kyoto Protocol as of 8 February 2012 at 9:53:32 Greenwich Mean Time.

30. In accordance with section III, paragraph 2 (a), of the procedures and mechanisms, the decisions taken by the enforcement branch with respect to Croatia during the reporting period are listed in annex I to this report.

C. Consideration by the enforcement branch of a question of implementation with respect to Romania

31. In the previous reporting period, the enforcement branch considered a question of implementation with respect to Romania.⁴ At its fourteenth meeting, on 27 August 2011, the branch adopted a final decision (CC-2011-1-8/Romania/EB) confirming its preliminary finding that Romania was not in compliance with the "Guidelines for national systems for the estimation of anthropogenic greenhouse gas emissions by sources and removals by sinks under Article 5, paragraph 1, of the Kyoto Protocol" (annex to decision 19/CMP.1) and that Romania did not meet the eligibility requirements under Articles 6, 12 and 17 of the Kyoto Protocol to have in place a national system in accordance with Article 5, paragraph 1, of the Kyoto Protocol and the requirements and guidelines decided thereunder.

32. On 3 November 2011, the enforcement branch received a plan from Romania (CC-2011-1-9/Romania/EB) in accordance with the final decision referred to in paragraph 31 above. On 14 November 2011, at its sixteenth meeting, the enforcement branch adopted a decision to seek expert advice (CC-2011-1-10/Romania/EB) on the plan.

33. On 15 November 2011, at its sixteenth meeting, the enforcement branch adopted a decision on the review and assessment of a plan submitted pursuant to a final decision of the enforcement branch (CC-2011-1-11/Romania/EB). The enforcement branch decided that the plan adequately addressed each of the elements specified in section XV, paragraph 2 of the procedures and mechanisms, and that the plan, if implemented in accordance with the decision, was expected to remedy the non-compliance.

34. On 2 February 2012, the Romania submitted its second progress report to the enforcement branch (CC-2011-1-12/Romania/EB) and on 23 March 2012, the enforcement branch received a request for reinstatement and third progress report on Romania's plan (CC-2011-1-13/Romania/EB).

35. On 27 June 2012, the enforcement branch adopted a decision on expert advice (CC-2011-1-14/Romania/EB), by electronic means, in relation to Romania's third progress report and request for reinstatement. At its twentieth meeting, the enforcement branch considered Romania's third progress report and request for reinstatement and on 13 July 2012 adopted a decision to reinstate Romania's eligibility (CC-2011-1-15/Romania/EB). In that decision, the enforcement branch also concluded that there no longer continued to be a

⁴ Details of this consideration that occurred in the previous reporting periods can be found in chapter III D of the sixth annual report of the Compliance Committee (FCCC/KP/CMP/2011/5).

question of implementation. Romania was fully eligible to participate in the mechanisms under Articles 6, 12 and 17 of the Kyoto Protocol as of 13 July 2012 at 10:42:59, Greenwich Mean Time.

36. In accordance with section III, paragraph 2 (a), of the procedures and mechanisms, the decisions taken by the enforcement branch with respect to Romania during the reporting period are listed in annex I to this report.

D. Consideration by the enforcement branch of a question of implementation with respect to Ukraine

37. In the previous reporting period, the enforcement branch considered a question of implementation with respect to Ukraine.⁵ As part of its consideration, the branch adopted a final decision on 12 October 2011 confirming its preliminary finding that Ukraine was not in compliance with the “Guidelines for national systems for the estimation of anthropogenic greenhouse gas emissions by sources and removals by sinks under Article 5, paragraph 1, of the Kyoto Protocol” (annex to decision 19/CMP.1) and that Ukraine did not meet the eligibility requirements under Articles 6, 12 and 17 of the Kyoto Protocol to have in place a national system in accordance with Article 5, paragraph 1, of the Kyoto Protocol and the requirements and guidelines decided thereunder.

