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**CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES
TO THE KYOTO PROTOCOL**

First session

Montreal, 28 November to 9 December 2005

Item of the provisional agenda

Proposal from Saudi Arabia to amend the Kyoto Protocol

Note by the secretariat

1. The procedures for amending the Kyoto Protocol to the United Nations Framework Convention on Climate Change (Kyoto Protocol) are contained in Article 20. Article 20, paragraph 1, states that “Any Party may propose amendments to this Protocol”. Article 20, paragraph 2, states that “Amendments to this Protocol shall be adopted at an ordinary session of the Conference of the Parties serving as the meeting of the Parties to this Protocol. The text of any proposed amendment to this Protocol shall be communicated to the Parties by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate the text of any proposed amendments to the Parties and signatories to the Convention and, for information, to the Depositary”.
2. In accordance with these provisions, Saudi Arabia, by a letter dated 26 May 2005 (see annex I), submitted a proposal to amend the Kyoto Protocol by adding thereto the “Procedures and mechanisms relating to compliance under the Kyoto Protocol” as set forth in the annex to decision 24/CP.7 (see annex II) of the Conference of the Parties. In its letter, Saudi Arabia proposed that the Protocol be amended pursuant to Article 18 and Article 20, paragraph 1, of the Kyoto Protocol.
3. Article 18 states that “The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first session, approve appropriate and effective procedures and mechanisms to determine and to address cases of non-compliance with the provisions of this Protocol, including through the development of an indicative list of consequences, taking into account the cause, type, degree and frequency of non-compliance. Any procedures and mechanisms under this Article entailing binding consequences shall be adopted by means of an amendment to this Protocol”.

4. This proposal was communicated by the secretariat in a notification dated 26 May 2005 to the Parties to the Kyoto Protocol, and to the Parties and signatories to the United Nations Framework Convention on Climate Change. The proposal was also communicated to the Depositary by the secretariat in a notification dated 26 May 2005. The notifications stated that the full text of the proposal would be circulated in a document in all official languages of the United Nations as soon as possible.

5. The Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol is invited to consider the proposed amendment and take any action it deems necessary.

Annex I**Letter dated 26 May 2005 from the Kingdom of Saudi Arabia
to the Executive Secretary**

Pursuant to Article 18 and Article 20, paragraph 1 of the Kyoto Protocol to the United Nations Framework Convention on Climate Change (the "Protocol"), the Kingdom of Saudi Arabia, a Party to the Protocol, proposes that the Protocol be amended by adding thereto the "Procedures and mechanisms relating to compliance under the Kyoto Protocol", as set forth in the Annex to Decision 24/CP.7 of the Conference of the Parties to the United Nations Framework Convention on Climate Change. The full text of the proposed amendment is attached hereto.

The Kingdom of Saudi Arabia proposes that this amendment be adopted at a meeting during the first session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (COP/MOP).

The Secretariat is requested to communicate promptly the text of this proposed amendment to the Parties to the Protocol, but in no event later than six months before the convening of the first meeting of the first session of the COP/MOP, and to take such additional actions as may be required by the Protocol and/or the applicable Rules of Procedure, being applied, to enable adoption of this amendment by the COP/MOP at its first session.

Pursuant to Rule 10, paragraphs (a) and (d) of the Rules of Procedure being applied, the Kingdom of Saudi Arabia further requests that the adoption of this proposed amendment to the Protocol be placed on the provisional agenda of the first session of the COP/MOP.

Signed

Mohammad S. Al Sabban
For the Kingdom of Saudi Arabia

Annex II

Procedures and mechanisms relating to compliance under the Kyoto Protocol*

In pursuit of the ultimate objective of the United Nations Framework Convention on Climate Change, hereinafter referred to as “the Convention”, as stated in its Article 2,

Recalling the provisions of the United Nations Framework Convention on Climate Change, and the Kyoto Protocol to the Convention, herein after referred to as “the Protocol”,

Being guided by Article 3 of the Convention,

Pursuant to the mandate adopted in decision 8/CP.4 by the Conference of the Parties at its fourth session,

The following procedures and mechanisms *have been adopted*:

I. OBJECTIVE

The objective of these procedures and mechanisms is to facilitate, promote and enforce compliance with the commitments under the Protocol.

