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**CONFÉRENCE DES PARTIES AGISSANT
COMME RÉUNION DES PARTIES
AU PROTOCOLE DE KYOTO**
Quatrième session
Poznan, 1^{er} -12 décembre 2008

Point 7 de l'ordre du jour provisoire
Rapport du Comité de contrôle du respect des dispositions

**Rapport annuel du Comité de contrôle du respect des dispositions
à la Conférence des Parties agissant comme réunion
des Parties au Protocole de Kyoto***

Résumé

Le troisième rapport annuel du Comité de contrôle du respect des dispositions à la Conférence des Parties agissant comme réunion des Parties au Protocole de Kyoto porte sur les activités entreprises au cours de la période allant du 8 septembre 2007 au 9 octobre 2008. On y trouvera un compte rendu succinct de l'examen pendant cette période de deux questions de mise en œuvre par la chambre de l'exécution et des enseignements qui s'en sont dégagés. Y sont également présentées les conclusions de l'évaluation à laquelle a procédé la chambre de l'exécution et de l'atelier sur la notification et l'examen organisé à la demande de la chambre de la facilitation, ainsi que les observations et recommandations formulées par la plénière à l'issue de ces activités.

* Le présent document a été soumis tardivement afin de pouvoir rendre compte des résultats de la cinquième réunion de la plénière du Comité, qui s'est tenue les 8 et 9 octobre dernier.

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I. Introduction

A. Mandat

1. Selon l'alinéa *a* du paragraphe 2 de la section III des «Procédures et mécanismes relatifs au respect des dispositions du Protocole de Kyoto» ((annexe à la décision 27/CMP.1), dénommés ci-après «procédures et mécanismes»), la plénière du Comité de contrôle du respect des dispositions doit rendre compte des activités du Comité à chaque session ordinaire de la Conférence des Parties agissant comme réunion des Parties au Protocole de Kyoto (CMP).

B. Objet du rapport

2. Le troisième rapport annuel de la plénière du Comité porte sur la période allant du 8 septembre 2007 au 9 octobre 2008. Il rend compte succinctement des travaux accomplis et des questions examinées par le Comité au cours de cette période.

C. Mesures que pourrait prendre la Conférence des Parties agissant comme réunion des Parties au Protocole de Kyoto

3. Conformément à la section XII des procédures et mécanismes, la CMP pourrait examiner le rapport annuel du Comité.

4. Elle pourrait aussi:

a) Adopter les amendements au règlement intérieur figurant à l'annexe I du présent rapport, qui ont été élaborés par la plénière du Comité conformément à l'alinéa *d* du paragraphe 2 de la section III des procédures et mécanismes;

b) Inviter le Président de la CMP à engager des consultations au sujet des candidats à désigner pour pourvoir le poste vacant à la chambre de la facilitation du Comité;

c) Inviter les Parties à verser des contributions au Fonds d'affectation spéciale pour les activités complémentaires dans le courant de l'exercice biennal 2008-2009 afin d'appuyer les travaux du Comité;

d) Décider que, conformément à la pratique suivie dans d'autres organes constitués au titre du Protocole de Kyoto en ce qui concerne les membres et les suppléants, au sein du Comité:

i) La durée du mandat fixée pour chaque membre vaut aussi pour son suppléant;

ii) Les suppléants ne peuvent accomplir plus de deux mandats consécutifs en cette qualité;

iii) Si le nombre de mandats consécutifs en qualité de membre ou de suppléant est limité à deux, les mandats déjà accomplis ne sont pas pris en compte lorsqu'un suppléant est ensuite élu membre ou, inversement, lorsqu'un membre est ensuite élu suppléant;

e) Tenir compte, en poursuivant l'examen de la question des privilèges et immunités, de la situation des experts dont la chambre de la facilitation ou la chambre de l'exécution sollicite l'avis;

f) Faire en sorte que le Comité soit traité de la même façon que les autres organes constitués au titre du Protocole de Kyoto pour ce qui concerne le financement des frais de participation aux réunions et des frais de voyage correspondants. À cet égard, le Comité demande instamment à la CMP d'inviter

l'Organe subsidiaire de mise en œuvre (SBI) à tenir compte, lorsqu'il examinera le projet de budget de la Convention pour l'exercice biennal 2010-2011, des propositions du Comité visant à ce que la CMP:

- i) Fasse bénéficier d'une aide financière destinée à couvrir les frais de participation aux réunions du Comité et les frais de voyage correspondants tous les membres et les suppléants de cet organe;
- ii) Autorise le secrétariat à examiner au cas par cas, à titre temporaire, les demandes d'aide financière destinée à couvrir les frais de participation aux réunions du Comité et les frais de voyage correspondants soumises par les membres et les suppléants qui, actuellement, n'ont pas droit à une telle aide, en attendant que ce droit leur soit reconnu, sous réserve que des ressources soient disponibles;
- iii) Applique les règles et règlements de l'Organisation des Nations Unies régissant les voyages du personnel envoyé en mission pour les voyages des membres et des suppléants qui peuvent prétendre à une aide à cet égard.

II. Questions d'organisation

5. La cinquième réunion de la plénière du Comité s'est tenue à Bonn (Allemagne) les 8 et 9 octobre 2008.

6. La sixième réunion de la chambre de la facilitation s'est tenue à Bonn le 7 octobre 2008. La chambre de l'exécution s'est réunie quatre fois à Bonn au cours de l'année pour ses troisième, quatrième, cinquième et sixième réunions (du 4 au 6 mars 2008, les 16 et 17 avril 2008, les 14 et 15 juin 2008 et les 6 et 7 octobre 2008, respectivement). En outre, au cours de la période considérée, le Bureau du Comité et les chambres de la facilitation et de l'exécution ont eu recours aux moyens électroniques pour prendre des décisions sur différents points – répartition des questions de mise en œuvre, élections, avis d'experts et examens préliminaires – réduisant ainsi les frais liés à la tenue de réunions.

7. L'ordre du jour annoté, les documents de référence soumis au titre des différents points de l'ordre du jour, ainsi que le rapport des présidents sur chaque réunion de la plénière et des chambres de la facilitation et de l'exécution peuvent être consultés sur le site Web de la Convention¹. On trouvera à l'annexe II du présent rapport la liste des documents du Comité pour la période considérée.

A. Élection des présidents et vice-présidents des chambres de l'exécution et de la facilitation du Comité

8. Comme suite à la décision prise par la plénière à sa quatrième réunion et conformément au paragraphe 2 de l'article 11 du «Règlement intérieur du Comité de contrôle du respect des dispositions du Protocole de Kyoto» (annexe à la décision 4/CMP.2; ci-après dénommé le règlement intérieur), le 11 février 2008, par voie électronique, la chambre de l'exécution a élu M. Sebastian Oberthür Président et M^{me} Johanna Gertruida Sandea De Wet Vice-Présidente par consensus et, le 11 mars 2008, par voie électronique, la chambre de la facilitation a élu M. Ismail El Gizouli Président et M. Marc Pallemarts Vice-Président par consensus. Ces présidents et vice-présidents forment le nouveau Bureau du Comité.

9. La plénière s'est félicitée du travail accompli par les membres du bureau sortant, à savoir M. Raúl Estrada-Oyuela, Président de la chambre de l'exécution, M. Hironori Hamanaka, Président de la chambre de la facilitation, M. Oberthür, Vice-Président de la chambre de l'exécution, et M. El Gizouli, Vice-Président de la chambre de la facilitation.

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

B. Membres et membres suppléants du Comité

10. M. Hamanaka, membre du Comité élu pour siéger à la chambre de la facilitation jusqu'au 31 décembre 2009, a remis sa démission le 9 mai 2008. Il avait assumé la présidence de cette chambre du 1^{er} mars 2006 au 10 mars 2008. Depuis sa démission, M. Mark Berman, élu en qualité de suppléant, siège en tant que membre. La plénière du Comité prie la CMP de pourvoir le poste devenu vacant à la chambre de la facilitation en élisant un membre originaire de l'une des Parties visées à l'annexe I pour le reste du mandat de M. Hamanaka.

11. La plénière note que si, dans les procédures et mécanismes, la durée du mandat des membres du Comité et le nombre maximal de mandats consécutifs que ceux-ci peuvent accomplir sont bien indiqués, la CMP n'a pas précisé la durée du mandat des suppléants ni le nombre maximal de mandats consécutifs que ceux-ci peuvent accomplir. Il n'est pas indiqué non plus dans les procédures et mécanismes si les mandats accomplis en qualité de suppléant doivent être pris en compte dans le cas où un suppléant est ensuite élu membre, sachant que le nombre de mandats consécutifs qui peuvent être accomplis par les membres du Comité est limité à deux. La plénière invite la CMP à décider que, conformément à la pratique suivie dans d'autres organes constitués au titre du Protocole de Kyoto en ce qui concerne les membres et les suppléants au sein du Comité:

- a) La durée du mandat fixée pour chaque membre vaut aussi pour son suppléant;
- b) Les suppléants ne peuvent accomplir plus de deux mandats consécutifs en cette qualité;
- c) Si le nombre de mandats consécutifs en qualité de membre ou de suppléant est limité à deux, les mandats déjà accomplis ne sont pas pris en compte lorsqu'un suppléant est ensuite élu membre ou, inversement, lorsqu'un membre est ensuite élu suppléant.

