



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 seventeenth meeting.



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Item 7 of the provisional agenda
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 eleventh 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 8 September 2015 to 9 September 2016. The report provides a summary of the continued consideration by the facilitative branch of [*to be completed after meeting*], the consideration by the enforcement branch of questions of implementation with regard to compliance by Ukraine, the discussions of the plenary of the Compliance Committee on [*to be completed after adoption by the plenary of the report*].

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I. Introduction

A. Mandate

1. In accordance with 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 (hereinafter referred to as the plenary) 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 eleventh annual report of the Compliance Committee covers the period from 8 September 2015 to 9 September 2016. 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:

(a) To invite the President of the CMP to undertake consultations on the nomination of members and alternate members of the Committee, as necessary;

(b) To invite Parties to make contributions to the Trust Fund for Supplementary Activities to support the work of the Committee in the biennium 2016–2017 and express its thanks to the Parties that made contributions during the reporting period (see paras. XX and XX below).

(c) *[To be completed based on discussions at the 18th meeting of plenary].*

II. Organizational matters

5. The eighteenth meeting of the plenary was held on 8 and 9 September 2016 in Bonn, Germany.

6. The facilitative branch met once in Bonn (on 7 September 2016), and the enforcement branch met twice in Bonn (on 20–21 June 2016 and on 7 September 2016).

7. In addition to those meetings, the bureau, with the support of the secretariat, organized an event to mark the tenth anniversary of the Compliance Committee. The event was held in Bonn, Germany, on 8 September 2016 back-to-back with the meetings of the branches and the plenary. It aimed, in particular, at acknowledging the work of the Compliance Committee and deepening understanding of compliance issues through the sharing of experiences with experts from other compliance/implementation regimes. The event *[to be completed based on discussions at the 18th meeting of the plenary].*

8. The agenda and annotations, documentation supporting agenda items and the chairpersons' report for each meeting of the plenary 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

9. In accordance with section II, paragraph 4, of the procedures and mechanisms,² on 22 March 2016, relying on decision-making by electronic means, the facilitative branch elected Mr. Ladislaus Kyaruzi as chairperson and Ms. Emanuela Sardellitti as vice-chairperson and the enforcement branch elected Mr. Gerhard Loibl as chairperson and Mr. Mohamed Ibrahim Nasr as vice-chairperson. These chairpersons and vice-chairpersons constitute the new bureau of the Compliance Committee.

10. The plenary and the branches expressed their appreciation for the work of the members of the previous bureau, namely Mr. Delano Reuben Verwey, chairperson of the facilitative branch, and Ms. Rueanna Haynes, chairperson of the enforcement branch.

B. Membership of the Compliance Committee

11. The plenary wants to draw the attention of the CMP to the remaining three vacancies in the membership of the Compliance Committee. It requests the CMP, at its next session, to fill the remaining vacancies by electing a member and an alternative member of the facilitative branch from non-Annex I Parties and an alternate member of the enforcement branch from Small Island Developing States, for the remainder of the respective terms, until 31 December 2019.

C. Transparency, communication and information

12. In accordance with rule 9, paragraph 1, of the rules of procedure, meetings of the plenary and of the facilitative and enforcement branches held in the reporting period were recorded and broadcast on the Internet via the UNFCCC website, with the exception of the parts of those meetings that were held in private in accordance with the same rule.

13. In accordance with rule 12, paragraph 2, of the rules of procedure, all documents of the plenary and of the enforcement and facilitative branches have been made available to the public on the UNFCCC website.³

D. Use of electronic means of decision-making

14. Pursuant to rule 11, paragraph 2, of the rules of procedure, the Compliance Committee may elaborate and take decisions using electronic means. During the reporting

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

² The reference to "procedures and mechanisms" hereinafter refers to Procedures and mechanisms relating to compliance under the Kyoto Protocol contained in the annex to decision 27/CMP.1.