38. On 8 December 2011, the enforcement branch received a plan (CC-2011-2-10/Ukraine/EB) from Ukraine pursuant to the final decision referred to in paragraph 37 above. On 21 December 2011, at its seventeenth meeting, the enforcement branch adopted a decision on the review and assessment of Ukraine’s plan in accordance with section XV, paragraph 2 and rule 25 bis, paragraph 3, of the rules of procedure (CC-2011-2-11/Ukraine/EB). The branch concluded, based on the information submitted and presented, that the plan met the requirements set out in paragraph 2 of section XV of the procedures and mechanisms and paragraph 1 of rule 25 bis of the rules of procedure. The branch noted that not all the measures described in the plan had yet been implemented and urged Ukraine to carry out all the measures contained in the plan.

39. On 24 January 2012, the enforcement branch received a request to reinstate Ukraine’s eligibility (CC-2011-2-12/Ukraine/EB). On 7 February 2012, the enforcement branch received the first progress report on Ukraine’s plan (CC-2011-2-13/Ukraine/EB). On 10 February 2012, during its eighteenth meeting, the enforcement branch adopted a decision (CC-2011-2-14/Ukraine/EB) to defer the adoption of a decision under section X, paragraph 2, of the procedures and mechanisms. In reaching its decision, the branch noted Ukraine’s significant progress already made despite not all the measures described in Ukraine’s plan having been implemented. The enforcement branch took into account that no question of implementation was identified in the report of the individual review of the annual submission of Ukraine submitted in 2011 (FCCC/ARR/2011/UKR) although it noted that some uncertainties arose in Ukraine’s 2011 ARR and, therefore, concluded that it needed further clarification in order to be in a position to conclude its consideration of the request for reinstatement.

40. On 6 March 2012, using electronic means, the enforcement branch adopted a decision on expert advice (CC-2011-2-15/Ukraine/EB) on Ukraine’s request for reinstatement. On 9 March 2012, at its nineteenth meeting, the enforcement branch adopted a decision to reinstate Ukraine’s eligibility (CC-2011-2-16/Ukraine/EB). In that decision, the enforcement branch concluded that there no longer continued to be a question of

⁵ Details of this consideration that occurred in the previous reporting periods can be found in chapter III E of the sixth annual report of the Compliance Committee (FCCC/KP/CMP/2011/5).

implementation. Ukraine was fully eligible to participate in the mechanisms under Articles 6, 12 and 17 of the Kyoto Protocol as of 9 March 2012 at 15:32:22 Greenwich Mean Time.

41. In accordance with section III, paragraph 2 (a), of the procedures and mechanisms, the decisions taken by the enforcement branch with respect to Ukraine during the reporting period are listed in annex I to this report.

E. Consideration by the enforcement branch of a question of implementation with respect to Lithuania

42. In the previous reporting period, the enforcement branch considered a question of implementation with respect to Lithuania.⁶ On 9 November 2011, the enforcement branch received a written submission from Lithuania (CC-2011-3-5/Lithuania/EB) and an addendum to the submission (CC-2011-3-5/Lithuania/EB/Add.1) on 16 November 2011. On 17 November 2011, at its sixteenth meeting, the enforcement branch adopted a preliminary finding (CC-2011-3-6/Lithuania/EB) that Lithuania was not in compliance with the “Guidelines for national systems for the estimation of anthropogenic greenhouse gas emissions by sources and removals by sinks under Article 5, paragraph 1, of the Kyoto Protocol” (annex to decision 19/CMP.1) and that Lithuania did not meet the eligibility requirements under Articles 6, 12 and 17 of the Kyoto Protocol to have in place a national system in accordance with Article 5, paragraph 1, of the Kyoto Protocol and the requirements and guidelines decided thereunder.

43. After receiving a further written submission from Lithuania (CC-2011-3-7/Lithuania/EB) on 19 December 2011, the enforcement branch confirmed its preliminary finding in a final decision (CC-2011-3-8/Lithuania/EB) adopted at its seventeenth meeting on 21 December 2011.

44. On 27 March 2012, the enforcement branch received a plan (CC-2011-3-9/Lithuania/EB) from Lithuania pursuant to the final decision referred to in paragraph 43 above. On 24 April 2012, the enforcement branch received a letter from Lithuania that requested the branch to review and assess the plan (CC-2011-3-10/Lithuania/EB). On 2 May 2012, the enforcement branch adopted a decision, using electronic means, on the review and assessment of the plan submitted by Lithuania pursuant to the final decision of the enforcement branch (CC-2011-3-11/Lithuania/EB). The enforcement branch decided that the plan adequately addressed each of the elements specified in section XV, paragraph 2, of the procedures and mechanisms and that the plan, if implemented in accordance with the decision, was expected to remedy the non-compliance.