C. Transparence, communication et information

12. Comme prévu au paragraphe 1 de l'article 9 du règlement intérieur, la cinquième réunion de la plénière, la sixième réunion de la chambre de la facilitation et les parties publiques des troisième, quatrième, cinquième et sixième réunions de la chambre d'exécution ont été enregistrées et diffusées sur l'Internet via le site Web de la Convention.

13. Dans son deuxième rapport annuel, examiné par la CMP à sa troisième session, le Comité a donné des détails sur l'accord auquel la plénière était parvenue au sujet des modalités d'organisation des travaux concernant la participation du public aux réunions du Comité (FCCC/KP/CMP/2007/6, par. 15 à 17). À la suite de cet accord, un système de notification et d'inscription simple a été mis en place à l'intention de ceux qui étaient désireux d'assister aux réunions de la plénière et des chambres en qualité d'observateurs.

D. Privilèges et immunités à accorder aux membres du Comité et à leurs suppléants

14. Comme suite aux conclusions formulées par le SBI à sa vingt-sixième session au sujet des privilèges et immunités à accorder aux personnes siégeant dans les organes constitués au titre du Protocole de Kyoto², la plénière signale que jusqu'ici, il n'y a eu aucun différend, ni aucune plainte ou réclamation concernant le Comité ou les fonctions officielles des personnes qui y siègent. Toutefois, elle suit de près l'examen aux sessions de la CMP et du SBI de la question des privilèges et immunités à accorder aux personnes qui siègent dans les organes constitués au titre du Protocole de Kyoto, en particulier les discussions portant sur le deuxième examen du Protocole de Kyoto tel que prévu par son

² FCCC/SBI/2007/15, par. 163 à 168.

article 9. La plénière fait observer que les experts sollicités par la chambre de la facilitation ou la chambre de l'exécution en vertu du paragraphe 5 de la section VIII des procédures et mécanismes ne bénéficient pas de l'immunité pour les avis qu'ils donnent aux chambres.

III. Travaux entrepris au cours de la période considérée

A. Rapports des équipes d'examen composées d'experts soumis au titre de l'article 8 du Protocole de Kyoto et autres informations reçues par la plénière du Comité

15. Conformément au paragraphe 3 de la section VI des procédures et mécanismes, le secrétariat a transmis au Comité les rapports établis par les équipes d'experts à l'issue de l'examen centralisé approfondi de la quatrième communication nationale de l'Allemagne, de la Belgique, de la Bulgarie, de l'Espagne, de la France, du Liechtenstein, de Monaco, des Pays-Bas, du Portugal et de la République tchèque. La plénière a reçu jusqu'ici 26 rapports d'examen approfondi. L'examen approfondi de la quatrième communication nationale³ de 11 Parties visées à l'annexe I de la Convention (Parties visées à l'annexe I) est programmé pour l'année prochaine⁴.

16. Conformément également au paragraphe 3 de la section VI des procédures et mécanismes, le secrétariat a transmis au Comité les rapports établis à l'issue de l'examen du rapport initial de l'Allemagne, de la Belgique, de la Bulgarie, de la Communauté européenne, du Danemark, de l'Espagne, de l'Estonie, de la Fédération de Russie, de la Finlande, de la France, de l'Irlande, de l'Islande, de l'Italie, de la Lettonie, du Liechtenstein, de la Lituanie, du Luxembourg, de Monaco, de la Norvège, des Pays-Bas, de la Pologne, du Portugal, de la République tchèque, de la Roumanie, du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord, de la Slovaquie, de la Slovénie, de la Suède et de l'Ukraine. Les 39 Parties visées à l'annexe I qui sont également parties au Protocole de Kyoto ont toutes soumis leur rapport initial. La plénière a reçu jusqu'ici les rapports d'examen de 36 rapports initiaux. Le rapport d'examen du rapport initial de l'Australie est en préparation. Il en va de même de l'examen du rapport initial de la Croatie. Quant à l'examen du rapport initial du Bélarus, il est reporté en attendant que le SBI en étudie les modalités et les conditions⁵.

17. Conformément au paragraphe 1 de la section VI des procédures et mécanismes, le secrétariat a transmis au Comité les rapports d'examen des rapports initiaux du Canada et de la Grèce, qui, l'un et l'autre, faisaient état de questions de la mise en œuvre. Conformément au paragraphe 2 de la section VI des procédures et mécanismes, ces rapports ont également été communiqués au Canada et à la Grèce. On trouvera plus loin aux sections B et C du présent chapitre des renseignements sur les travaux entrepris par la chambre de l'exécution au sujet de ces questions de mise en œuvre.

³ Aux fins du présent rapport l'expression «quatrième communication nationale» englobe les première, deuxième et troisième communications nationales qui ont été soumises pendant la période où, dans leur majorité, les Parties visées à l'annexe I ont soumis leur quatrième communication nationale en application de la décision 4/CP.8.

⁴ Il s'agit de l'examen approfondi de la quatrième communication de l'Autriche, du Bélarus, du Canada, de la Communauté européenne, de la Croatie, de la Fédération de Russie, de l'Irlande, de l'Italie, de la Pologne, de la Roumanie et de l'Ukraine. L'Australie a soumis sa quatrième communication nationale le 12 décembre 2005, avant de devenir partie au Protocole de Kyoto. Celle-ci est en train d'être examinée suivant les directives établies au titre de la Convention. Sur les 39 Parties visées à l'annexe I qui sont également parties au Protocole de Kyoto, la seule à ne pas avoir encore soumis sa quatrième communication nationale est le Luxembourg.

⁵ FCCC/KP/CMP/2007/9, par. 160.

18. Conformément au paragraphe 3 de la section VI des procédures et mécanismes et au paragraphe 49 de l'annexe à la décision 22/CMP.1, le secrétariat a transmis au Comité les rapports annuels de situation faisant le point sur les inventaires de gaz à effet de serre de l'Allemagne, de l'Autriche, du Bélarus, de la Belgique, de la Bulgarie, du Canada, de la Communauté européenne, du Danemark, de l'Espagne, de l'Estonie, de la Fédération de Russie, de la Finlande, de la France, de la Grèce, de la Hongrie, de l'Irlande, de l'Islande, de l'Italie, du Japon, de la Lettonie, du Liechtenstein, de la Lituanie, du Luxembourg, de Monaco, de la Nouvelle-Zélande, de la Norvège, des Pays-Bas, de la Pologne, du Portugal, de la République tchèque, de la Roumanie, du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord, de la Slovaquie, de la Slovénie, de la Suède, de la Suisse et de l'Ukraine. La plénière a reçu 37 rapports de ce type. Les rapports annuels de situation concernant l'Australie et la Croatie seront soumis au Comité à compter de l'année prochaine.

19. Rappelant que, selon le paragraphe 1 de la décision 26/CMP.1, chaque examen initial doit être achevé au plus tard un an après la date de soumission du rapport initial, la plénière note avec préoccupation le retard pris dans l'établissement de certains rapports d'examen; c'est le cas en particulier pour le rapport d'examen du rapport initial de la Communauté européenne, qui a été publié le 15 février 2008, soit près d'un an et deux mois après la soumission du rapport initial, le 18 décembre 2006, et pour le rapport d'examen du rapport initial du Canada, qui a été publié le 11 avril 2008, soit près d'un an et un mois après la soumission du rapport initial, le 15 mars 2007.

20. À sa cinquième réunion, la plénière a examiné les renseignements que le secrétariat lui avait communiqués pour lui permettre de faire le point sur les rapports soumis et examinés au titre du Protocole de Kyoto (document CC/5/2008/5) et a noté, avec une préoccupation croissante, qu'à cette date, soit près de trois ans après l'expiration du délai fixé dans la décision 4/CP.8 comme suite à la décision 22/CMP.1, le Luxembourg n'avait toujours pas soumis sa quatrième communication nationale, assortie des informations supplémentaires requises au titre du paragraphe 2 de l'article 7 du Protocole de Kyoto en dépit de la préoccupation exprimée par la CMP à cet égard⁶.

21. À sa quatrième réunion, la chambre de l'exécution a fait observer qu'il était important de veiller à ce que les examens prévus à l'article 8 du Protocole de Kyoto soient menés toujours de la même manière, quelle que soit la Partie considérée, par chaque équipe d'experts et a décidé de porter cette question à l'attention de la plénière. À la demande de la chambre de l'exécution, le secrétariat a établi un document détaillant le processus d'examen prévu à l'article 8 du Protocole de Kyoto et faisant la synthèse des renseignements fournis dans les rapports d'examen des rapports initiaux sur les systèmes nationaux (document CC/5/2008/2) afin d'alimenter le débat sur la question en plénière. Après avoir examiné ce document et les renseignements supplémentaires communiqués par le secrétariat à sa cinquième réunion, la plénière s'est penchée sur les questions relatives au processus d'examen prévu à l'article 8.