³ Documents relating to the plenary 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>.

period, the Committee relied on electronic means to elect its bureau as set out in paragraph 9 above. In addition, the bureau of the Compliance Committee used electronic means to take a decision on the allocation of the questions of implementation with respect to Ukraine. The enforcement branch also used electronic means to take decisions on two occasions, in relation to: a preliminary examination with respect to Ukraine and expert advice with respect to Ukraine. [*to be confirmed following the September 2016 meetings of the branches and the plenary*].

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 [*to be completed before adoption of the report by the plenary*]

15. In accordance with section VI, paragraph 3, of the procedures and mechanisms, the secretariat forwarded to the Committee the report of the technical review of the fifth national communication submitted in 2013 by Turkey.

16. Furthermore, in accordance with section VI, paragraph 3, of the procedures and mechanisms, the secretariat forwarded to the Committee reports of the individual reviews of reports upon expiration of the additional period for fulfilling commitments (true-up period) for the first commitment period of the Kyoto Protocol of the following Parties: Australia, Austria, Belgium, Bulgaria, 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 of Great Britain and Northern Ireland.

17. In accordance with decision 13/CMP.1, paragraph 4, the secretariat forwarded to the Committee the annual compilation and accounting report for Parties to the Convention with commitments inscribed in Annex B to the Kyoto Protocol for 2015 and the addendum thereto.⁴

18. In accordance with decision 13/CMP.1, paragraph 62, and with section VI, paragraph 3, of the procedures and mechanisms, the secretariat also forwarded to the Committee the final compilation and accounting report for the first commitment period of the Kyoto Protocol for the following Parties: Australia, Austria, Belgium, Bulgaria, 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, the Russian Federation, Slovakia, Slovenia, Spain, Sweden, Switzerland and United Kingdom of Great Britain and Northern Ireland.

19. At its eighteenth meeting, the plenary noted the information provided to it by the secretariat on the status of submission and review of reports under the Kyoto Protocol. The plenary [*to be completed based on discussions at the 18th meeting of the plenary*].

⁴ CC/2014/1

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

20. On 11 April 2016, the Compliance Committee received questions of implementation indicated in the report of the expert review team (ERT) of the individual review of the report upon expiration of the additional period for fulfilling commitments (true-up period) for the first commitment period of the Kyoto Protocol of Ukraine.⁵ The bureau of the Compliance Committee, using electronic means, allocated the questions of implementation to the enforcement branch on 18 April 2016. On 3 May 2016, the enforcement branch, using electronic means, decided to proceed with the questions of implementation (CC-2016-1-2/Ukraine/EB).

21. The first question of implementation relates to compliance with the “Modalities for the accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol” (annex to decision 13/CMP.1) and the “Guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol” (annex to decision 15/CMP.1). In particular, the ERT noted that Ukraine had not submitted its true-up period report either by the deadline of 2 January 2016 or by the time of the centralized review of the true-up period reports for all Annex B Parties. In addition, the ERT noted that the information submitted by Ukraine in its true-up period report and accompanying documents is not consistent with the information provided in the international transaction log (ITL). The ERT also indicated that it was unable to assess the accuracy of certain information provided in Ukraine’s true-up period report because the national registry of Ukraine has been disconnected from the ITL since August 2015.

22. The second question of implementation relates to compliance with Article 3, paragraph 1, of the Kyoto Protocol. In particular, the ERT concluded that the aggregate anthropogenic greenhouse gas emissions of Ukraine for the first commitment period exceed the quantities of emission reduction units (ERUs), certified emission reductions (CERs), temporary CERs (tCERs), long-term CERs (lCERs), assigned amount units (AAUs) and removal units (RMUs) in the retirement account of Ukraine for the first commitment period.

23. On 30 May 2016, the branch, using electronic means, adopted a decision on expert advice (CC-2016-1-3/Ukraine/EB) in relation to issues involved in any decision of the branch with regard to the indicated questions of implementation.

24. No written submission under paragraph 1 of section IX, paragraph 1 (b) of section X, of the procedures and mechanisms and rule 17 of the rules of procedure or request for a hearing under paragraph 2 of section IX and paragraph 1 (c) of section X of the procedures and mechanisms were made by Ukraine.

