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COMPLIANCE COMMITTEE

CC/9/2011/2  
28 September 2011

**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 ninth meeting.

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**Conference of the Parties serving as the meeting  
of the Parties to the Kyoto Protocol**  
Seventh session  
Durban, 28 November to 9 December 2011

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 sixth 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 19 September 2010 to 13 October 2011. The report provides a summary of the further consideration by the enforcement branch of the questions of implementation with respect to Croatia and Bulgaria and its consideration of three new questions of implementation with respect to Romania, Ukraine and Lithuania. 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*]

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\* 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 sixth annual report of the plenary of the Compliance Committee covers the period from 19 September 2010 to 13 October 2011. 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) Express its thanks to Parties that made contributions to the Trust Fund for Supplementary Activities to support the work of the Compliance Committee in the biennium 2010–2011;

(e) *[others]*.

## **II. Organizational matters**

5. The plenary of the Compliance Committee held one meeting during the reporting period. The ninth meeting of the plenary of the Committee was held on 13 October 2011, in Bonn, Germany.

6. The facilitative branch met once in Bonn (from 11 to 12 October 2011) and the enforcement branch met four times in Bonn (from 3 to 4 February 2011, from 6 to 8 July 2011, from 22 to 27 August 2011 and from 11 to 12 October 2011).

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.<sup>1</sup>

## **A. Membership in the Compliance Committee**

8. In accordance with rule 3, paragraph 1, of the "Rules of procedure of the Compliance Committee of the Kyoto Protocol" (annex to decision 4/CMP.2 and the amendments contained in the annex to 4/CMP.4; hereinafter referred to as the rules of procedure), the term of service of each member and alternate member starts on 1 January of the calendar year immediately following his or her election and ends on 31 December two or four years thereafter, as applicable. The list of members and alternate members whose terms expire on 31 December 2011 is contained in annex I to this report.

9. In accordance with rule 3, paragraph 5, of 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. Mr. Tahar Hadj-Sadok, a member of the Committee nominated by the Africa Group and elected to serve in the facilitative branch until 31 December 2011, resigned from the Committee as of 2 February 2011.<sup>2</sup> Since the resignation of Mr. Hadj-Sadok, Mr. Mohamed Nasr, elected as an alternate member, has been serving as a member.

10. In accordance with section IV, paragraph 2, section V, paragraph 2, and section II, paragraph 5, of the procedures and mechanisms, the plenary of the Compliance Committee requests the CMP to elect five new members to serve in the facilitative branch, five new members to serve in the enforcement branch and an alternate member for each new member, respectively, all for a term of four years.

## **B. Transparency, communication and information**

11. In accordance with rule 9, paragraph 1, of the rules of procedure, the ninth meeting of the plenary of the Committee, the tenth meeting of the facilitative branch and the parts of the twelfth, thirteenth, fourteenth and fifteenth meetings of the enforcement branch that were held in public were recorded and broadcast on the Internet through the UNFCCC website.

12. 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.<sup>3</sup>

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<sup>1</sup> <[http://unfccc.int/kyoto\\_protocol/compliance/items/2875.php](http://unfccc.int/kyoto_protocol/compliance/items/2875.php)>.

<sup>2</sup> In view of the fact that the term of Mr. Hadj-Sadok was due to expire on 31 December 2011, the CMP is not requested to elect a new member for the remainder of his term; see also paragraph 10.

<sup>3</sup> Documents relating to the plenary of the Compliance Committee are available at <[http://unfccc.int/kyoto\\_protocol/compliance/plenary/items/3788.php](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](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](http://unfccc.int/kyoto_protocol/compliance/enforcement_branch/items/3785.php)>.

### C. Use of electronic means of decision-making

13. During the reporting period, the bureau of the Compliance Committee used electronic means to take decisions on the allocation of three questions of implementation. The enforcement branch also used electronic means to take decisions on preliminary examination, expert advice, and the deferral of the completion of the review and assessment of Bulgaria's plan submitted under section XV, paragraph 2, of the procedures and mechanisms. The use of this means of decision-making on these occasions reduced the need for actual meetings, thereby reducing meeting-related costs.

14. On 9 September 2011, a vote by electronic means was launched in relation to a draft decision to defer the consideration of the further written submission from Ukraine and the elaboration and adoption of a final decision with respect to Ukraine. The required majorities under section 2, paragraph 9, of the procedures and mechanisms were not achieved, therefore the decision to defer was not adopted. Details relating to the consideration of the question of implementation with respect to Ukraine by the enforcement branch are set out in chapter III E.