22. La plénière remercie les équipes d'experts qui, avec l'appui du secrétariat, s'emploient, en dépit de ressources limitées, à produire des rapports d'examen de haute tenue. Elle se félicite de ce que le SBI ait fait observer à sa vingt-huitième session que l'amélioration des processus de notification et d'examen revêtait une importance cruciale⁷. Toutefois, la cohérence du processus d'examen et l'insuffisance des ressources, notamment le manque d'experts disponibles, sont des questions qui la préoccupent. Celles-ci risquant de compromettre gravement les activités d'examen prévues par le Protocole de Kyoto, qui sont essentielles pour les travaux du Comité, la plénière continuera d'en suivre de près l'évolution à ses réunions futures.

⁶ Décision 5/CMP.3 «Contrôle du respect des dispositions du Protocole de Kyoto».

⁷ FCCC/SBI/2008/8, par. 93.

B. Examen par la chambre de l'exécution d'une question de mise en œuvre concernant la Grèce

23. Le 31 décembre 2007, une question de mise en œuvre signalée dans le rapport d'examen du rapport initial de la Grèce a été soumise au Comité⁸. Le 8 janvier 2008 le bureau du Comité a renvoyé cette question à la chambre de l'exécution. Le 22 janvier suivant, cette dernière a décidé d'examiner plus avant (voir le document CC-2007-1-2/Greece/EB) la question de mise en œuvre, qui a trait au respect du «Cadre directeur des systèmes nationaux prévu au paragraphe 1 de l'article 5 du Protocole de Kyoto» (décision 19/CMP.1) et des «Lignes directrices pour la préparation des informations requises au titre de l'article 7 du Protocole de Kyoto» (décision 15/CMP.1).

24. La chambre de l'exécution a reçu une communication écrite de la Grèce et a organisé, les 4 et 5 mars 2008, une audition à la demande de cette Partie. Dans sa conclusion préliminaire datée du 6 mars 2008 (voir le document CC-2007-1-6/Greece/EB), elle a jugé que la Grèce ne se conformait pas aux lignes directrices visées au paragraphe 23 ci-dessus. Après avoir reçu une nouvelle communication écrite de cette Partie, la chambre a confirmé sa conclusion préliminaire dans une décision finale (document CC-2007-1-8/Greece/EB) le 17 avril 2008.

25. Le 16 juillet 2008, à la suite de la décision finale de la chambre de l'exécution, la Grèce a soumis un plan conformément au paragraphe 2 de la section XV des procédures et mécanismes. À sa sixième réunion, qui s'est tenue les 6 et 7 octobre 2008, la chambre de l'exécution a demandé à cette Partie de soumettre une version révisée de ce plan (voir le document CC-2007-1-10/Greece/EB).

26. Conformément à l'alinéa *a* du paragraphe 2 de la section III des procédures et mécanismes, les décisions prises par la chambre de l'exécution à l'égard de la Grèce sont consignées dans l'annexe III du présent rapport.

C. Examen par la chambre de l'exécution d'une question de mise en œuvre concernant le Canada

27. Le 14 avril 2008, une question de mise en œuvre signalée dans le rapport d'examen du rapport initial du Canada a été soumise au Comité⁹. Deux jours après, le 16 avril, le bureau du Comité a renvoyé cette question à la chambre de l'exécution. Le 2 mai suivant, cette dernière a décidé d'examiner plus avant (voir le document CC-2008-1-2/Canada/EB) la question de mise en œuvre, qui a trait au respect des «Lignes directrices pour la préparation des informations requises au titre de l'article 7 du Protocole de Kyoto» (décision 15/CMP.1) et des modalités de comptabilisation des quantités attribuées à arrêter en application du paragraphe 4 de l'article 7 du Protocole de Kyoto (décision 13/CMP.1), ainsi que des dispositions de l'annexe à la décision 5/CMP.1 et des critères de conception des normes techniques pour l'échange de données entre systèmes de registres.

28. La chambre de l'exécution a reçu une communication écrite du Canada et, le 14 juin 2008, elle a organisé une audition à la demande de cette Partie. Le 15 juin, la chambre de l'exécution a pris la décision de ne pas examiner la question plus avant (voir le document CC-2008-1-6/Canada/EB).

29. Conformément à l'alinéa *a* du paragraphe 2 de la section III des procédures et mécanismes, les décisions prises par la chambre de l'exécution à l'égard du Canada sont consignées dans l'annexe IV du présent rapport.

⁸ FCCC/IRR/2007/GRC.

⁹ FCCC/IRR/2007/CAN.

30. Le 11 juillet 2008, le Canada a soumis une nouvelle communication écrite (voir le document CC-2008-1-7/Canada/EB). À la demande du Président de la chambre de l'exécution, un message a été envoyé à cette Partie, l'avisant que la décision de ne pas examiner plus avant la question de mise en œuvre la concernant ayant clos la procédure correspondante, elle pouvait demander que sa communication figurant dans le document CC-2008-1-7/Canada/EB soit annexée au rapport annuel du Comité à la CMP conformément au paragraphe 2 de l'article 22 du règlement intérieur¹⁰. À la demande écrite du Canada, que le secrétariat a reçue le 31 juillet 2008, le document intitulé «Further Written Submission» a été incorporé dans le présent rapport en tant qu'annexe V.

D. Évaluation réalisée par la chambre de l'exécution

31. À sa sixième réunion, la chambre de l'exécution a dressé le bilan annuel de son action et suggéré des moyens d'améliorer l'examen des questions de mise en œuvre qui lui étaient renvoyées. Pour cet exercice, elle s'est appuyée sur une note d'information établie par le secrétariat (document CC/EB/6/2008/2).

32. La chambre a distingué un certain nombre de domaines dans lesquels une modification du règlement intérieur s'imposait et est convenue de soumettre à la plénière ses propositions concernant les modalités d'organisation des travaux et les modifications à apporter au règlement intérieur du Comité. Elle est convenue également de donner aux membres et aux suppléants exerçant les fonctions de membre la possibilité d'expliquer leurs votes contre toute décision de la chambre et de consigner l'explication fournie dans une annexe au rapport sur les travaux de la réunion à laquelle la décision a été prise ou, si la décision a été prise par des moyens électroniques, dans une annexe au rapport sur les travaux de la réunion suivante.

33. À la cinquième réunion de la plénière, le président de la chambre de l'exécution a rendu compte oralement des enseignements que celle-ci avait tirés de l'examen des questions de mise en œuvre et de l'expérience qu'elle avait acquise à cet égard, en se fondant sur les résultats de l'évaluation visée plus haut au paragraphe 31.

34. La plénière a examiné les modalités d'organisation des travaux et les amendements proposés par la chambre de l'exécution et est convenue de soumettre le projet d'amendements au règlement intérieur figurant à l'annexe I du présent rapport à la CMP pour adoption à sa quatrième session.

35. La plénière a souligné qu'elle entendait transmettre tout projet d'amendements au règlement intérieur à la CMP pour adoption après mûre réflexion, en tenant compte, éventuellement, de l'expérience acquise à cet égard.

E. Atelier de la chambre de la facilitation sur la notification et l'examen

36. Comme suite à une demande formulée par la chambre de la facilitation à sa quatrième réunion, un atelier sur la notification et l'examen a été organisé à Bonn, le 7 octobre 2008, afin de réfléchir au rôle du régime de contrôle du respect des dispositions dans le cadre du système mis en place au titre du Protocole de Kyoto, de mettre en commun connaissances et informations concernant l'interaction entre les mécanismes de notification, d'examen et de contrôle et les institutions correspondantes, et de se pencher sur les questions clefs qui se posent dans ces domaines.

¹⁰ Aux termes du paragraphe 2 de l'article 22: «Les observations écrites sur une décision finale présentées dans les quarante-cinq jours qui suivent la réception de cette décision par la Partie concernée sont distribuées par le secrétariat aux membres et membres suppléants de la chambre compétente et sont consignées dans le rapport annuel du Comité à la Conférence des Parties agissant comme réunion des Parties au Protocole de Kyoto.».

37. À la suite des débats qui ont eu lieu dans le cadre de l'atelier, à sa sixième réunion, la chambre est convenue de continuer de discuter à sa réunion suivante de la façon dont elle pourrait procéder pour – comme elle en a été chargée – donner des conseils et apporter une aide «en vue de promouvoir le respect des dispositions et de signaler rapidement tout risque de non-respect» conformément à l'alinéa *a* du paragraphe 6 de la section IV des procédures et mécanismes. En outre, elle réfléchira au moyen d'exploiter la masse d'informations que renferment les rapports d'examen des équipes d'experts qui sont transmis aux membres du Comité et à leurs suppléants en application du paragraphe 3 de la section VI des procédures et mécanismes, dans la mesure où ces informations ont un rapport avec son mandat.

