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CONFERENCE OF THE PARTIES SERVING AS THE  
MEETING OF THE PARTIES TO THE KYOTO PROTOCOL  
Second session  
Nairobi, 6–17 November 2006

Agenda item 7  
Report of the Compliance Committee

## Report of the Compliance Committee

Proposal by the President

**Draft decision - /CMP.2**

**Compliance Committee**

*The Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol,*

*Recalling* Article 18 of the Kyoto Protocol,

*Recalling also* its decision 27/CMP.1,

*Having considered* the annual report of the Compliance Committee to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol,<sup>1</sup>

*Noting with appreciation* the work done by the Compliance Committee of the Kyoto Protocol,

1. *Adopts* the rules of procedure of the Compliance Committee as contained in the annex to this decision, in accordance with the provisions of section III, paragraph 2 (d), of the annex to decision 27/CMP.1;

2. *Invites* Parties to make voluntary contributions to the Trust Fund for Supplementary Activities in support of the work of the Compliance Committee in 2007.

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<sup>1</sup> FCCC/KP/CMP/2006/6.

ANNEX

**Rules of procedure of the Compliance Committee  
of the Kyoto Protocol**

*Part 1: Conduct of Business*

**1. SCOPE**

**Rule 1**

These rules of procedure shall apply to the Compliance Committee, including its enforcement branch and facilitative branch, as defined in the “Procedures and mechanisms relating to compliance under the Kyoto Protocol”, contained in the annex to decision 27/CMP.1. They shall be read together with and in furtherance of these procedures and mechanisms.

**2. DEFINITIONS**

**Rule 2**

For the purposes of these rules section numbers refer to the section so numbered in the annex to decision 27/CMP.1, unless otherwise noted, and:

- (a) “Committee” means the Compliance Committee established by section II, paragraph 1;
- (b) “Plenary” means the plenary of the Committee as set out in section III;
- (c) “Branch” means the facilitative branch or the enforcement branch as set out in sections IV and V;
- (d) “Bureau” means the bureau of the Committee constituted in accordance with section II, paragraph 4;
- (e) “Co-chairpersons” means the chairperson of the enforcement branch and the chairperson of the facilitative branch acting together in the plenary of the Committee in accordance with section III, paragraph 1;
- (f) “Member” means a member of the Committee elected under section II, paragraph 3;
- (g) “Alternate member” means an alternate member elected under section II, paragraph 5;
- (h) “Party” means a Party to the Kyoto Protocol to the United Nations Framework Convention on Climate Change;
- (i) “Party concerned” means a Party in respect of which a question of implementation is raised, as set out in section VI, paragraph 2;
- (j) “Diplomatic agent” means the head of the mission or a designated member of the diplomatic staff of the mission of a Party who is accredited to the host country of the secretariat;

- (k) “Agent” means the Head of State or Government, the Minister of Foreign Affairs, the diplomatic agent or another person duly authorized by the Head of State or Government or by the Minister of Foreign Affairs or, in the case of a regional economic integration organization, by the competent authority of that organization;
- (l) “Representative” means a person designated by the Party concerned to represent it during the consideration of a question of implementation, in accordance with section VIII, paragraph 2;
- (m) “Secretariat” means the secretariat referred to in section XVII.

### **3. MEMBERS**

#### **Rule 3**

1. The term of service of each member and alternate member shall start on 1 January of the calendar year immediately following his or her election and shall end on 31 December, two or four years thereafter, as applicable.
2. Subject to these rules, alternate members are entitled to participate in the proceedings of the plenary or the respective branch to which they belong, without the right to vote. An alternate member may cast a vote only if serving as the member.
3. During the absence of a member from all or part of a meeting of the plenary or of the branch to which he or she has been elected, his or her alternate shall serve as the member.
4. When a member resigns or is otherwise unable to complete the assigned term or the functions of a member, his or her alternate shall serve as a member for the same branch, ad interim.
5. 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 Committee shall request the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol to elect a new member or alternate member for the remainder of the term at its next session.

#### **Rule 4**

1. Each member and alternate member shall serve in his or her individual capacity and, with respect to any matter that is under consideration by the Committee, act in an independent and impartial manner and avoid real or apparent conflicts of interest.
2. Each member and alternate member shall take and agree to respect a written oath of service before assuming his or her service. The oath of service shall read as follows:

“I solemnly declare that I will perform my duties and exercise my authority as member/alternate member of the Compliance Committee of the Kyoto Protocol established in decision 27/CMP.1 honourably, faithfully, impartially and conscientiously.