II. COMPLIANCE COMMITTEE

1. A compliance committee, hereinafter referred to as “the Committee”, is hereby established.
2. The Committee shall function through a plenary, a bureau and two branches, namely, the facilitative branch and the enforcement branch.
3. The Committee shall consist of twenty members elected by the Conference of the Parties serving as the meeting of the Parties to the Protocol, ten of whom are to be elected to serve in the facilitative branch and ten to be elected to serve in the enforcement branch.
4. Each branch shall elect, from among its members and for a term of two years, a chairperson and a vice-chairperson, one of whom shall be from a Party included in Annex I and one from a Party not included in Annex I. These persons shall constitute the bureau of the Committee. The chairing of each branch shall rotate between Parties included in Annex I and Parties not included in Annex I in such a manner that at any time one chairperson shall be from among the Parties included in Annex I and the other chairperson shall be from among the Parties not included in Annex I.
5. For each member of the Committee, the Conference of the Parties serving as the meeting of the Parties to the Protocol shall elect an alternate member.
6. Members of the Committee and their alternates shall serve in their individual capacities. They shall have recognized competence relating to climate change and in relevant fields such as the scientific, technical, socio-economic or legal fields.
7. The facilitative branch and the enforcement branch shall interact and cooperate in their functioning and, as necessary, on a case-by-case basis, the bureau of the Committee may designate one or more members of one branch to contribute to the work of the other branch on a non-voting basis.

* Annex to decision 24/CP.7 in FCCC/CP/2001/13/Add.3

8. The adoption of decisions by the Committee shall require a quorum of at least three fourths of the members to be present.

9. The Committee shall make every effort to reach agreement on any decisions by consensus. If all efforts at reaching consensus have been exhausted, the decisions shall as a last resort be adopted by a majority of at least three fourths of the members present and voting. In addition, the adoption of decisions by the enforcement branch shall require a majority of members from Parties included in Annex I present and voting, as well as a majority of members from Parties not included in Annex I present and voting. "Members present and voting" means members present and casting an affirmative or a negative vote.

10. The Committee shall, unless it decides otherwise, meet at least twice each year, taking into account the desirability of holding such meetings in conjunction with the meetings of the subsidiary bodies under the Convention.

11. The Committee shall take into account any degree of flexibility allowed by the Conference of the Parties serving as the meeting of the Parties to the Protocol, pursuant to Article 3, paragraph 6, of the Protocol and taking into account Article 4, paragraph 6, of the Convention, to the Parties included in Annex I undergoing the process of transition to a market economy.

III. PLENARY OF THE COMMITTEE

1. The plenary shall consist of the members of the facilitative branch and the enforcement branch. The chairpersons of the two branches shall be the co-chairpersons of the plenary.

2. The functions of the plenary shall be:

(a) To report on the activities of the Committee, including a list of decisions taken by the branches, to each ordinary session of the Conference of the Parties serving as the meeting of the Parties to the Protocol;

(b) To apply the general policy guidance referred to in section XII (c) below, received from the Conference of the Parties serving as the meeting of the Parties to the Protocol;

(c) To submit proposals on administrative and budgetary matters to the Conference of the Parties serving as the meeting of the Parties to the Protocol for the effective functioning of the Committee;

(d) To develop any further rules of procedure that may be needed, including rules on confidentiality, conflict of interest, submission of information by intergovernmental and non-governmental organizations, and translation, for adoption by the Conference of the Parties serving as the meeting of the Parties to the Protocol by consensus; and

(e) To perform such other functions as may be requested by the Conference of the Parties serving as the meeting of the Parties to the Protocol for the effective functioning of the Committee.

IV. FACILITATIVE BRANCH

1. The facilitative branch shall be composed of:

(a) One member from each of the five regional groups of the United Nations and one member from the small island developing States, taking into account the interest groups as reflected by the current practice in the Bureau of the Conference of the Parties;