IV. Participation des membres et des suppléants

38. La plénière appelle de nouveau l'attention de la CMP sur les propositions formulées au paragraphe 27 du deuxième rapport annuel du Comité à la CMP¹¹ concernant les frais de participation aux réunions et les frais de voyage correspondants et demande à celle-ci de veiller à ce que ces propositions soient prises en compte lors de l'examen du projet de budget pour l'exercice biennal 2010-2011.

39. Comme l'a noté la plénière, la CMP, dans sa décision 5/CMP.3, a prié le secrétariat de communiquer aux Parties, dans le cadre de la préparation du budget pour l'exercice biennal 2010-2011, des informations sur les conséquences de la proposition du Comité de contrôle du respect des dispositions d'étendre à tous ses membres et membres suppléants le droit à une aide financière destinée à couvrir les frais de voyage et de participation aux réunions de cet organe. La plénière espère que la CMP prendra une décision sur la base de ces informations à sa cinquième session.

V. Ressources

40. En ce qui concerne l'exercice biennal 2008-2009, un montant de 1 022 500 dollars des États-Unis a été inscrit au budget de base de la Convention pour financer les activités relatives au Comité. En outre, un montant de 1 034 685 dollars doit être prélevé sur le Fonds d'affectation spéciale pour les activités complémentaires, ce qui représente une augmentation de 339 035 dollars par rapport au montant estimatif prévu dans le projet de budget-programme pour l'exercice biennal 2008-2009¹². Les dépenses qui n'avaient pas été comptabilisées ou qui ont augmenté par rapport aux projections initiales concernent la diffusion sur le Web, les mesures de sécurité à prendre à la suite de la nouvelle organisation des travaux autorisant le public à assister aux réunions du Comité en qualité d'observateur, ainsi que la participation aux réunions des experts sollicités par la chambre de la facilitation ou la chambre de l'exécution et les voyages correspondants.

41. À la fin de 2007, le solde des contributions versées à l'intention du Comité au Fonds d'affectation spéciale pour les activités complémentaires s'élevait à 385 197 dollars, somme qui a été reportée à l'exercice biennal 2008-2009. À la fin de la période considérée, le montant des contributions reçues en 2008 se chiffrait à 168 872 dollars. Le Comité exprime ses remerciements à la Belgique, au Japon et au Royaume-Uni pour leurs généreuses contributions et demande à la CMP d'inviter les Parties à verser des contributions au Fonds d'affectation spéciale pour les activités complémentaires pour l'exercice biennal 2008-2009 dans le but d'appuyer ses travaux.

¹¹ FCCC/KP/CMP/2007/6.

¹² FCCC/SBI/2007/8/Add.2.

Annexe I**Projet d'amendements au règlement intérieur**

Conformément à l'alinéa *d* du paragraphe 2 de la section III de l'annexe à la décision 27/CMP.1, le texte suivant, qui vise à modifier le règlement intérieur du Comité de contrôle du respect des dispositions du Protocole de Kyoto publié en annexe à la décision 4/CMP.2, est soumis à la CMP pour adoption.

1. Il faudrait ajouter à la suite de l'article 13 le texte suivant:

«9. *bis* CALCUL DES DÉLAIS

Article 13 *bis*

Aux fins du calcul des délais:

- a) Le jour de l'acte ou de l'événement à partir duquel le délai commence à courir n'est pas compris. Le dernier jour du délai ainsi calculé est compris, à moins qu'il ne s'agisse d'un samedi, d'un dimanche ou d'un jour férié au secrétariat de la Convention ou d'un jour férié sur le territoire de la Partie, à laquelle le délai s'applique, auquel cas celui-ci est réputé courir jusqu'à la fin du jour ouvrable suivant;
- b) Sous réserve de l'alinéa *a* ci-dessus, lorsque le délai est exprimé en semaines, mois ou années, la date du jour de la semaine, du moins ou de l'année où le délai expire correspond à la date du jour à partir duquel il commence à courir, ou, si le mois ne comporte pas la date en question, à celle du dernier jour de ce mois.».

2. Afin d'en étendre le champ d'application au document visé dans le nouvel article 25 *bis* proposé plus loin, il faudrait réviser l'article 18 comme suit:

«1. Toutes communications ou observations présentées en application des articles 14, 15, ~~et 17~~ et 25 *bis* sont signées par l'agent de la Partie et sont transmises au secrétariat sous la forme d'un document papier et par des moyens électroniques.».

3. Il faudrait ajouter à la fin de l'article 25 un nouveau paragraphe 3 ainsi libellé:

«3. Le droit reconnu à la Partie concernée de désigner une ou plusieurs personnes pour la représenter lors de l'examen d'une question de mise en œuvre en vertu du paragraphe 2 de la section VIII vaut pour toute réunion convoquée dans le but de:

- a) Envisager le rétablissement de l'admissibilité au titre de la section X;
- b) Examiner et évaluer tout plan soumis à la chambre de l'exécution en application du paragraphe 2 ou du paragraphe 6 de la section XV;
- c) Examiner tout rapport d'étape sur l'exécution de ce plan soumis à la chambre de l'exécution en application du paragraphe 3 ou du paragraphe 7 de la section XV.».

4. Il faudrait ajouter à la suite de l'article 25 le texte suivant:

«Article 25 *bis*

1. Le plan que la Partie concernée est tenue de soumettre à la chambre de l'exécution en application du paragraphe 2 ou du paragraphe 6 de la section XV doit expressément:

- a) Traiter, dans des sections distinctes, de chacun des éléments précisés au paragraphe 2 ou au paragraphe 6 de la section XV;
- b) Apporter une réponse à toute question particulière soulevée dans la partie de la décision finale de la chambre de l'exécution énonçant les conséquences.

2. La chambre de l'exécution s'efforce de mener à bien l'examen et l'évaluation du plan au titre du paragraphe 2 ou du paragraphe 6 de la section XV dans un délai de quatre semaines à compter de la date de réception dudit plan.

3. Dans le cadre de l'examen et de l'évaluation du plan soumis, la chambre de l'exécution détermine si celui-ci:

- a) Renferme les éléments visés plus haut au paragraphe 1 et apporte une réponse appropriée aux questions qui y sont mentionnées;
- b) Devrait en principe permettre, s'il était appliqué, de remédier à la situation de non-respect ou de tenir l'engagement chiffré de limitation ou de réduction des émissions pris par la Partie concernée au cours de la période d'engagement suivante, comme prévu au paragraphe 2 et au paragraphe 6 de la section XV, respectivement.».

5. Il faudrait ajouter à la suite du nouvel article 25 *bis* proposé le texte suivant:

«Article 25 *ter*

La chambre de l'exécution peut organiser l'audition demandée par la Partie concernée au titre de l'alinéa *c* du paragraphe 1 de la section X en même temps que la réunion au cours de laquelle elle doit adopter sa conclusion préliminaire ou décider de classer l'affaire. Dans ce cas, l'audition et la réunion sont programmées:

- a) Dans les deux semaines qui suivent la date limite de présentation d'une communication écrite au titre de l'alinéa *b* du paragraphe 1 de la section X; ou
- b) Dans les deux semaines qui suivent la date limite de dépôt d'une demande d'audition au titre de l'alinéa *c* du paragraphe 1 de la section X, si, à cette date, la Partie concernée avait fait savoir qu'elle n'avait pas l'intention de présenter une communication écrite au titre de l'alinéa *b* du paragraphe 1 de la section X.».

Annexe II

[ENGLISH ONLY]

Documents of the Compliance Committee¹

PLENARY

Title	Document No.	Date
<u>5th meeting</u>		
Provisional agenda and annotations	CC/5/2008/1	8 September 2008
Description of the elements of the review process under Article 8 and synthesis of the information regarding the review of national systems	CC/5/2008/2	1 October 2008
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	CC/5/2008/3	30 September 2008
Terms of office of alternate members of the Compliance Committee. Note by the secretariat	CC/5/2008/4	26 September 2008
Status of submission and review of reports under the Kyoto Protocol. Note by the secretariat	CC/5/2008/5	30 September 2008
Report on the meeting	CC/5/2008/6	30 October 2008

ENFORCEMENT BRANCH

Title	Document No.	Date
Report on the election of chairperson and vice-chairperson of the enforcement branch 2008	CC/EB/2008/1	11 February 2008
<u>3rd meeting</u>		
Provisional agenda and annotations	CC/EB/3/2008/1	27 February 2008
Report on the meeting	CC/EB/3/2008/2	18 March 2008
<u>4th meeting</u>		
Provisional agenda and annotations	CC/EB/4/2008/1	9 April 2008
Report on the meeting	CC/EB/4/2008/2	19 May 2008
<u>5th meeting</u>		
Provisional agenda and annotations	CC/EB/5/2008/1	6 June 2008

¹ These documents are available on the UNFCCC website at http://unfccc.int/kyoto_protocol/compliance/items/2875.php.