45. On 15 June 2012, the enforcement branch received from Lithuania a second progress report and a request to reinstate its eligibility (CC-2011-3-12/Lithuania/EB). On 27 June 2012, the enforcement branch adopted a decision, using electronic means, on expert advice (CC-2011-3-13/Lithuania/EB) in relation to Lithuania’s request for reinstatement. On 14 July 2012, at its twentieth meeting, the enforcement branch adopted a decision not to reinstate Lithuania’s eligibility (CC-2011-3-14/Lithuania/EB) as the branch concluded that a question of implementation continued to exist. The decision also provided Lithuania with a possibility to request the branch, before 31 July 2012, not to initiate the procedure referred to in section X, paragraph 1, of the procedures and mechanisms.

46. In a letter to the enforcement branch received on 19 July 2012, Lithuania requested the branch not to initiate the procedure referred to in section X, paragraph 1, of the procedures and mechanisms (CC-2011-3-15/Lithuania/EB). On 31 July 2012, using

⁶ Details of this consideration that occurred in the previous reporting periods can be found in chapter III F of the sixth annual report of the Compliance Committee (FCCC/KP/CMP/2011/5).

electronic means, the enforcement branch adopted a decision not to initiate the procedure referred to in section X, paragraph 1, of the procedures and mechanisms (CC-2011-3-16/Lithuania/EB) pending the receipt by the branch of the report of an in-country review of Lithuania's national system in conjunction with the review of its annual inventory report submitted in 2012.

47. [To be completed based on discussions at the twenty-first meeting of the enforcement branch.]

48. In accordance with section III, paragraph 2 (a), of the procedures and mechanisms, the decisions taken by the enforcement branch with respect to Lithuania during the reporting period are listed in annex I to this report.

F. Consideration by the enforcement branch of questions of implementation and a disagreement whether to apply adjustments with respect to Slovakia

49. On 8 May 2012, the Compliance Committee received questions of implementation and a disagreement whether to apply adjustments indicated in the report of the individual review of Slovakia's 2011 annual submission.⁷ The bureau of the Compliance Committee, using electronic means, allocated the questions of implementation to the enforcement branch on 16 May 2012. On 1 June 2012, the enforcement branch, using electronic means, made a decision on preliminary examination and decided to proceed (CC-2012-1-2/Slovakia/EB) with the questions of implementation.

50. The questions of implementation relate to compliance with the "Guidelines for national systems for the estimation of anthropogenic greenhouse gas emissions by sources and removals by sinks under Article 5, paragraph 1, of the Kyoto Protocol" (annex to decision 19/CMP.1). In addition, the ERT that reviewed the 2011 annual submission of Slovakia also included a question of implementation with respect to Slovakia's calculations of estimates for 2008 and 2009 of carbon dioxide (CO₂), methane (CH₄) and nitrous oxide (N₂O) emissions from road transportation, and hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulphur hexafluoride (SF₆) emissions from the consumption of halocarbons and SF₆ since they were incomplete and/or not prepared in accordance with the methodological and reporting requirements of the Intergovernmental Panel on Climate Change (IPCC) *Revised 1996 IPCC Guidelines for National Greenhouse Gas Inventories*⁸ and the IPCC *Good Practice Guidance and Uncertainty Management in National Greenhouse Gas Inventories*.⁹

51. On 27 June 2012, using electronic means, the enforcement branch adopted a decision on expert advice (CC-2012-1-4/Slovakia/EB) in relation to issues involved in any decision of the enforcement branch with regard to the indicated questions of implementation regarding Slovakia and the disagreement whether to apply adjustments. On 4 July 2012, the enforcement branch received a written submission from Slovakia (CC-2012-1-5/Slovakia/EB).