“I further solemnly declare that, subject to my responsibilities within the Compliance Committee, I shall not disclose, even after the termination of my functions, any confidential information coming to my knowledge by reason of my duties in the Compliance Committee.

“I shall disclose immediately to the Executive Secretary of the United Nations Framework Convention on Climate Change any interest in any matter under discussion before the Compliance Committee which may constitute a conflict of interest or which might be incompatible with the requirements of independence and impartiality expected of a member or alternate member of the Compliance Committee and I shall refrain from participating in the work of the Compliance Committee in relation to such matter.”

3. Where the Executive Secretary of the United Nations Framework Convention on Climate Change receives any disclosure made in accordance with paragraph 2, he or she shall forthwith notify the bureau. The bureau shall inform the plenary that the member or alternate member will refrain from participating in the work of the Committee in relation to the matter that is the subject of the disclosure.

4. Where the Executive Secretary of the United Nations Framework Convention on Climate Change receives evidence from a Party on circumstances which may indicate a conflict of interest or which might be incompatible with the requirements of independence and impartiality expected of a member or alternate member of the Committee, he or she shall forthwith notify the bureau as well as the member or alternate member concerned. The evidence shall be submitted to the plenary for its consideration, unless the member or alternate member informs the bureau that he or she will refrain from participating in the work of the Committee in relation to the matter to which the evidence relates. The bureau shall inform the plenary that the member or alternate member will refrain from participating in the work of the Committee in relation to the matter that is the subject of the disclosure. Otherwise, the plenary may decide to excuse the member or alternate member from consideration of one or more questions of implementation and the elaboration and adoption of a decision of a branch, after having provided a reasonable opportunity for the member or alternate member to be heard.

5. If the plenary considers that a material violation of the requirements of independence and impartiality expected of a member or alternate member of the Committee has occurred, it may decide to suspend, or recommend to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol to revoke, the membership of any member or alternate member concerned, after having provided a reasonable opportunity for the member or alternate member to be heard.

6. All decisions of the Committee taken under this rule shall be noted in the annual report of the Committee to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.

#### **4. OFFICERS**

##### **Rule 5**

1. In addition to exercising the powers conferred upon him or her elsewhere in these rules, an officer chairing a meeting shall:

- (a) Declare the opening and closure of the meeting;
- (b) Preside over the meeting;
- (c) Ensure the observance of these rules;
- (d) Accord the right to speak;
- (e) Put questions to the vote and announce decisions;
- (f) Rule on any points of order;
- (g) Subject to these rules, have complete control over the proceedings and maintain order.

2. An officer chairing a meeting may also propose:

- (a) The closure of the list of speakers;
  - (b) A limitation on the time to be allowed to speakers and on the number of times they may speak on an issue;
  - (c) The adjournment or closure of debate on an issue;
  - (d) The suspension or adjournment of the meeting.
3. Any officer chairing a meeting, in the exercise of his or her functions, remains under the authority of the plenary or, as the case may be, of the enforcement branch or facilitative branch.

#### **Rule 6**

1. If a chairperson is temporarily unable to fulfil the functions of his or her office, the vice-chairperson of the relevant branch shall act as chairperson of that branch and co-chairperson of the plenary ad interim.
2. If the chairperson and the vice-chairperson of the same branch are temporarily unable to fulfil the functions of their offices at the same time, the branch shall elect a chairperson for that branch ad interim having regard to section II, paragraph 4.
3. If a chairperson or vice-chairperson of a branch resigns or is otherwise unable to complete the assigned term or the functions of his or her office, the branch shall elect, in accordance with section II, paragraph 4, a replacement from among its members for the remainder of the term of that officer.

### **5. AGENDA**

#### **Rule 7**

1. In agreement with the bureau, the secretariat shall draft the provisional agenda for each meeting of the plenary.
2. In agreement with the chairperson and vice-chairperson of the relevant branch, the secretariat shall draft the provisional agenda of each meeting of that branch.
3. The provisional agenda and draft schedule for each meeting as well as the draft report on the previous meeting shall be circulated to members and alternate members at least four weeks before the opening of the meeting, to the extent possible under the applicable time frames.
4. The proposed agenda of each meeting of the plenary and each meeting of a branch shall include any item proposed by a member.
5. The plenary or a branch, when adopting its agenda, may decide to add urgent and important items and to delete, defer or amend items.