Title	Document No.	Date
Report on the meeting	CC/EB/5/2008/2	23 June 2008
<u>6th meeting</u>		
Provisional agenda and annotations	CC/EB/6/2008/1	8 September 2008
Provisional agenda and annotations	CC/EB/6/2008/1/Rev.1	11 September 2008
List of issues for enforcement branch stocktaking exercise	CC/EB/6/2008/2	24 September 2008
Report on the meeting	CC/EB/6/2008/3	30 October 2008

FACILITATIVE BRANCH

Title	Document No.	Date
Report on the election of chairperson and vice-chairperson of the facilitative branch 2008	CC/FB/2008/1	11 March 2008
<u>6th meeting</u>		
Provisional agenda and annotations	CC/FB/6/2008/1	8 September 2008
Report on the meeting	CC/FB/6/2008/2	30 October 2008

EXPERT REVIEW TEAM REPORTS OF THE CENTRALIZED IN-DEPTH REVIEW OF FOURTH NATIONAL COMMUNICATIONS FORWARDED TO THE COMPLIANCE COMMITTEE UNDER SECTION VI, PARAGRAPH 3, OF THE ANNEX TO DECISION 27/CMP.1

Title	Document No.	Date
Report of the centralized in-depth review of the fourth national communication of Monaco. Note by the secretariat	CC/ERT/2008/1	17 September 2008
Report of the centralized in-depth review of the fourth national communication of the Czech Republic. Note by the secretariat	CC/ERT/2008/2	22 September 2008
Report of the centralized in-depth review of the fourth national communication of France. Note by the secretariat	CC/ERT/2008/3	22 September 2008
Report of the centralized in-depth review of the fourth national communication of Liechtenstein. Note by the secretariat	CC/ERT/2008/4	26 September 2008
Report of the centralized in-depth review of the fourth national communication of Germany. Note by the secretariat	CC/ERT/2008/5	26 September 2008
Report of the centralized in-depth review of the fourth national communication of Belgium. Note by the secretariat	CC/ERT/2008/6	7 October 2008

Title	Document No.	Date
Report of the centralized in-depth review of the fourth national communication of Portugal. Note by the secretariat	CC/ERT/2008/7	7 October 2008
Report of the centralized in-depth review of the fourth national communication of Bulgaria. Note by the secretariat	CC/ERT/2008/8	7 October 2008
Report of the centralized in-depth review of the fourth national communication of Spain. Note by the secretariat	CC/ERT/2008/9	7 October 2008
Report of the centralized in-depth review of the fourth national communication of the Netherlands. Note by the secretariat	CC/ERT/2008/10	8 October 2008

EXPERT REVIEW TEAM INITIAL REVIEW REPORTS FORWARDED TO THE COMPLIANCE COMMITTEE UNDER SECTION VI, PARAGRAPH 3, OF THE ANNEX TO DECISION 27/CMP.1

Title	Document No.	Date
Report of the review of the initial report of Slovakia. Note by the secretariat	CC/ERT/IRR/2007/6	2 October 2007
Report of the review of the initial report of the United Kingdom of Great Britain and Northern Ireland. Note by the secretariat	CC/ERT/IRR/2007/7	2 October 2007
Report of the review of the initial report of Ireland. Note by the secretariat	CC/ERT/IRR/2007/8	9 October 2007
Report of the review of the initial report of the Czech Republic. Note by the secretariat	CC/ERT/IRR/2007/9	16 October 2007
Report of the review of the initial report of the Kingdom of Norway. Note by the secretariat	CC/ERT/IRR/2007/10	16 October 2007
Report of the review of the initial report of Lithuania. Note by the secretariat	CC/ERT/IRR/2007/11	31 October 2007
Report of the review of the initial report of the Netherlands. Note by the secretariat	CC/ERT/IRR/2007/12	2 November 2007
Report of the review of the initial report of Denmark. Note by the secretariat	CC/ERT/IRR/2007/13	2 November 2007
Report of the review of the initial report of Spain. Note by the secretariat	CC/ERT/IRR/2007/14	8 November 2007
Report of the review of the initial report of Estonia. Note by the secretariat	CC/ERT/IRR/2007/15	15 November 2007

Title	Document No.	Date
Report of the review of the initial report of Slovenia. Note by the secretariat	CC/ERT/IRR/2007/16	15 November 2007
Report of the review of the initial report of Portugal. Note by the secretariat	CC/ERT/IRR/2007/17	15 November 2007
Report of the review of the initial report of Sweden. Note by the secretariat	CC/ERT/IRR/2007/18	19 November 2007
Report of the review of the initial report of Finland. Note by the secretariat	CC/ERT/IRR/2007/19	29 November 2007
Report of the review of the initial report of France. Note by the secretariat	CC/ERT/IRR/2007/20	29 November 2007
Report of the review of the initial report of Italy. Note by the secretariat	CC/ERT/IRR/2007/21	10 December 2007
Report of the review of the initial report of Belgium. Note by the secretariat	CC/ERT/IRR/2007/22	12 December 2007
Report of the review of the initial report of Ukraine. Note by the secretariat	CC/ERT/IRR/2007/23	13 December 2007
Report of the review of the initial report of Germany. Note by the secretariat	CC/ERT/IRR/2007/24	13 December 2007
Report of the review of the initial report of Liechtenstein. Note by the secretariat	CC/ERT/IRR/2007/25	14 December 2007
Report of the review of the initial report of Luxembourg. Note by the secretariat	CC/ERT/IRR/2007/26	14 December 2007
Report of the review of the initial report of Latvia. Note by the secretariat	CC/ERT/IRR/2007/27	14 December 2007
Report of the review of the initial report of Poland. Note by the secretariat	CC/ERT/IRR/2007/28	14 December 2007
Report of the review of the initial report of Iceland. Note by the secretariat	CC/ERT/IRR/2008/1	11 January 2008
Report of the review of the initial report of the European Community. Note by the secretariat	CC/ERT/IRR/2008/2	15 February 2008
Report of the review of the initial report of the Russian Federation. Note by the secretariat	CC/ERT/IRR/2008/3	18 February 2008
Report of the review of the initial report of Monaco. Note by the secretariat	CC/ERT/IRR/2008/5	24 April 2008

Title	Document No.	Date
Report of the review of the initial report of Bulgaria. Note by the secretariat	CC/ERT/IRR/2008/6	9 May 2008
Report of the review of the initial report of Romania. Note by the secretariat	CC/ERT/IRR/2008/7	16 May 2008

EXPERT REVIEW TEAM ANNUAL STATUS REPORTS OF GREENHOUSE GAS INVENTORIES FORWARDED TO THE COMPLIANCE COMMITTEE UNDER SECTION VI, PARAGRAPH 3, OF THE ANNEX TO DECISION 27/CMP.1 AND PARAGRAPH 49 OF THE ANNEX TO DECISION 22/CMP.1

Title	Document No.	Date
Annual status report of the greenhouse gas inventory of Romania. Note by the secretariat	CC/ERT/ASR/2008/1	29 May 2008
Annual status report of the greenhouse gas inventory of Greece. Note by the secretariat	CC/ERT/ASR/2008/2	30 May 2008
Annual status report of the greenhouse gas inventory of Hungary. Note by the secretariat	CC/ERT/ASR/2008/3	30 May 2008
Annual status report of the greenhouse gas inventory of Liechtenstein. Note by the secretariat	CC/ERT/ASR/2008/4	30 May 2008
Annual status report of the greenhouse gas inventory of Lithuania. Note by the secretariat	CC/ERT/ASR/2008/5	30 May 2008
Annual status report of the greenhouse gas inventory of Austria. Note by the secretariat	CC/ERT/ASR/2008/6	4 June 2008
Annual status report of the greenhouse gas inventory of Belgium. Note by the secretariat	CC/ERT/ASR/2008/7	4 June 2008
Annual status report of the greenhouse gas inventory of the Czech Republic. Note by the secretariat	CC/ERT/ASR/2008/8	4 June 2008
Annual status report of the greenhouse gas inventory of the Netherlands. Note by the secretariat	CC/ERT/ASR/2008/9	4 June 2008
Annual status report of the greenhouse gas inventory of Sweden. Note by the secretariat	CC/ERT/ASR/2008/10	4 June 2008
Annual status report of the greenhouse gas inventory of Portugal. Note by the secretariat	CC/ERT/ASR/2008/11	5 June 2008
Annual status report of the greenhouse gas inventory of Slovenia. Note by the secretariat	CC/ERT/ASR/2008/12	6 June 2008
Annual status report of the greenhouse gas inventory of Switzerland. Note by the secretariat	CC/ERT/ASR/2008/13	6 June 2008