(b) Two members from Parties included in Annex I; and

- (c) Two members from Parties not included in Annex I.
2. The Conference of the Parties serving as the meeting of the Parties to the Protocol shall elect five members for a term of two years and five members for a term of four years. Each time thereafter, the Conference of the Parties serving as the meeting of the Parties to the Protocol shall elect five new members for a term of four years. Members shall not serve for more than two consecutive terms.
 3. In electing the members of the facilitative branch, the Conference of the Parties serving as the meeting of the Parties to the Protocol shall seek to reflect competences in a balanced manner in the fields referred to in section II, paragraph 6, above.
 4. The facilitative branch shall be responsible for providing advice and facilitation to Parties in implementing the Protocol, and for promoting compliance by Parties with their commitments under the Protocol, taking into account the principle of common but differentiated responsibilities and respective capabilities as contained in Article 3, paragraph 1, of the Convention. It shall also take into account the circumstances pertaining to the questions before it.
 5. Within its overall mandate, as specified in paragraph 4 above, and falling outside the mandate of the enforcement branch, as specified in section V, paragraph 4, below, the facilitative branch shall be responsible for addressing questions of implementation:
 - (a) Relating to Article 3, paragraph 14, of the Protocol, including questions of implementation arising from the consideration of information on how a Party included in Annex I is striving to implement Article 3, paragraph 14, of the Protocol; and
 - (b) With respect to the provision of information on the use by a Party included in Annex I of Articles 6, 12 and 17 of the Protocol as supplemental to its domestic action, taking into account any reporting under Article 3, paragraph 2, of the Protocol.
 6. With the aim of promoting compliance and providing for early warning of potential non-compliance, the facilitative branch shall be further responsible for providing advice and facilitation for compliance with:
 - (a) Commitments under Article 3, paragraph 1, of the Protocol, prior to the beginning of the relevant commitment period and during that commitment period;
 - (b) Commitments under Article 5, paragraphs 1 and 2, of the Protocol, prior to the beginning of the first commitment period; and
 - (c) Commitments under Article 7, paragraphs 1 and 4, of the Protocol prior to the beginning of the first commitment period.
 7. The facilitative branch shall be responsible for applying the consequences set out in section XIV below.

V. ENFORCEMENT BRANCH

1. The enforcement branch shall be composed of:
 - (a) One member from each of the five regional groups of the United Nations and one member from the small island developing States, taking into account the interest groups as reflected by the current practice in the Bureau of the Conference of the Parties;
 - (b) Two members from Parties included in Annex I; and

- (c) Two members from Parties not included in Annex I.
2. The Conference of the Parties serving as the meeting of the Parties to the Protocol shall elect five members for a term of two years and five members for a term of four years. Each time thereafter, the Conference of the Parties serving as the meeting of the Parties to the Protocol shall elect five new members for a term of four years. Members shall not serve for more than two consecutive terms.
3. In electing the members of the enforcement branch, the Conference of the Parties serving as the meeting of the Parties to the Protocol shall be satisfied that the members have legal experience.
4. The enforcement branch shall be responsible for determining whether a Party included in Annex I is not in compliance with:
- (a) Its quantified emission limitation or reduction commitment under Article 3, paragraph 1, of the Protocol;
- (b) The methodological and reporting requirements under Article 5, paragraphs 1 and 2, and Article 7, paragraphs 1 and 4, of the Protocol; and
- (c) The eligibility requirements under Articles 6, 12 and 17 of the Protocol.
5. The enforcement branch shall also determine whether to apply:
- (a) Adjustments to inventories under Article 5, paragraph 2, of the Protocol, in the event of a disagreement between an expert review team under Article 8 of the Protocol and the Party involved; and
- (b) A correction to the compilation and accounting database for the accounting of assigned amounts under Article 7, paragraph 4, of the Protocol, in the event of a disagreement between an expert review team under Article 8 of the Protocol and the Party involved concerning the validity of a transaction or such Party's failure to take corrective action.
6. The enforcement branch shall be responsible for applying the consequences set out in section XV below for the cases of non-compliance mentioned in paragraph 4 above. The consequences of non-compliance with Article 3, paragraph 1, of the Protocol to be applied by the enforcement branch shall be aimed at the restoration of compliance to ensure environmental integrity, and shall provide for an incentive to comply.

VI. SUBMISSIONS

1. The Committee shall receive, through the secretariat, questions of implementation indicated in reports of expert review teams under Article 8 of the Protocol, together with any written comments by the Party which is subject to the report, or questions of implementation submitted by:
- (a) Any Party with respect to itself; or
- (b) Any Party with respect to another Party, supported by corroborating information.
2. The secretariat shall forthwith make available to the Party in respect of which the question of implementation is raised, hereinafter referred to as "the Party concerned", any question of implementation submitted under paragraph 1 above.
3. In addition to the reports referred to in paragraph 1 above, the Committee shall also receive, through the secretariat, other final reports of expert review teams.