52. On 14 July 2012, the enforcement branch, during its twentieth meeting, adopted a decision on the disagreement whether to apply adjustments under Article 5, paragraph 2, of the Kyoto Protocol (CC-2012-1-6/Slovakia/EB). In its decision, the enforcement branch

⁷ FCCC/ARR/2011/SVK.

⁸ IPCC, 1996, *Revised 1996 IPCC Guidelines for National Greenhouse Gas Inventories*. Available at <<http://www.ipccnggip.iges.or.jp/public/gl/invs1.htm>>.

⁹ IPCC, 1996, *Good Practice Guidance and Uncertainty Management in National Greenhouse Gas Inventories*. Available at <<http://www.ipcc-nggip.iges.or.jp/public/gp/english/>>.

decided not to apply the adjustments calculated and recommended by the ERT that reviewed Slovakia's 2011 ARR in relation to estimates of emissions from road transportation. In addition, the enforcement branch decided to apply the adjustments calculated and recommended by the ERT in the 2011 ARR with respect to estimates of emissions from the consumption of halocarbons and SF₆.

53. At the same meeting, the enforcement branch also adopted a preliminary finding (CC-2012-1-7/Slovakia/EB) in which it found Slovakia had in place a national system in accordance with Article 5, paragraph 1, of the Kyoto Protocol and the requirements in the guidelines decided thereunder. The enforcement branch considered that the partial operational impairment of the performance of some of the specific functions of Slovakia's national system during the review of Slovakia's 2011 annual submission resulted in non-compliance with Article 5, paragraph 1, of the Kyoto Protocol and the guidelines decided thereunder, but did not result in non-compliance with the eligibility requirements under Articles 6, 12 and 17 of the Kyoto Protocol.

54. On 18 July 2012, in a letter to the enforcement branch (CC-2012-1-8/Slovakia/EB), Slovakia indicated that it would not make a further written submission in relation to the preliminary finding. On 17 August 2012, the enforcement branch adopted a final decision (CC-2012-1-9/Slovakia/EB), by electronic means, confirming its preliminary finding with respect to Slovakia. On 21 September 2012, the enforcement branch received from Slovakia its first plan and progress report pursuant to the final decision (CC-2012-1-10-/Slovakia/EB).

55. *[To be completed based on discussions at the twenty-first meeting of the enforcement branch.]*

56. In accordance with section III, paragraph 2 (a), of the procedures and mechanisms, the decisions taken by the enforcement branch with respect to Slovakia during the reporting period are listed in annex I to this report.

G. Consideration by the facilitative branch of provisions related to facilitation

1. Background paper on trends and indicative working arrangements for early warning of potential non-compliance

57. At its sixth meeting, the facilitative branch agreed to continue its discussions on how it can carry out its responsibility to provide advice and facilitation "with the aim of promoting compliance and providing for early warning of potential non-compliance" under section IV, paragraph 6 (a), of the procedures and mechanisms. In order to facilitate those discussions, the branch, at the same meeting, requested a background paper from the secretariat which provided the branch with a compilation and assessment of information on trends in relation to the commitments under Article 3, paragraph 1, of the Kyoto Protocol found in the IDRs of NC5s that have been submitted as of 1 January 2010.

58. At its twelfth meeting, the facilitative branch considered the background paper from the secretariat which provided the branch with a compilation and assessment of information on trends in relation to the commitments under Article 3, paragraph 1, of the Kyoto Protocol found in the reports of the IDRs of NC5s. *[to be completed based on discussions at the twelfth meeting of the facilitative branch].*¹⁰

59. At its eleventh meeting, the facilitative branch agreed on indicative working arrangements for its provision of advice and facilitation under section IV, paragraph 6 (a),

¹⁰ Document CC/FB/12/2012/2.

of the procedures and mechanisms.¹¹ The branch agreed that these arrangements were a work in progress, developed with a view to having a clear point of reference on how the branch would develop its practice in addressing issues relating to early warning of potential non-compliance. The arrangements would be tested in practice and kept under review, as the branch considered its first cases. The branch agreed that in its deliberations over decisions about whether to be seized of a particular case, it would consider whether or not there is sufficient information in the relevant reports submitted to it under section VI, paragraph 3, of the procedures and mechanisms indicating potential non-compliance with commitments under Article 3, paragraph 1, of the Kyoto Protocol.