Title	Document No.	Date
Annual status report of the greenhouse gas inventory of Estonia. Note by the secretariat	CC/ERT/ASR/2008/14	6 June 2008
Annual status report of the greenhouse gas inventory of the United Kingdom of Great Britain and Northern Ireland. Note by the secretariat	CC/ERT/ASR/2008/15	6 June 2008
Annual status report of the greenhouse gas inventory of Bulgaria. Note by the secretariat	CC/ERT/ASR/2008/16	6 June 2008
Annual status report of the greenhouse gas inventory of New Zealand. Note by the secretariat	CC/ERT/ASR/2008/17	20 June 2008
Annual status report of the greenhouse gas inventory of France. Note by the secretariat	CC/ERT/ASR/2008/18	20 June 2008
Annual status report of the greenhouse gas inventory of Ireland. Note by the secretariat	CC/ERT/ASR/2008/19	20 June 2008
Annual status report of the greenhouse gas inventory of Italy. Note by the secretariat	CC/ERT/ASR/2008/20	20 June 2008
Annual status report of the greenhouse gas inventory of Latvia. Note by the secretariat	CC/ERT/ASR/2008/21	20 June 2008
Annual status report of the greenhouse gas inventory of Denmark. Note by the secretariat	CC/ERT/ASR/2008/22	20 June 2008
Annual status report of the greenhouse gas inventory of Ukraine. Note by the secretariat	CC/ERT/ASR/2008/23	23 June 2008
Annual status report of the greenhouse gas inventory of Germany. Note by the secretariat	CC/ERT/ASR/2008/24	23 June 2008
Annual status report of the greenhouse gas inventory of the European Community. Note by the secretariat	CC/ERT/ASR/2008/25	23 June 2008
Annual status report of the greenhouse gas inventory of Iceland. Note by the secretariat	CC/ERT/ASR/2008/26	23 June 2008
Annual status report of the greenhouse gas inventory of Japan. Note by the secretariat	CC/ERT/ASR/2008/27	23 June 2008
Annual status report of the greenhouse gas inventory of Norway. Note by the secretariat	CC/ERT/ASR/2008/28	23 June 2008
Annual status report of the greenhouse gas inventory of Poland. Note by the secretariat	CC/ERT/ASR/2008/29	23 June 2008
Annual status report of the greenhouse gas inventory of Canada. Note by the secretariat	CC/ERT/ASR/2008/30	23 June 2008

Title	Document No.	Date
Annual status report of the greenhouse gas inventory of the Russian Federation. Note by the secretariat	CC/ERT/ASR/2008/31	25 June 2008
Annual status report of the greenhouse gas inventory of Spain. Note by the secretariat	CC/ERT/ASR/2008/32	25 June 2008
Annual status report of the greenhouse gas inventory of Luxembourg. Note by the secretariat	CC/ERT/ASR/2008/33	25 June 2008
Annual status report of the greenhouse gas inventory of Monaco. Note by the secretariat	CC/ERT/ASR/2008/34	25 June 2008
Annual status report of the greenhouse gas inventory of Belarus. Note by the secretariat	CC/ERT/ASR/2008/35	25 June 2008
Annual status report of the greenhouse gas inventory of Finland. Note by the secretariat	CC/ERT/ASR/2008/36	25 June 2008
Annual status report of the greenhouse gas inventory of Slovakia. Note by the secretariat	CC/ERT/ASR/2008/37	25 June 2008

LIST OF ENFORCEMENT BRANCH DELIBERATION DOCUMENTS WITH RESPECT TO GREECE

Title	Document No.	Date
Report of the review of the initial report of Greece. Note by the secretariat	CC/ERT/IRR/2007/29	31 December 2007
Report of the review of the initial report of Greece. Note by the secretariat	CC-2007-1-1/Greece/EB	8 January 2008
Decision on preliminary examination	CC-2007-1-2/Greece/EB	22 January 2008
Expert advice: Greece	CC-2007-1-3/Greece/EB	8 February 2008
Acknowledgment from Greece and request for hearing	CC-2007-1-4/Greece/EB	11 February 2008
Written submission of Greece	CC-2007-1-5/Greece/EB	26 February 2008
Preliminary finding	CC-2007-1-6/Greece/EB	6 March 2008
Further written submission of Greece	CC-2007-1-7/Greece/EB	9 April 2008
Final decision	CC-2007-1-8/Greece/EB	17 April 2008
Plan pursuant to final decision	CC-2007-1-9/Greece/EB	17 July 2008
Decision on the review and assessment of the plan submitted under paragraph 2 of section XV	CC-2007-1-10/Greece/EB	7 October 2008

LIST OF ENFORCEMENT BRANCH DELIBERATION DOCUMENTS WITH RESPECT TO CANADA

Title	Document No.	Date
Report of the review of the initial report of Canada. Note by the secretariat	CC/ERT/IRR/2008/4	14 April 2008
Report of the review of the initial report of Canada. Note by the secretariat	CC-2008-1-1/Canada/EB	17 April 2008
Decision on preliminary examination	CC-2008-1-2/Canada/EB	2 May 2008
Expert advice: Canada	CC-2008-1-3/Canada/EB	21 May 2008
Acknowledgment from Canada and request for hearing	CC-2008-1-4/Canada/EB	22 May 2008
Written submission of Canada	CC-2008-1-5/Canada/EB	6 June 2008
Decision not to proceed further	CC-2008-1-6/Canada/EB	15 June 2008
Document entitled "Further Written Submission of Canada"	CC-2008-1-7/Canada/EB	14 July 2008
Information note	Ref: CC-2008-1/Canada/EB	1 August 2008

Annexe III

[ENGLISH ONLY]

**Decisions taken by the enforcement branch of the
Compliance Committee with respect to Greece****DECISION ON PRELIMINARY EXAMINATION****Party concerned: Greece*

1. On 28 December 2007, the secretariat received a question of implementation indicated in the report of the expert review team regarding the review of the initial report of Greece and contained in document FCCC/IRR/2007/GRC. In accordance with section VI, paragraph 1¹ and rule 10, paragraph 2, of the Rules of procedure of the Compliance Committee,² the question of implementation was deemed received by the Compliance Committee on 31 December 2007.
2. The bureau of the Compliance Committee allocated the question of implementation to the enforcement branch on 7 January 2008 under section VII, paragraph 1, in accordance with section V, paragraph 4(b) and (c) and rule 19, paragraph 1, of the Rules of procedure.
3. On 8 January 2008, the secretariat notified the members and alternate members of the enforcement branch of the question of implementation, in accordance with rule 19, paragraph 2 of the Rules of procedure, and of its allocation to the enforcement branch.
4. The question of implementation relates to compliance with the guidelines for national systems under Article 5, paragraph 1, of the Kyoto Protocol (decision 19/CMP.1) and the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol (decision 15/CMP.1). In particular, the expert review team concluded that the maintenance of the institutional and procedural arrangements; the arrangements for the technical competence of the staff; and the capacity for timely performance of the national system is an unresolved problem.³
5. The question is related to the eligibility requirement referred to in paragraph 31(c), annex to decision 3/CMP.1, paragraph 21(c), annex to decision 9/CMP.1 and paragraph 2(c), annex to decision 11/CMP.1. Consequently, the expedited procedures as contained in section X apply.
6. Having conducted the preliminary examination in accordance with section VII, paragraph 2, and section X, paragraph 1(a), the enforcement branch decides to proceed. The enforcement branch in particular notes that the question of implementation raised in the report by the expert review team of the review of the initial report of the Party concerned as indicated in paragraph 4 above is supported by sufficient evidence, is not *de minimis* or ill-founded, and is based on the requirements of the Kyoto Protocol.
7. In accordance with section VIII, paragraph 5, and rule 21 of the Rules of procedure, the enforcement branch agrees to seek expert advice on the content and basis of the report of the expert review team contained in document FCCC/IRR/2007/GRC and on issues related to any decision of the enforcement branch with regard to the indicated question of implementation.

* Enforcement branch of the Compliance Committee, CC-2007-1-2/Greece/EB, 22 January 2008.

¹ All section references in this document refer to the Procedures and mechanisms relating to compliance contained in the annex to decision 27/CMP.1.

² Contained in the annex to decision 4/CMP.2.

³ See paragraph 244 and section II.A of the report of the expert review team contained in document FCCC/IRR/2007/GRC.

Members present: René J.M. LEFEBER, Wei SU, Amjad ABDULLA, Raúl ESTRADA-OYUELA, Oleg SHAMANOV, Sebastian OBERTHÜR, Stephan MICHEL, Bernard NAMANYA, Ilhomjon RAJABOV

Members voting for: René J.M. LEFEBER, Wei SU, Amjad ABDULLA, Raúl ESTRADA-OYUELA, Oleg SHAMANOV, Sebastian OBERTHÜR, Stephan MICHEL, Bernard NAMANYA, Ilhomjon RAJABOV

Members voting against: none

EXPERT ADVICE: GREECE*

1. The enforcement branch agreed to seek expert advice on the content and basis of the report of the expert review team contained in document FCCC/IRR/2007/GRC and on issues related to any decision of the enforcement branch with regard to the indicated question of implementation (CC-2007-1-2/Greece/EB, paragraph 7). The branch intends to receive the expert advice during its meeting to conduct a possible hearing (if so requested by the Party concerned) as well as deliberate, elaborate and adopt a preliminary finding. This meeting is scheduled to take place 19-21 February or 4-6 March 2008 (to be determined).

2. Experts from whom advice is sought are invited to be available on all three days. The enforcement branch will receive expert advice in accordance with the procedures and mechanisms relating to compliance contained in the annex to decision 27/CMP.1 and the Rules of procedure of the Compliance Committee contained in the annex to decision 4/CMP.2.