VII. ALLOCATION AND PRELIMINARY EXAMINATION

1. The bureau of the Committee shall allocate questions of implementation to the appropriate branch in accordance with the mandates of each branch set out in section IV, paragraphs 4-7, and Section V, paragraphs 4-6.
2. The relevant branch shall undertake a preliminary examination of questions of implementation to ensure that, except in the case of a question raised by a Party with respect to itself, the question before it:
 - (a) Is supported by sufficient information;
 - (b) Is not *de minimis* or ill-founded; and
 - (c) Is based on the requirements of the Protocol.
3. The preliminary examination of questions of implementation shall be completed within three weeks from the date of receipt of these questions by the relevant branch.
4. After the preliminary examination of questions of implementation, the Party concerned shall, through the secretariat, be notified in writing of the decision and, in the event of a decision to proceed, be provided with a statement identifying the question of implementation, the information on which the question is based and the branch that will consider the question.
5. In the event of the review of eligibility requirements for a Party included in Annex I under Articles 6, 12 and 17 of the Protocol, the enforcement branch shall also, through the secretariat, notify forthwith the Party concerned, in writing, of the decision not to proceed with questions of implementation relating to eligibility requirements under those articles.
6. Any decision not to proceed shall be made available by the secretariat to other Parties and to the public.
7. The Party concerned shall be given an opportunity to comment in writing on all information relevant to the question of implementation and the decision to proceed.

VIII. GENERAL PROCEDURES

1. Following the preliminary examination of questions of implementation, the procedures set out in this section shall apply to the Committee, except where otherwise provided in these procedures and mechanisms.
2. The Party concerned shall be entitled to designate one or more persons to represent it during the consideration of the question of implementation by the relevant branch. This Party shall not be present during the elaboration and adoption of a decision of the branch.
3. Each branch shall base its deliberations on any relevant information provided by:
 - (a) Reports of the expert review teams under Article 8 of the Protocol;
 - (b) The Party concerned;
 - (c) The Party that has submitted a question of implementation with respect to another Party;
 - (d) Reports of the Conference of the Parties, the Conference of the Parties serving as the meeting of the Parties to the Protocol, and the subsidiary bodies under the Convention and the Protocol; and

- (e) The other branch.
4. Competent intergovernmental and non-governmental organizations may submit relevant factual and technical information to the relevant branch.
 5. Each branch may seek expert advice.
 6. Any information considered by the relevant branch shall be made available to the Party concerned. The branch shall indicate to the Party concerned which parts of this information it has considered. The Party concerned shall be given an opportunity to comment in writing on such information. Subject to any rules relating to confidentiality, the information considered by the branch shall also be made available to the public, unless the branch decides, of its own accord or at the request of the Party concerned, that information provided by the Party concerned shall not be made available to the public until its decision has become final.
 7. Decisions shall include conclusions and reasons. The relevant branch shall forthwith, through the secretariat, notify the Party concerned in writing of its decision, including conclusions and reasons therefor. The secretariat shall make final decisions available to other Parties and to the public.
 8. The Party concerned shall be given an opportunity to comment in writing on any decision of the relevant branch.
 9. If the Party concerned so requests, any question of implementation submitted under section VI, paragraph 1; any notification under section VII, paragraph 4; any information under paragraph 3 above; and any decision of the relevant branch, including conclusions and reasons therefor, shall be translated into one of the six official languages of the United Nations.