## **6. MEETINGS AND DELIBERATIONS**

### **Rule 8**

Notice of meetings shall be sent to the members and alternate members, as well as any representative, as the case may be, at least four weeks before the opening of the meeting, to the extent possible under the applicable time frames.

### **Rule 9**

1. Subject to paragraph 2, meetings of the plenary and the branches shall be held in public, unless the plenary or branch of its own accord or at the request of the Party concerned decides, for overriding reasons, that part or all of the meeting shall be held in private.

2. Only members and alternate members of the Committee and secretariat officials may be present during the elaboration and adoption of a decision of a branch.

### **Rule 10**

1. With respect to a notification or document sent by the secretariat to a Party, the date of receipt shall be deemed to be the date indicated in a written confirmation from the Party or the date indicated in a written confirmation of receipt by the expedited delivery courier, whichever comes first.

2. With respect to a submission, request, or other document intended for the Committee, the date of receipt by the Committee shall be deemed to be the first business day after receipt by the secretariat.

## **7. USE OF ELECTRONIC MEANS**

### **Rule 11**

1. The Committee may use electronic means for transmission, distribution and storage of documentation, without prejudice to normal means of circulation of the documentation, as the case may be.

2. The Committee may elaborate and take decisions in a written procedure using electronic means, where possible.

3. Any decision in accordance with paragraph 2 of this rule shall be deemed to be taken at the headquarters of the secretariat.

## **8. SECRETARIAT**

### **Rule 12**

1. The secretariat shall make arrangements for meetings of the Committee and provide it with services as required.

2. The secretariat shall make all documents of the plenary and the branches available to the public, subject to section VIII, paragraph 6, as well as any guidance provided by the Committee.

3. In addition, the secretariat shall perform any other functions assigned that the Committee may require or that the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol may direct with respect to the work of the Committee.

## **9. LANGUAGES**

### **Rule 13**

1. Without prejudice to section VIII, paragraph 9, the working language of the Committee shall be English.

2. A representative taking part in the proceedings of a branch may speak in a language other than the working language of the Committee if the Party provides for interpretation.

3. Decisions of the branches that are final shall be made available in all official languages of the United Nations, taking into account the provisions of rule 22, paragraph 1.

### *Part 2: Procedures for the Branches*

## **10. GENERAL PROCEDURES FOR THE BRANCHES**

### **Rule 14**

1. A submission by any Party raising a question of implementation with respect to itself shall set out:

- (a) The name of the Party making the submission;
- (b) A statement identifying the question of implementation;
- (c) A reference to the provisions of the Kyoto Protocol and decision 27/CMP.1 that form the basis for raising the question of implementation.

2. The submission should also set out:

- (a) Any provisions of the decisions of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol and the reports of the subsidiary bodies that are applicable to the question of implementation;
- (b) The information that is material to the question of implementation;
- (c) The branch from which action is sought;
- (d) The action requested from the branch;
- (e) A list of all documents annexed to the submission.

### **Rule 15**

1. A submission by any Party raising a question of implementation with respect to another Party shall set out:

- (a) The name of the Party making the submission;
- (b) A statement identifying the question of implementation;
- (c) The name of the Party concerned;

- (d) A reference to the provisions of the Kyoto Protocol and decision 27/CMP.1 that form the basis for raising the question of implementation;
  - (e) Corroborating information supporting the question of implementation.
2. The submission should also set out:
- (a) Any provisions of the decisions of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol and the reports of the subsidiary bodies that are applicable to the question of implementation;
  - (b) The branch from which action is sought;
  - (c) A list of all documents annexed to the submission.

#### **Rule 16**

The secretariat shall make the submission and any supporting information submitted under rule 15 available to the agent of that Party.

#### **Rule 17**

Comments and written submissions by the Party concerned in accordance with the provisions of sections VII to X should include:

- (a) A statement of the position of the Party concerned on the information, decision or question of implementation under consideration, including the grounds therefor;
- (b) An identification of any information provided by the Party that it requests not to be made available to the public in accordance with section VIII, paragraph 6;
- (c) A list of all documents annexed to the submission or comment.