3. **Experts to be invited:**

- Mr. William Kojo Agyemang-Bonsu (Ghana)
- Mr. Paul Filliger (Switzerland)
- Mr. Teemu Santeri Oinonen (Finland)
- Ms. Tatiana Tugui (Moldova)

Indicative list of questions:

4. The overall question of implementation to be addressed relates to compliance with the guidelines for national systems under Article 5, paragraph 1 of the Kyoto Protocol (decision 19/CMP.1) and the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol (decision 15/CMP.1). In particular, the expert review team concluded that the maintenance of the institutional and procedural arrangements; the arrangements for the technical competence of the staff; and the capacity for timely performance of the national system is an unresolved problem.¹

5. In the context of this question of implementation, the enforcement branch will in particular seek the opinion of and ask questions to the invited experts on the following questions:

- a. What are the elements of a national system referred to in Article 5, paragraph 1, of the Kyoto Protocol and the relevant requirements under the Kyoto Protocol?
- b. What are the nature and scope of the problems identified in the report of the review of the initial report of Greece with respect to compliance with the guidelines for national systems under Article 5, paragraph 1, of the Kyoto Protocol (decision 19/CMP.1) and the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol (decision 15/CMP.1)?
- c. In addition to the three points explicitly mentioned in the last sentence of paragraph 244 of the report, are there other problematic aspects of the Greek national system with respect to compliance with the guidelines for national systems under Article 5, paragraph 1, of the Kyoto Protocol (decision 19/CMP.1) and the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol (decision 15/CMP.1)?

* Enforcement branch of the Compliance Committee, CC-2007-1-3/Greece/EB, 8 February 2008.

¹ See paragraph 244 and section II.A of the report of the expert review team contained in document FCCC/IRR/2007/GRC.

- d. What are the methodologies that the ERT has applied in assessing the national system of Greece and the preparation of related information by Greece and are these methodologies uniformly applied by various ERTs, including the following more specific questions:
- What exactly is the nature of the problems identified with respect to the maintenance of the institutional and procedural arrangements? Are these problems related to the existing Greek domestic administrative laws and regulations?
 - Which are the required standards for the technical competence of the staff and how are they observed in other Annex I Parties that you are familiar with?
 - What is the meaning of “capacity for timely performance”, which are the standards to measure that capacity and how is this capacity ensured in other Annex I Parties that you are familiar with?
- e. What action should be taken and which information should be submitted by Greece to resolve the question of implementation?
- f. What would be required to review the implementation of any action Greece may have taken since the ERT conducted the review or may take in the future with respect to the question of implementation?

6. The enforcement branch may put further more detailed follow-up questions related to the indicated areas to the invited experts during the meeting at which expert advice is received or considered. The branch may also request experts to provide advice on the assessment of any new information Greece may submit on action taken with respect to the question of implementation since the ERT conducted the review.

PRELIMINARY FINDING*

Party concerned: Greece

In accordance with the Procedures and mechanisms relating to compliance contained in the annex to decision 27/CMP.1 and adopted under Article 18 of the Kyoto Protocol and the Rules of procedure of the Compliance Committee,¹ the enforcement branch adopts the following preliminary finding:

BACKGROUND

1. On 28 December 2007, the secretariat received a question of implementation indicated in the report of the expert review team regarding the review of the initial report of Greece and contained in document FCCC/IRR/2007/GRC. In accordance with paragraph 1 of section VI² and paragraph 2 of rule 10 of the Rules of procedure, the question of implementation was deemed received by the Compliance Committee on 31 December 2007.
2. The bureau of the Compliance Committee allocated the question of implementation to the enforcement branch on 7 January 2008 under paragraph 1 of section VII, in accordance with paragraph 4(b) and (c) of section V and paragraph 1 of rule 19 of the Rules of procedure.
3. On 8 January 2008, the secretariat notified the members and alternate members of the enforcement branch of the question of implementation, in accordance with paragraph 2 of rule 19 of the Rules of procedure, and of its allocation to the enforcement branch.
4. The enforcement branch decided in accordance with paragraph 2 of section VII to proceed with the question of implementation (CC-2007-1-2/Greece/EB). The question of implementation was identified as contained in paragraph 244 of document FCCC/IRR/2007/GRC.
5. The question of implementation relates to compliance with the guidelines for national systems under Article 5, paragraph 1, of the Kyoto Protocol (decision 19/CMP.1) and the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol (decision 15/CMP.1) (hereinafter referred to as “the guidelines”). In particular, it relates to the unresolved problem of the maintenance of the institutional and procedural arrangements, the arrangements for the technical competence of the staff, and the capacity for timely performance of the national system.³
6. The question furthermore relates to the eligibility requirement under Articles 6, 12 and 17 of the Kyoto Protocol to have in place a national system in accordance with Article 5, paragraph 1, of the Kyoto Protocol and the requirements in the guidelines decided thereunder.⁴ Consequently, the expedited procedures as contained in section X apply.
7. On 8 February 2008, the enforcement branch agreed to invite four experts on national systems drawn from the UNFCCC roster of experts to provide advice to the branch. Two of these experts belonged to the expert review team that reviewed Greece’s initial report (CC-2007-1-3/Greece/EB).

* Enforcement branch of the Compliance Committee, CC-2007-1-6/Greece/EB, 6 March 2008.

¹ All references to the Rules of procedure refer to the rules contained in the annex to decision 4/CMP.2.

² All section references in this document refer to the Procedures and mechanisms relating to compliance contained in the annex to decision 27/CMP.1.

³ See paragraph 244 and section II.A of the report of the expert review team contained in document FCCC/IRR/2007/GRC.

⁴ See paragraph 31(c) of the annex to decision 3/CMP.1, Modalities and procedures for a clean development mechanism as defined in Article 12 of the Kyoto Protocol; paragraph 21(c) of the annex to decision 9/CMP.1, Guidelines for the implementation of Article 6 of the Kyoto Protocol; and paragraph 2(c) of the annex to decision 11/CMP.1, Modalities, rules and guidelines for emissions trading under Article 17 of the Kyoto Protocol.

8. On 11 February 2008, the enforcement branch received a request for a hearing from Greece (CC-2007-1-4/Greece/EB), which also indicated that Greece intended to make a written submission under paragraph 1(b) of section X. On 26 February 2008, the enforcement branch received a written submission from Greece in accordance with paragraph 1 of section IX, paragraph 1(b) of section X, and rule 17 of the Rules of procedure (CC-2007-1-5/Greece/EB).

9. As requested by Greece on 11 February 2008, a hearing was held from 4 to 5 March 2008 in accordance with paragraph 2 of section IX and paragraph 1(c) of section X. The hearing formed part of the meeting of the enforcement branch that was held from 4 to 6 March 2008 to consider the adoption of a preliminary finding or a decision not to proceed. During the meeting, the enforcement branch received advice from the invited experts.

10. In its deliberations the enforcement branch considered the report of the expert review team related to Greece contained in document FCCC/IRR/2007/GRC, the comments of Greece on the report of the expert review team contained in document CC-2007-1-1/Greece/EB, the written submission of Greece contained in document CC-2007-1-5/Greece/EB, information presented by Greece during the hearing, advice from experts invited by the branch and other information and documentation presented during the hearing. No competent intergovernmental or non-governmental organization provided any information under paragraph 4 of section VIII.

CONCLUSIONS AND REASONS

11. According to the information submitted and presented by Greece, the review of the initial report of Greece coincided with a transitional period of the national system of Greece. During the first half of 2007, the technical responsibility for the inventory preparation moved from a sub-contracted entity to the Ministry for the Environment, Physical Planning and Public Works (MINENV). By the beginning of 2008, part of this technical responsibility had been assigned, on a contract basis, to another entity. Throughout this timeframe, the Ministry retained overall responsibility for Greece's national system.

12. In relation to the first transition, advice received from the invited experts from the expert review team that reviewed Greece's initial report pointed to three issues of particular concern that arose from the review that coincided with the transition in the national system of Greece:

- (a) A lack of clarity about the nature of the institutional and procedural arrangements for ensuring the continuity of the inventory preparation process (including the division of responsibilities between actors involved in the implementation of the national system);
- (b) A lack of information about the transfer of knowledge from the sub-contracted entity with technical responsibility for the inventory preparation to the new team; and
- (c) The lack of a possibility for the expert review team to meet with the staff assuming technical responsibility for inventory preparation to assess the arrangements for technical competence of this staff.

These same concerns that relate to the ability of Greece to maintain the necessary institutional and technical capacity arise in connection with the second transition.

13. During the hearing, Greece presented information on its new national system that contributed to the better understanding by the enforcement branch of the situation with respect to the question of implementation. Greece reported that it has made significant progress in the transition to its new national system, in particular with respect to clarifying institutional and procedural arrangements, dividing responsibilities between the actors involved in the implementation of its new national system, enhancing capacity and implementing other improvements. While the enforcement branch acknowledged the

progress reported, questions remained regarding, in particular, the arrangements for the technical competence of the staff, the capacity for timely performance of the national system and the maintenance of the national system through transitions.