25. On 21 June 2016, the enforcement branch, during its twenty-eighth meeting adopted a preliminary finding (CC-2016-1-4/Ukraine/EB) in which it:

(a) Determined that Ukraine is not in compliance with Article 7, paragraph 1, in conjunction with paragraph 4, and the mandatory requirements set out in the “Modalities for the accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol” (annex to decision 13/CMP.1) and the “Guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol” (annex to decision 15/CMP.1);

(b) Determined that as Ukraine does not have in place a national registry in accordance with Article 7, paragraph 4, of the Kyoto Protocol and the requirements and

⁵ FCCC/KP/CMP/2016/TPR/UKR (TPR).

guidelines decided thereunder, Ukraine does not meet the eligibility requirements under Articles 6, 12 and 17 of the Kyoto Protocol;

(c) Found that as a result of Ukraine's non-compliance with Article 7, paragraph 1, in conjunction with paragraph 4, the quantity of ERUs, CERs, tCERs, AAUs and RMUs in the retirement account of Ukraine for the first commitment period is zero. Ukraine has therefore not been able to formally demonstrate its compliance with its commitment under Article 3, paragraph 1, of the Kyoto Protocol in accordance with the relevant procedures set out in decision 13/CMP.1. However, the branch could not, as a matter of substance, determine, on the basis of all the information it has available to it, including that referred to in paragraph 21 (f) above, whether Ukraine is not in compliance with its quantified emission limitation or reduction commitment under Article 3, paragraph 1, as set out in section V, paragraph 4.

26. In its preliminary finding, the branch also noted that the circumstances surrounding the questions of implementation arose from exceptional circumstances concerning, inter alia, the disconnection of Ukraine's national registry from the ITL and the fact that external transfer and retirement transactions for the purpose of the first commitment period cannot now be carried out in the ITL because the true-up period has ended. Furthermore, for the reasons set out in paragraph 21 (d) above, Ukraine is currently unable to proceed with any carry-over from the first commitment period. As such, the branch noted that there is no current procedure envisaged in relevant CMP decisions that would allow Ukraine to demonstrate its formal compliance with Article 3, paragraph 1, for the first commitment period even if its registry becomes fully functional. The branch noted that the CMP could decide to provide, on an exceptional basis, a way forward for Ukraine to resolve these difficulties.

27. After receiving a written submission from Ukraine under paragraph 1 (e) of section X on 22 July 2016, the enforcement branch [*to be completed following the discussions at the 29th meeting of the enforcement branch.*]

28. 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 II to this report.

C. Activities of the facilitative branch

29. At its nineteenth meeting, the branch [*to be completed following the discussions at the 19th meeting of the facilitative branch.*]

D. Budget for the work of the Compliance Committee

30. For the biennium 2016–2017, an estimated EUR 974,495 from the overall Legal Affairs' programme core budget has been allocated for activities related to the Compliance Committee.⁶ In addition, EUR 505,901 was approved under the item "Support to the Compliance Committee" of the resource requirements of the Trust Fund for Supplementary Activities. As at 31 July 2016, contributions of EUR 5000 had been received for the biennium. The CMP may wish to express its thanks to the Netherlands for making a contribution to the Trust Fund for Supplementary Activities to support the work of the Compliance Committee in the biennium 2014–2015.

⁶ This amount does not include secretariat-wide operating costs, programme support costs (overheads) or working capital reserve, as defined in decision 27/CP.19.

Annex**Decisions taken by the enforcement branch of the Compliance Committee during the reporting period [*to be completed following the discussions at the 29th meeting of the enforcement branch*]****UKRAINE (CC-2016-1/Ukraine/EB)***

<i>Title</i>	<i>Document no.</i>	<i>Date</i>
Decision on preliminary examination	CC-2016-1-2/Ukraine/EB	3 May 2016
Decision on expert advice	CC-2016-1-3/Ukraine/EB	30 May 2016
Decision on preliminary finding	CC-2016-1-4/Ukraine/EB	21 June 2016

* Decisions with respect to Ukraine are available at
<http://unfccc.int/kyoto_protocol/compliance/questions_of_implementation/items/9575.php>.