#### **Rule 18**

1. Any submission or comment under rules 14, 15 and 17 shall be signed by the agent of the Party and be delivered to the secretariat in hard copy and by electronic means.
2. Any relevant documents in support of the submission or comment shall be annexed to it.

#### **Rule 19**

1. The bureau shall, within seven days from receipt of a question of implementation, decide on its allocation to the appropriate branch. The bureau may allocate questions of implementation by employing electronic means in accordance with rule 11.
2. The secretariat shall forthwith notify members and alternate members of the branch of the question of implementation and send them all available materials.
3. The secretariat shall also notify members and alternate members of the other branch of the question of implementation.

### **Rule 20**

1. Following the preliminary examination, subject to section VIII, paragraph 4, competent intergovernmental organizations and nongovernmental organizations that wish to submit relevant factual and technical information to the relevant branch shall do so in writing.
2. The secretariat shall forthwith notify members and alternate members of the branch of the submission of such information and send it to them.
3. The secretariat shall also notify members and alternate members of the other branch of the submission of such information.

### **Rule 21**

If a branch decides to seek expert advice, it shall:

- (a) Define the question on which expert opinion is sought;
- (b) Identify the experts to be consulted;
- (c) Lay down the procedures to be followed.

### **Rule 22**

1. A preliminary finding or a final decision shall contain, *mutatis mutandis*:
  - (a) The name of the Party concerned;
  - (b) A statement identifying the question of implementation addressed;
  - (c) The provisions of the Kyoto Protocol and decision 27/CMP.1 and other relevant decisions of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol that form the basis of the preliminary finding or final decision;
  - (d) A description of the information considered in the deliberations, including in the case of a final decision, a confirmation that the Party concerned was given an opportunity to comment in writing on all information considered;
  - (e) A summary of the proceedings, including an indication, in the case of a final decision of the enforcement branch, of whether its preliminary finding or any part of it as specified is confirmed;
  - (f) The substantive decision of the question of implementation, including the consequences applied, if any;
  - (g) Conclusions and reasons for the decision;
  - (h) The place and date of the decision;
  - (i) The names of the members who participated in the consideration of the question of implementation, as well as the elaboration and adoption of the decision.
2. Comments in writing on a final decision submitted within 45 days from the receipt of that decision by the Party concerned shall be circulated by the secretariat to the members and alternate members of the relevant branch and shall be included in the Committee's annual report to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.

### **Rule 23**

1. Any referral of a question of implementation to the facilitative branch in accordance with section IX, paragraph 12, shall be made through a decision by the enforcement branch with a statement identifying the question of implementation and the information on which the question is based.
2. The secretariat shall forthwith notify the Party concerned of the decision.
3. A question of implementation referred by the enforcement branch to the facilitative branch shall not require a preliminary examination.

## **11. PROCEDURES FOR THE FACILITATIVE BRANCH**

### **Rule 24**

1. Subject to section VI and without prejudice to section XVI, the facilitative branch may have a dialogue with the representative of the Party concerned.
2. Subject to sections VI and VII, the representative of the Party concerned may enter into a dialogue with the facilitative branch in order to seek advice and facilitation.
3. The facilitative branch shall receive, through the secretariat, information as required under relevant decisions of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.

## **12. PROCEDURES FOR THE ENFORCEMENT BRANCH**

### **Rule 25**

1. In its request for a hearing, the Party concerned may identify:
  - (a) The issues that the Party proposes to raise and any documents that it intends to discuss during the hearing;
  - (b) Any individuals whose expert testimony or opinion it will present at the hearing.
2. The Party concerned, when choosing individuals to represent it during the hearing, should refrain from nominating individuals who were members or alternate members of the Committee in the two years preceding the date of the submission.

### *Part 3: General Provisions*

## **13. AMENDMENTS**

### **Rule 26**

1. These rules of procedure may be amended by a decision of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol in terms of section III, paragraph 2 (d) after the plenary has approved the proposed amendment and reported on the matter to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.

2. Any amendment of these rules approved by the plenary shall be provisionally applied pending their adoption by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.

#### **14. OVERRIDING AUTHORITY**

##### **Rule 27**

In the event of a conflict between any provision in these rules and any provision in the Kyoto Protocol or decision 27/CMP.1, the provision of the Protocol or the decision, as the case may be, shall prevail.

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