## 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

15. 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 of Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, Germany, Greece, Hungary, Ireland, Italy, Japan, Latvia, Lithuania, New Zealand, the Netherlands, Norway, Poland, Portugal, Slovakia, Spain, Sweden, Switzerland [and *[any other NC 5 IDRs to be received during the reporting period]*].

16. 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 2010 (2010 ARRs) by 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, the Netherlands, New Zealand, Norway, Poland, Portugal, the Russian Federation, Slovakia, Slovenia, Sweden, Switzerland, the United Kingdom of Great Britain and Northern Ireland [and *[any other ARRs to be received during the reporting period]*].

17. 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 2010 of Austria, Australia, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, European Union, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Monaco, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, the Russian Federation, Slovakia, Slovenia, Spain, Sweden, Switzerland, Ukraine, the United Kingdom of Great Britain and Northern Ireland.

18. In accordance with section VI, paragraph 1, of the procedures and mechanisms, the secretariat forwarded to the Compliance Committee the 2010 ARRs of Lithuania, Romania

and Ukraine, each of which indicated a question of implementation. In accordance with section VI, paragraph 2, of the procedures and mechanisms, the reports were also made available to these Parties. Information on the work of the enforcement branch with respect to these questions of implementation is set out in chapters III D, III E and III F.

19. At its ninth 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 ninth meeting of the plenary.*]

20. 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.

21. At its ninth meeting [*To be completed based on discussions at the ninth meeting of the plenary.*]

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

22. In the two preceding reporting periods, the enforcement branch considered two questions of implementation with respect to Croatia.<sup>4</sup> As part of its consideration, the branch adopted a final decision (document CC-2009-1-8/Croatia/EB) on 26 November 2009. On 14 January 2010, Croatia lodged an appeal with the CMP against the final decision of the enforcement branch (document FCCC/KP/CMP/2010/2). In response to an inquiry regarding the plan that Croatia was required to develop in accordance with section XV, paragraph 1, of the procedures and mechanisms, Croatia indicated, by a letter dated 8 March 2010, that it did not intend to submit such a plan in view of its submission of an appeal against the final decision of the enforcement branch. At its sixth session, the CMP initiated, but was not able to complete, its consideration of Croatia's appeal.<sup>5</sup>

23. On 4 August 2011, through a communication to the secretariat, Croatia declared that it was withdrawing its appeal (FCCC/KP/CMP/2011/2). Furthermore, on 23 August 2011, Croatia wrote to the Secretary to the Compliance Committee indicating that Croatia intends to submit a plan referred to in section XV, paragraph 1, of the procedures and mechanisms and requesting the enforcement branch to reinstate its eligibility pursuant to section X, paragraph 2, of the procedures and mechanisms. Upon a request sent by the secretariat on behalf of the chairperson and vice-chairperson, on 13 September 2011, Croatia confirmed its understanding that it does not expect the branch to take action on its request before it submits the plan and provides further information that demonstrates that the questions of implementation with respect to the calculation of its assigned amount and its commitment period reserve have been resolved.

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<sup>4</sup> Details of this consideration that occurred in the two previous reporting periods can be found in chapter III C of the fourth annual report of the Compliance Committee to the CMP (FCCC/KP/CMP/2009/17) and chapter III B of the fifth annual report of the Compliance Committee to the CMP (FCCC/KP/CMP/2010/6).

<sup>5</sup> FCCC/KP/CMP/2010/12, paragraphs 67–68.

### **C. Consideration by the enforcement branch of a question of implementation with respect to Bulgaria**

24. In the preceding reporting period, the enforcement branch considered a question of implementation with respect to Bulgaria.<sup>6</sup> As part of its consideration, the branch adopted a final decision on 28 June 2010 (document CC-2010-1-8/Bulgaria/EB) confirming that Bulgaria was not in compliance with the “Guidelines for national systems under Article 5, paragraph 1, of the Kyoto Protocol” (decision 19/CMP.1). Pursuant to the final decision, Bulgaria submitted a plan in accordance with section XV, paragraph 2, of the procedures and mechanisms. At its eleventh meeting held on 16 September 2010, the branch encouraged Bulgaria to submit a complete plan as required by section XV, paragraph 2, of the procedures and mechanisms and rule 25 bis, paragraph 1, of the rules of procedure no later than 1 October 2010, after which time the branch would continue its review and assessment of the plan in accordance with rule 25 bis, paragraph 2, of the rules of procedure.