60. At its tenth meeting, the plenary of the Compliance Committee discussed the indicative working arrangements for its provision of advice and facilitation under section IV, paragraph 6 (a), of the procedures and mechanisms.¹² In this regard, the plenary considered the consistency in the application of the rules of procedure across the facilitative and enforcement branches of the Compliance Committee. The plenary noted that, to further enhance transparency and due process, the facilitative branch, when further developing its working arrangements, may wish to:

- (a) Give due consideration to the need to systematically examine all reports of expert review teams, including by adding a corresponding item on its meeting agenda, to ensure fair and equal treatment of all Parties;
- (b) Further clarify what is meant by ‘early warning’ and consider possible criteria for deciding whether to address an issue of early warning;
- (c) Further clarify its approach to the application of consequences; and
- (d) Consider the use of terminology and the use of mandatory and non-mandatory language in the working arrangements.

61. At its twelfth meeting, with respect to the indicative working arrangements [*to be completed based on discussions at the twelfth meeting of the facilitative branch*].

62. [*To be completed based on discussions at the eleventh meeting of the plenary.*]

2. Provision of advice and facilitation

63. With regard to concerns raised at its tenth meeting in connection with potential non-compliance by Canada, at its eleventh meeting, the branch considered information available to it, as contained in the report of the individual review of the annual submission of Canada submitted in 2010¹³ and the “Compilation and synthesis of supplementary information incorporated in fifth national communications submitted in accordance with Article 7, paragraph 2, of the Kyoto Protocol”¹⁴ (the synthesis of fifth national communications). The facilitative branch noted a strong concern expressed by the ERT in the report of the in-depth review of the fifth national communication of Canada¹⁵ with regard to Canada’s potential to become non-compliant with its obligations under Article 3, paragraph 1, of the Kyoto Protocol.

64. The facilitative branch also noted that Canada had submitted to the Depository a notification of withdrawal from the Kyoto Protocol and that such withdrawal would be effective as of 15 December 2012. While the branch agreed that the consequences of withdrawal after 15 December 2012 would have to be assessed at a later stage, Canada, for

¹¹ Annex 1, document CC/FB/11/2012/2.

¹² Annex 1, document CC/FB/11/2012/2.

¹³ FCCC/ARR/2010/CAN.

¹⁴ FCCC/SBI/2011/INF.2.

¹⁵ FCCC/IDR.5/CAN.

the time being, remained a Party to the Kyoto Protocol. Based on the indicative working arrangements related to the exercise of its early warning mandate under section IV, paragraph 6 (a), of the procedures and mechanisms, the branch concluded that it was seized of an early warning issue relating to Canada and mandated its chairperson to send a letter to Canada.

65. By letter, dated 9 February 2012, the chairperson of the facilitative branch wrote to Canada to offer it the opportunity 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. On 5 April 2012, Canada replied to the letter from the chairperson of the facilitative branch indicating that on account of its notification of withdrawal there would be little value in its further engagement with the facilitative branch at this time. Following a discussion and decision taken by electronic means, the chairperson, by letter dated 16 May 2012, replied to Canada's letter and informing it that the branch would further consider this issue at its next meeting, with a view to closing its consideration of the matter and drawing the attention to the branch's intention to publish the correspondence. Canada responded to this letter by an e-mail message, dated 22 May, and indicated that it agreed with the publication of the correspondence.

66. At its twelfth meeting, with respect to the correspondence with Canada, the facilitative branch decided [*to be completed based on discussions at the twelfth meeting of the facilitative branch*].

67. At its eleventh meeting, the facilitative branch considered the information brought to its attention at its tenth meeting with regard to Italy. The branch considered the factual information before it, as contained in the report of the in-depth review of the fifth national communication of Italy¹⁶ and the synthesis of fifth national communications referred to in paragraph 63 above. The facilitative branch concluded that the information available was not sufficient in order for it to engage in an early warning exercise with regard to Italy. The facilitative branch agreed not to proceed with the matter at this time, but to revisit it once later reports of the individual reviews of the annual submission of Italy 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.