IX. PROCEDURES FOR THE ENFORCEMENT BRANCH

1. Within ten weeks from the date of receipt of the notification under section VII, paragraph 4, the Party concerned may make a written submission to the enforcement branch, including rebuttal of information submitted to the branch.
2. If so requested in writing by the Party concerned within ten weeks from the date of receipt of the notification under section VII, paragraph 4, the enforcement branch shall hold a hearing at which the Party concerned shall have the opportunity to present its views. The hearing shall take place within four weeks from the date of receipt of the request or of the written submission under paragraph 1 above, whichever is the later. The Party concerned may present expert testimony or opinion at the hearing. Such a hearing shall be held in public, unless the enforcement branch decides, of its own accord or at the request of the Party concerned, that part or all of the hearing shall take place in private.
3. The enforcement branch may put questions to and seek clarification from the Party concerned, either in the course of such a hearing or at any time in writing, and the Party concerned shall provide a response within six weeks thereafter.
4. Within four weeks from the date of receipt of the written submission of the Party concerned under paragraph 1 above, or within four weeks from the date of any hearing pursuant to paragraph 2 above, or within fourteen weeks from the notification under section VII, paragraph 4, if the Party has not provided a written submission, whichever is the latest, the enforcement branch shall:
 - (a) Adopt a preliminary finding that the Party concerned is not in compliance with commitments under one or more of the articles of the Protocol referred to in section V, paragraph 4; or
 - (b) Otherwise determine not to proceed further with the question.

5. The preliminary finding, or the decision not to proceed, shall include conclusions and reasons therefor.
6. The enforcement branch shall forthwith, through the secretariat, notify the Party concerned in writing of its preliminary finding or decision not to proceed. The secretariat shall make the decision not to proceed available to the other Parties and to the public.
7. Within ten weeks from the date of receipt of the notification of the preliminary finding, the Party concerned may provide a further written submission to the enforcement branch. If the Party concerned does not do so within that period of time, the enforcement branch shall forthwith adopt a final decision confirming its preliminary finding.
8. If the Party concerned provides a further written submission, the enforcement branch shall, within four weeks from the date it received the further submission, consider it and adopt a final decision, indicating whether the preliminary finding, as a whole or any part of it to be specified, is confirmed.
9. The final decision shall include conclusions and reasons therefor.
10. The enforcement branch shall forthwith, through the secretariat, notify the Party concerned in writing of its final decision. The secretariat shall make the final decision available to the other Parties and to the public.
11. The enforcement branch, when the circumstances of an individual case so warrant, may extend any time frames provided for in this section.
12. Where appropriate, the enforcement branch may, at any time, refer a question of implementation to the facilitative branch for consideration.

X. EXPEDITED PROCEDURES FOR THE ENFORCEMENT BRANCH

1. Where a question of implementation relates to eligibility requirements under Articles 6, 12 and 17 of the Protocol, sections VII to IX shall apply, except that:
 - (a) The preliminary examination referred to in section VII, paragraph 2, shall be completed within two weeks from the date of receipt of the question of implementation by the enforcement branch;
 - (b) The Party concerned may make a written submission within four weeks from the date of receipt of the notification under section VII, paragraph 4;
 - (c) If so requested in writing by the Party concerned within two weeks from the date of receipt of the notification under section VII, paragraph 4, the enforcement branch shall hold a hearing as referred to in section IX, paragraph 2, that shall take place within two weeks from the date of receipt of the request or of the written submission under subparagraph (b) above, whichever is the later;
 - (d) The enforcement branch shall adopt its preliminary finding or a decision not to proceed within six weeks of the notification under section VII, paragraph 4, or within two weeks of a hearing under section IX, paragraph 2, whichever is the shorter;
 - (e) The Party concerned may make a further written submission within four weeks from the date of receipt of the notification referred to in section IX, paragraph 6;
 - (f) The enforcement branch shall adopt its final decision within two weeks from the date of receipt of any further written submission referred to in section IX, paragraph 7; and

(g) The periods of time stipulated in section IX shall apply only if, in the opinion of the enforcement branch, they do not interfere with the adoption of decisions in accordance with subparagraphs (d) and (f) above.

2. Where the eligibility of a Party included in Annex I under Articles 6, 12 and 17 of the Protocol has been suspended under section XV, paragraph 4, the Party concerned may submit a request to reinstate its eligibility, either through an expert review team or directly to the enforcement branch. If the enforcement branch receives a report from the expert review team indicating that there is no longer a question of implementation with respect to the eligibility of the Party concerned, it shall reinstate that Party's eligibility, unless the enforcement branch considers that there continues to be such a question of implementation, in which case the procedure referred to in paragraph 1 above shall apply. In response to a request submitted to it directly by the Party concerned, the enforcement branch shall decide as soon as possible, either that there no longer continues to be a question of implementation with respect to that Party's eligibility in which case it shall reinstate that Party's eligibility, or that the procedure referred to in paragraph 1 above shall apply.