25. The plan was received by the branch on 4 October 2010 and on 25 October 2010, the enforcement branch decided to defer the completion of the review and assessment of the plan until after the publication of the report of the individual review of Bulgaria’s 2010 annual submission (document CC-2010-1-13/Bulgaria/EB). Bulgaria submitted a request to reinstate its eligibility to participate in the mechanisms under Articles 6, 12 and 17 of the Kyoto Protocol (CC-2010-1-14/Bulgaria/EB) on 3 December 2010, and a progress report on the implementation of its “Compliance Action Plan” (CC-2010-1-15/Bulgaria/EB) on 28 January 2011. On 4 February 2011, the enforcement branch decided that there no longer continued to be a question of implementation and that Bulgaria is fully eligible to participate in the mechanisms under Articles 6, 12 and 17 of the Kyoto Protocol (document CC-2010-1-17/Bulgaria/EB).

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

### **D. Consideration by the enforcement branch of a question of implementation with respect to Romania**

27. On 12 May 2011, the Compliance Committee received a question of implementation indicated in the report of the individual review of Romania’s 2010 annual submission.<sup>7</sup> The bureau of the Compliance Committee allocated the question of implementation to the enforcement branch on 16 May 2011. On 27 May 2011, the enforcement branch took a decision to proceed (document CC-2011-1-2/Romania/EB) with the question of implementation.

28. The question of implementation relates 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).

29. The enforcement branch received a written submission from Romania on 29 June 2011 and, on 14 June 2011, held a hearing at the request of Romania. In its preliminary finding dated 8 July 2011 (document CC-2011-1-6/Romania/EB), the branch reached the

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<sup>6</sup> Details of this consideration that occurred in the previous reporting period can be found in chapter III C of the fifth annual report of the Compliance Committee to the CMP (FCCC/KP/CMP/2010/6).

<sup>7</sup> FCCC/ARR/2010/ROU.



determination that Romania was not in compliance with the guidelines referred to in paragraph 28 above. After receiving a further written submission from Romania, the branch confirmed its preliminary finding in a final decision (document CC-2010-1-8/Romania/EB) on 27 August 2011.

30. 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 II to this report.

#### **E. Consideration by the enforcement branch of a question of implementation with respect to Ukraine**

31. On 6 June 2011, the Compliance Committee received a question of implementation indicated in the report of the individual review of Ukraine's 2010 annual submission.<sup>8</sup> The bureau of the Compliance Committee allocated the question of implementation to the enforcement branch on 13 June 2011. On 29 June 2011, the enforcement branch took a decision to proceed (document CC-2011-2-2/Ukraine/EB) with the question of implementation.

32. The question of implementation relates 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).

33. The enforcement branch received a written submission from Ukraine on 3 August 2011 and, on 24 August 2011, held a hearing at the request of Ukraine. In its preliminary finding dated 25 August 2011 (document CC-2011-2-6/Ukraine/EB), the branch reached the determination that Ukraine was not in compliance with the guidelines referred to in paragraph 32 above.

34. On 2 September 2011, Ukraine submitted a request to defer the consideration of its further written submission and the elaboration and adoption of a final decision with respect to Ukraine, planned to take place during the fifteenth meeting of the enforcement branch, in view of the fact that the in-country review of the annual submission of Ukraine submitted in 2011 was scheduled for the same week and the individuals that would have to attend the fifteenth meeting of the enforcement branch on behalf of Ukraine would also need to participate in the in-country review. The enforcement branch considered the request by Ukraine through a decision to postpone its fifteenth meeting by electronic means, which did not meet the required majorities (see paragraph 14).

35. *[To be completed after the fifteenth meeting of the enforcement branch.]*

36. 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.

#### **F. Consideration by the enforcement branch of a question of implementation with respect to Lithuania**

37. On 16 September 2011, the Compliance Committee received a question of implementation indicated in the report of the individual review of Lithuania's 2010 annual

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<sup>8</sup> FCCC/ARR/2010/UKR.

submission.<sup>9</sup> The bureau of the Compliance Committee allocated the question of implementation to the enforcement branch on 16 September 2011.

38. The question of implementation relates 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) and the “Guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol” (annex to decision 15/CMP.1).

39. *[To be updated with any new information available as at 13 October 2011.]*

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

40. At its ninth meeting, the facilitative branch agreed to continue discussions at its tenth meeting 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. The branch continued its discussion on this issues on the basis of a background note prepared by the secretariat upon a request by the Chair (CC/FB/10/2011/2). *[To be completed based on discussions at the tenth meeting of the facilitative branch and ninth meeting of the plenary.]*

## **IV. Availability of resources**

### **A. Budget for the work of the Compliance Committee**

41. For the biennium 2010–2011, it was envisaged that approximately 45 per cent of the approved core budget of the Legal Affairs Programme of UNFCCC<sup>10</sup> would be used for activities related to the Compliance Committee. In addition, of the EUR 591,000 under the item “Support to the Compliance Committee” of the resource requirements of the Trust Fund for Supplementary Activities, contributions of EUR 142,401 were received for the biennium. The Committee expresses its thanks to the following Parties that made contributions to the Trust Fund for Supplementary Activities to support the work of the Compliance Committee in the biennium 2010–2011: Belgium, Japan and Switzerland.