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

68. At its eleventh meeting, the facilitative branch recalling that, at its ninth meeting, the plenary had invited the branch to further consider the issue of consistency of reviews under Article 8 of the Kyoto Protocol, had an initial exchange of views on the possible outcome of and plans for its future work on this issue. The facilitative branch also received background information on the issue from two members of the enforcement branch, who were nominated by the bureau to contribute to the work of the branch, in accordance with section II, paragraph 7, of the procedure and mechanisms.

69. [*To be completed based on discussions at the twelfth meeting of the facilitative branch, including feedback from the report on the ninth lead reviewers' meeting, and eleventh meeting of the plenary.*]

IV. Participation of members and alternate members

70. The Committee notes that, in its sixth annual report to the CMP,¹⁷ it recalled that members and alternate members of the Compliance Committee were elected to serve in

¹⁶ FCC/IDR.5/ITA.

¹⁷ See paragraph 63 of the sixth annual report of the Compliance Committee to the CMP

their individual capacities. In order for members and alternate members to maintain their independence, which is essential for the effective functioning of the Committee, and to ensure that a quorum to adopt decisions is reached at Committee meetings and that deliberations may be held at short notice, especially in the light of the increasing number of meetings of the enforcement branch, the Committee reiterates the recommendation that the eligibility for funding related to the costs of travel and participation in meetings of the Committee should be extended to all members and alternate members.¹⁸ It notes that, at its seventh session, in response to this proposal, in paragraph 4 of decision 12/CMP.7, the CMP requested the secretariat to prepare a report on the policy and budgetary implications of funding the travel and participation in meetings of the constituted bodies of all members and alternate members for consideration by the SBI at its thirty-sixth session.¹⁹ The Committee notes that, at its thirty-sixth session, the SBI considered the document prepared by the secretariat at the CMP's request and recommended to the CMP for its consideration that the current practice relating to funding for travel-related expenditures of members and alternate members of the constituted bodies be maintained.²⁰

71. At its eleventh meeting, the plenary of the Compliance Committee [*To be completed based on discussions at the eleventh meeting of the plenary.*]

V. Budget for the work of the Compliance Committee

72. For the biennium 2012–2013, EUR 741,153²¹ was approved in the core budget of the UNFCCC for activities related to the Compliance Committee. In addition, EUR 417,700 was approved under the item “Support to the Compliance Committee” of the resource requirements of the Trust Fund for Supplementary Activities. As of 31 July 2012, contributions of USD 44,236 were received for the biennium. The CMP may wish to express its sincere thanks to Japan, which made a contribution to the Trust Fund for Supplementary Activities to support the work of the Compliance Committee in the biennium 2012–2013.

(FCCC/KP/CMP/2011/5).

¹⁸ See also paragraph 26 of the first annual report of the Compliance Committee to the CMP (FCCC/KP/CMP/2006/6); paragraph 27 of the second annual report of the Compliance Committee to the CMP (FCCC/KP/CMP/2007/6); paragraph 38 of the third annual report of the Compliance Committee to the CMP (FCCC/KP/CMP/2008/5) and paragraphs 34–36 of the fourth annual report of the Compliance Committee to the CMP (FCCC/KP/CMP/2009/17).

¹⁹ FCCC/SBI/2012/INF.1.

²⁰ FCCC/SBI/2012/15, paragraph 270.

²¹ This amount does not include secretariat-wide operating costs, programme support costs (overheads) or working capital reserve as defined in decision 18/CP.17.

Annex I

Decisions taken by the branches of the Compliance Committee during the reporting period

CROATIA (CC-2009-1/Croatia/EB)*

<i>Title.</i>	<i>Document No.</i>	<i>Date</i>
Decision on the review and assessment of the plan submitted under paragraph 2 of section XV	CC-2009-1-11/Croatia/EB	18 November 2011
Decision under paragraph 2 of section X	CC-2009-1-14/Croatia/EB	8 February 2012

ROMANIA (CC-2011-1/Romania/EB)**

<i>Title.</i>	<i>Document No.</i>	<i>Date</i>
Decision on expert advice	CC-2011-1-10/Romania/EB	14 November 2011
Decision the review and assessment of the plan submitted under paragraph 2 of section XV	CC-2011-1-11/Romania/EB	15 November 2011
Decision on expert advice	CC-2011-1-14/Romania/EB	27 June 2012
Decision under paragraph 2 of section X concerning the request for reinstatement	CC-2011-1-15/Romania/EB	13 July 2012

* Decisions with respect to Croatia are available at http://unfccc.int/kyoto_protocol/compliance/questions_of_implementation/items/5456.php. The decisions are available in all six official languages of the United Nations.