3. Where the eligibility of a Party to make transfers under Article 17 of the Protocol has been suspended under section XV, paragraph 5 (c), the Party may request the enforcement branch to reinstate that eligibility. On the basis of the compliance action plan submitted by the Party in accordance with section XV, paragraph 6, and any progress reports submitted by the Party including information on its emissions trends, the enforcement branch shall reinstate that eligibility, unless it determines that the Party has not demonstrated that it will meet its quantified emission limitation or reduction commitment in the commitment period subsequent to the one for which the Party was determined to be in non-compliance, hereinafter referred to as "the subsequent commitment period". The enforcement branch shall apply the procedure referred to in paragraph 1 above, adapted insofar as necessary for the purposes of the procedure in the present paragraph.

4. Where the eligibility of a Party to make transfers under Article 17 of the Protocol has been suspended under section XV, paragraph 5 (c), the enforcement branch shall reinstate that eligibility forthwith if the Party demonstrates that it has met its quantified emission limitation or reduction commitment in the subsequent commitment period, either through the report of the expert review team under Article 8 of the Protocol for the final year of the subsequent commitment period or through a decision of the enforcement branch.

5. In the event of a disagreement whether to apply adjustments to inventories under Article 5, paragraph 2, of the Protocol, or whether to apply a correction to the compilation and accounting database for the accounting of assigned amounts under Article 7, paragraph 4, of the Protocol, the enforcement branch shall decide on the matter within twelve weeks of being informed in writing of such disagreement. In doing so, the enforcement branch may seek expert advice.

XI. APPEALS

1. The Party in respect of which a final decision has been taken may appeal to the Conference of the Parties serving as the meeting of the Parties to the Protocol against a decision of the enforcement branch relating to Article 3, paragraph 1, of the Protocol if that Party believes it has been denied due process.

2. The appeal shall be lodged with the secretariat within 45 days after the Party has been informed of the decision of the enforcement branch. The Conference of the Parties serving as the meeting of the Parties to the Protocol shall consider the appeal at its first session after the lodging of the appeal.

3. The Conference of the Parties serving as the meeting of the Parties to the Protocol may agree by a three-fourths majority vote of the Parties present and voting at the meeting to override the decision of the

enforcement branch, in which event the Conference of the Parties serving as the meeting of the Parties to the Protocol shall refer the matter of the appeal back to the enforcement branch.

4. The decision of the enforcement branch shall stand pending the decision on appeal. It shall become definitive if, after 45 days, no appeal has been made against it.

XII. RELATIONSHIP WITH THE CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO THE PROTOCOL

The Conference of the Parties serving as the meeting of the Parties to the Protocol shall:

- (a) In considering the reports of the expert review teams in accordance with Article 8, paragraphs 5 and 6 of the Protocol, identify any general problems that should be addressed in the general policy guidance referred to in subparagraph (c) below;
- (b) Consider the reports of the plenary on the progress of its work;
- (c) Provide general policy guidance, including on any issues regarding implementation that may have implications for the work of the subsidiary bodies under the Protocol;
- (d) Adopt decisions on proposals on administrative and budgetary matters; and
- (e) Consider and decide appeals in accordance with section XI.

XIII. ADDITIONAL PERIOD FOR FULFILLING COMMITMENTS

For the purpose of fulfilling commitments under Article 3, paragraph 1, of the Protocol, a Party may, until the hundredth day after the date set by the Conference of the Parties serving as the meeting of the Parties to the Protocol for the completion of the expert review process under Article 8 of the Protocol for the last year of the commitment period, continue to acquire, and other Parties may transfer to such Party, emission reduction units, certified emission reductions, assigned amount units and removal units under Articles 6, 12 and 17 of the Protocol, from the preceding commitment period, provided the eligibility of any such Party has not been suspended in accordance with section XV, paragraph 4.