### **B. Resources required for the biennium 2012–2013**

42. For the biennium 2012–2013, it is envisaged that approximately 40 per cent of the core budget of the Legal Affairs Programme of UNFCCC that has been proposed for approval by the CMP at its seventh session would be used for activities related to the Compliance Committee.<sup>11</sup> In addition, EUR 417,700 is to be provided from the Trust Fund for Supplementary Activities.

<sup>9</sup> FCCC/ARR/2010/LTU.

<sup>10</sup> See decision 12/CP.15 contained in document FCCC/CP/2009/11/Add.1 and FCCC/SBI/2009/2/Add.1, paragraph 65.

<sup>11</sup> See FCCC/SBI/2011/7/Add.1 and FCCC/SBI/2011/2/Add.1.

## Annex I

### Members and alternate members of the Compliance Committee whose terms expire on 31 December 2011

#### Enforcement Branch

<i>Member</i>	<i>Alternate member</i>	<i>Group</i>
Mr. René J.M. Leféber	Mr. Gerhard Loibl	Western Europe and Others
Mr. Mohamed Shareef	Ms. Mary Jane Mace	small island developing States
Mr. Oleg Shamanov	Ms. Iryna Rudzko	Eastern Europe
Mr. Stephan Michel	Mr. Vidar Vik	Annex I Parties <sup>12</sup>
Mr. Ilhomjon Rajabov	Mr. Ainun Nishat	Non-Annex I Parties <sup>13</sup>

#### Facilitative Branch

<i>Member</i>	<i>Alternate member</i>	<i>Group</i>
Mr. Marc Pallemarts	Mr. Adrian Roberts	Western Europe and Others
Mr. Pedro L. Pedrosa Cuesta	Mr. Antonio Monteiro Lima	small island developing States
Mr. Valeriy Sedyakin	Mr. Siarhei Nikitsin	Eastern Europe
Ms. Anna Dixelius	Mr. Nicola Notaro	Annex I Parties
Mr. Najmadeen Jalouta	Ms. Inar Ichsana Ishak	Non-Annex I Parties

<sup>12</sup> Parties included in Annex I to the Convention.

<sup>13</sup> Parties not included in Annex I to the Convention.

## Annex II

### Decisions taken by the branches of the Compliance Committee in the reporting period

#### BULGARIA (CC-2010-1/Bulgaria/EB)\*

<i>Title</i>	<i>Document No.</i>	<i>Date</i>
Decision to defer the completion of the review and assessment of the plan submitted under paragraph 2 of section XV	CC-2010-1-13/Bulgaria/EB	25 October 2010
Decision on expert advice	CC-2010-1-16/Bulgaria/EB	31 January 2011
Decision under paragraph 2 of section X with respect to Bulgaria	CC-2010-1-17/Bulgaria/EB	4 February 2011

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

<i>Title</i>	<i>Document No.</i>	<i>Date</i>
Decision on preliminary examination	CC-2011-1-2/Romania/EB	27 May 2011
Decision on expert advice	CC-2011-1-3/Romania/EB	3 June 2011
Preliminary finding	CC-2011-1-6/Romania/EB	8 July 2011
Final decision with respect to Romania	CC-2011-1-8/Romania/EB	27 August 2011

\* Decisions with respect to Bulgaria are available at [http://unfccc.int/kyoto\\_protocol/compliance/questions\\_of\\_implementation/items/5538.php](http://unfccc.int/kyoto_protocol/compliance/questions_of_implementation/items/5538.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](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. N.B. Check if this is the case by the time of the adoption of the report.]

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

<i>Title</i>	<i>Document No</i>	<i>Date</i>
Decision on preliminary examination	CC-2011-2-2/Ukraine/EB	29 June 2011
Decision on expert advice	CC-2011-2-3/Ukraine/EB	6 July 2011
Preliminary finding	CC-2011-2-6/Ukraine/EB	25 August 2011

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\*\*\* Decisions with respect to Romania are available at [http://unfccc.int/kyoto\\_protocol/compliance/questions\\_of\\_implementation/items/6077.php](http://unfccc.int/kyoto_protocol/compliance/questions_of_implementation/items/6077.php).