** Decisions with respect to Romania are available at http://unfccc.int/kyoto_protocol/compliance/questions_of_implementation/items/6030.php. The decisions are available in all six official languages of the United Nations.

UKRAINE (CC-2011-2/Ukraine/EB)***

<i>Title.</i>	<i>Document No.</i>	<i>Date</i>
Decision on the review and assessment of the plan submitted under paragraph 2 of section XV	CC-2011-2-11/Ukraine/EB	21 December 2011
Decision to defer the adoption of a decision under paragraph 2 of section X	CC-2011-2-14/Ukraine/EB	10 February 2012
Decision on expert advice	CC-2011-2-15/Ukraine/EB	6 March 2012
Decision under paragraph 2 of section X	CC-2011-2-16/Ukraine/EB	9 March 2012

LITHUANIA (CC-2011-3/Lithuania/EB)****

<i>Title.</i>	<i>Document No.</i>	<i>Date</i>
Preliminary finding	CC-2011-3-6/Lithuania/EB	17 November 2011
Final decision	CC-2011-3-8/Lithuania/EB	21 December 2011
Decision on review and assessment of the plan submitted pursuant to section XV, paragraph 2	CC-2011-3-11/Ukraine/EB	2 May 2012
Decision on expert advice	CC-2011-3-13/Lithuania/EB	27 June 2012
Decision under paragraph 2 of section X concerning the request for reinstatement	CC-2011-3-14/Lithuania/EB	14 July 2012
Decision not to initiate the expedited procedure referred to in paragraph 1 of section X	CC-2011-3-16/Lithuania/EB	31 July 2012

*** Decisions with respect to Ukraine are available at http://unfccc.int/kyoto_protocol/compliance/questions_of_implementation/items/6077.php The decisions are available in all six official languages of the United Nations.

**** Decisions with respect to Lithuania are available at http://unfccc.int/kyoto_protocol/compliance/questions_of_implementation/items/6195.php [The decisions are available in all six official languages of the United Nations. **N.B. Check if this is the case by the time of the adoption of the report.**]

SLOVAKIA (CC-2012-1/Slovakia/EB)*****

<i>Title.</i>	<i>Document No.</i>	<i>Date</i>
Decision on preliminary examination	CC-2012-1-2/Slovakia/EB	1 June 2012
Decision on expert advice	CC-2012-1-3/Slovakia/EB	27 June 2012
Decision on a disagreement whether to apply adjustments under Article 5, paragraph 2, of the Kyoto Protocol	CC-2012-1-6/Slovakia/EB	14 July 2012
Preliminary finding	CC-2012-1-7/Slovakia/EB	14 July 2012
Final decision with respect to Slovakia	CC-2012-1-9/Slovakia/EB	17 August 2012
[Decision on expert advice]	[CC-2012-1-X/Slovakia/EB]	[X October 2012]
[Decision on review and assessment of the plan submitted under paragraph 2 of section XV]	[CC-2012-1-X/Slovakia/EB]	[X October 2012]

CANADA*****

<i>Title</i>	<i>Document No.</i>	<i>Date</i>
[Report on a decision taken by electronic means (Correspondence with Canada concerning the late submission of its fifth national communication)]	[CC/FB/2012/X]	[X October 2012]

***** Decisions with respect to Slovakia are available at <http://unfccc.int/kyoto_protocol/compliance/questions_of_implementation/items/6920.php> [The decisions are available in all six official languages of the United Nations. **N.B. Check if this is the case by the time of the adoption of the report.**]

***** The report on the decision taken with respect to Canada is available in English at <http://unfccc.int/kyoto_protocol/compliance/facilitative_branch/items/3786.php>