XIV. CONSEQUENCES APPLIED BY THE FACILITATIVE BRANCH

The facilitative branch, taking into account the principle of common but differentiated responsibilities and respective capabilities, shall decide on the application of one or more of the following consequences:

- (a) Provision of advice and facilitation of assistance to individual Parties regarding the implementation of the Protocol;
- (b) Facilitation of financial and technical assistance to any Party concerned, including technology transfer and capacity building from sources other than those established under the Convention and the Protocol for the developing countries;
- (c) Facilitation of financial and technical assistance, including technology transfer and capacity building, taking into account Article 4, paragraphs 3, 4 and 5, of the Convention; and
- (d) Formulation of recommendations to the Party concerned, taking into account Article 4, paragraph 7, of the Convention.

XV. CONSEQUENCES APPLIED BY THE ENFORCEMENT BRANCH

1. Where the enforcement branch has determined that a Party is not in compliance with Article 5, paragraph 1 or paragraph 2, or Article 7, paragraph 1 or paragraph 4, of the Protocol, it shall apply the following consequences, taking into account the cause, type, degree and frequency of the non-compliance of that Party:

- (a) Declaration of non-compliance; and
- (b) Development of a plan in accordance with paragraphs 2 and 3 below.

2. The Party not in compliance under paragraph 1 above, shall, within three months after the determination of non-compliance, or such longer period that the enforcement branch considers appropriate, submit to the enforcement branch for review and assessment a plan that includes:

- (a) An analysis of the causes of non-compliance of the Party;
- (b) Measures that the Party intends to implement in order to remedy the non-compliance; and
- (c) A timetable for implementing such measures within a time frame not exceeding twelve months which enables the assessment of progress in the implementation.

3. The Party not in compliance under paragraph 1 above shall submit to the enforcement branch progress reports on the implementation of the plan on a regular basis.

4. Where the enforcement branch has determined that a Party included in Annex I does not meet one or more of the eligibility requirements under Articles 6, 12 and 17 of the Protocol, it shall suspend the eligibility of that Party in accordance with relevant provisions under those articles. At the request of the Party concerned, eligibility may be reinstated in accordance with the procedure in section X, paragraph 2.

5. Where the enforcement branch has determined that the emissions of a Party have exceeded its assigned amount, calculated pursuant to its quantified emission limitation or reduction commitment inscribed in Annex B to the Protocol and in accordance with the provisions of Article 3 of the Protocol as well as the modalities for the accounting of assigned amounts under Article 7, paragraph 4, of the Protocol, taking into account emission reduction units, certified emission reductions, assigned amount units and removal units the Party has acquired in accordance with section XIII, it shall declare that that Party is not in compliance with its commitments under Article 3, paragraph 1, of the Protocol, and shall apply the following consequences:

- (a) Deduction from the Party's assigned amount for the second commitment period of a number of tonnes equal to 1.3 times the amount in tonnes of excess emissions;
- (b) Development of a compliance action plan in accordance with paragraphs 6 and 7 below; and
- (c) Suspension of the eligibility to make transfers under Article 17 of the Protocol until the Party is reinstated in accordance with section X, paragraph 3 or paragraph 4.

6. The Party not in compliance under paragraph 5 above shall, within three months after the determination of non-compliance or, where the circumstances of an individual case so warrant, such longer period that the enforcement branch considers appropriate, submit to the enforcement branch for review and assessment a compliance action plan that includes:

- (a) An analysis of the causes of the non-compliance of the Party;
- (b) Action that the Party intends to implement in order to meet its quantified emission limitation or reduction commitment in the subsequent commitment period, giving priority to domestic policies and measures; and
- (c) A timetable for implementing such action, which enables the assessment of annual progress in the implementation, within a time frame that does not exceed three years or up to the end of the subsequent commitment period, whichever occurs sooner. At the request of the Party, the enforcement branch may, where the circumstances of an individual case so warrant, extend the time for implementing such action for a period which shall not exceed the maximum period of three years mentioned above.

7. The Party not in compliance under paragraph 5 above shall submit to the enforcement branch a progress report on the implementation of the compliance action plan on an annual basis.

8. For subsequent commitment periods, the rate referred to in paragraph 5 (a) above shall be determined by an amendment.

XVI. RELATIONSHIP WITH ARTICLES 16 AND 19 OF THE PROTOCOL

The procedures and mechanisms relating to compliance shall operate without prejudice to Articles 16 and 19 of the Protocol.

XVII. SECRETARIAT

The secretariat referred to in Article 14 of the Protocol shall serve as the secretariat of the Committee.