14. During the hearing, the enforcement branch took note of the fact that the 2005 national inventory for Greece, due on 15 April 2007, was submitted on 23 November 2007. It also received expert advice that identified the need for an in-country review on the basis of an annual inventory report generated by the new national system in order for the enforcement branch to assess compliance with the guidelines.

15. Based on the information submitted and presented, the enforcement branch concludes that the unresolved problem referred to in paragraph 5 above resulted in non-compliance with the guidelines at the time of finalisation of the report of the review of the initial report of Greece.

16. The information submitted and presented has not been sufficient for the enforcement branch to conclude that the question of implementation has now been fully resolved. Additional information is required that specifically addresses whether and how the national system is maintained through transitions. The enforcement branch agrees with the expert advice provided that a further in-country review of Greece's new national system, in conjunction with a review of an annual inventory report generated by this national system, is required for the enforcement branch to assess present compliance with the guidelines.

FINDING AND CONSEQUENCES

17. The enforcement branch determines that Greece is not in compliance with the guidelines for national systems under Article 5, paragraph 1, of the Kyoto Protocol (decision 19/CMP.1) and the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol (decision 15/CMP.1). Hence, Greece does not yet meet the eligibility requirement under Articles 6, 12 and 17 of the Kyoto Protocol to have in place a national system in accordance with Article 5, paragraph 1, of the Kyoto Protocol and the requirements in the guidelines decided thereunder.

18. In accordance with section XV, the enforcement branch applies the following consequences:

- (a) Greece is declared to be in non-compliance.
- (b) Greece shall develop a plan referred to in paragraph 1 of section XV and submit it within three months to the enforcement branch in accordance with paragraph 2 of section XV. The plan should demonstrate measures to ensure the maintenance of the national system through transitions and include appropriate administrative arrangements to support an in-country review by the expert review team of the new national system of Greece, coordinated by the secretariat in conjunction with a review of an annual inventory report generated by this national system.
- (c) Greece is not eligible to participate in the mechanisms under Articles 6, 12 and 17 of the Protocol pending the resolution of the question of implementation.

These findings and consequences take effect upon confirmation by a final decision of the enforcement branch.

Members participating in the consideration of the preliminary finding:

Johanna G. Susanna DE WET, Raúl ESTRADA OYUELA, René LEFEBER, Mary Jane MACE (alternate member serving as member), Stephan MICHEL, Bernard NAMANYA, Sebastian OBERTHÜR, Ilhomjon RAJABOV, Oleg SHAMANOV

Members participating in the consideration, elaboration and the adoption of the preliminary finding:

Johanna G. Susanna DE WET, Patricia ITURREGUI BYRNE (alternate member serving as member), René LEFEBER, Mary Jane MACE (alternate member serving as member), Stephan MICHEL, Bernard NAMANYA, Sebastian OBERTHÜR, Ilhomjon RAJABOV, Oleg SHAMANOV

This decision was adopted by consensus in Bonn on 6 March 2008.

FINAL DECISION*

Party concerned: Greece

In accordance with the Procedures and mechanisms relating to compliance contained in the annex to decision 27/CMP.1 and adopted under Article 18 of the Kyoto Protocol and pursuant to the Rules of procedure of the Compliance Committee,¹ the enforcement branch adopts the following final decision:

BACKGROUND

1. On 6 March 2008, the enforcement branch adopted a preliminary finding of non-compliance with respect to Greece (CC-2007-1-6/Greece/EB). On 8 April 2008, the enforcement branch received a further written submission from Greece in accordance with paragraph 7 of section IX,² paragraph 1(e) of section X and rule 17 of the Rules of procedure (CC-2007-1-7/Greece/EB). The enforcement branch considered this further written submission in elaborating and adopting a final decision at its meeting held from 16 to 17 April 2008.
2. In accordance with paragraph 1(d) of rule 22 of the Rules of procedure, the enforcement branch confirms that the Party concerned had an opportunity to comment in writing on all information considered.

CONCLUSIONS AND REASONS

3. After full consideration of the information contained in the further written submission of Greece, the enforcement branch concludes that the information submitted is insufficient to alter the preliminary finding of this branch. In this respect, the branch notes that the timely provision of the annual inventory submission for Greece, due on 15 April 2008, by itself does not demonstrate compliance with the guidelines for national systems under Article 5, paragraph 1, of the Kyoto Protocol, in particular paragraph 10 of the annex to decision 19/CMP.1, and the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol contained in the annex to decision 15/CMP.1. The branch further observes that the initial report of Greece has been reviewed under the guidelines for review under Article 8 of the Kyoto Protocol (decision 22/CMP.1) that provide for a thorough and comprehensive technical assessment of all aspects of the implementation by a Party of the Kyoto Protocol.

DECISION

4. The branch confirms, in accordance with paragraph 8 of section IX, paragraph 1(f) of section X, and rule 22 of the Rules of procedure, the preliminary finding annexed hereto, which shall be deemed to form an integral part of this final decision.
5. The consequences set out in paragraph 18 of the preliminary finding shall take effect forthwith, and the consequences set out in paragraph 18(c) of the preliminary finding shall be applied taking into account the guidelines adopted under Articles 6, 12 and 17 of the Protocol.

* Enforcement branch of the Compliance Committee, CC-2007-1-8/Greece/EB, 17 April 2008.

¹ All references to the Rules of procedure refer to the rules contained in the annex to decision 4/CMP.2.

² All section references in this document refer to the Procedures and mechanisms relating to compliance contained in the annex to decision 27/CMP.1.

Members participating in the consideration of the final decision:

Johanna G. Susanna DE WET, Raúl ESTRADA OYUELA, René LEFEBER, Mary Jane MACE (alternate member serving as member), Stephan MICHEL, Gladys Kenabetsho RAMOTHWA (alternate member serving as member), Sebastian OBERTHÜR, Ilhomjon RAJABOV, Oleg SHAMANOV

Members participating in the consideration, elaboration and the adoption of the final decision:

Johanna G. Susanna DE WET, Raúl ESTRADA OYUELA, René LEFEBER, Mary Jane MACE (alternate member serving as member), Stephan MICHEL, Gladys Kenabetsho RAMOTHWA (alternate member serving as member), Sebastian OBERTHÜR, Ilhomjon RAJABOV, Oleg SHAMANOV

Members voting for:

Johanna G. Susanna DE WET, Raúl ESTRADA OYUELA, Mary Jane MACE (alternate member serving as member), Stephan MICHEL, Gladys Kenabetsho RAMOTHWA (alternate member serving as member), Sebastian OBERTHÜR, Ilhomjon RAJABOV, Oleg SHAMANOV

Members voting against:

René LEFEBER

This decision was adopted in Bonn on 17 April 2008.

Annex**PRELIMINARY FINDING***

Party concerned: Greece

In accordance with the Procedures and mechanisms relating to compliance contained in the annex to decision 27/CMP.1 and adopted under Article 18 of the Kyoto Protocol and the Rules of procedure of the Compliance Committee,¹ the enforcement branch adopts the following preliminary finding:

BACKGROUND

1. On 28 December 2007, the secretariat received a question of implementation indicated in the report of the expert review team regarding the review of the initial report of Greece and contained in document FCCC/IRR/2007/GRC. In accordance with paragraph 1 of section VI² and paragraph 2 of rule 10 of the Rules of procedure, the question of implementation was deemed received by the Compliance Committee on 31 December 2007.
2. The bureau of the Compliance Committee allocated the question of implementation to the enforcement branch on 7 January 2008 under paragraph 1 of section VII, in accordance with paragraph 4(b) and (c) of section V and paragraph 1 of rule 19 of the Rules of procedure.
3. On 8 January 2008, the secretariat notified the members and alternate members of the enforcement branch of the question of implementation, in accordance with paragraph 2 of rule 19 of the Rules of procedure, and of its allocation to the enforcement branch.
4. The enforcement branch decided in accordance with paragraph 2 of section VII to proceed with the question of implementation (CC-2007-1-2/Greece/EB). The question of implementation was identified as contained in paragraph 244 of document FCCC/IRR/2007/GRC.
5. The question of implementation relates to compliance with the guidelines for national systems under Article 5, paragraph 1, of the Kyoto Protocol (decision 19/CMP.1) and the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol (decision 15/CMP.1) (hereinafter referred to as “the guidelines”). In particular, it relates to the unresolved problem of the maintenance of the institutional and procedural arrangements, the arrangements for the technical competence of the staff, and the capacity for timely performance of the national system.³
6. The question furthermore relates to the eligibility requirement under Articles 6, 12 and 17 of the Kyoto Protocol to have in place a national system in accordance with Article 5, paragraph 1, of the Kyoto Protocol and the requirements in the guidelines decided thereunder.⁴ Consequently, the expedited procedures as contained in section X apply.
7. On 8 February 2008, the enforcement branch agreed to invite four experts on national systems drawn from the UNFCCC roster of experts to provide advice to the branch. Two of these experts belonged to the expert review team that reviewed Greece’s initial report (CC-2007-1-3/Greece/EB).

* Enforcement branch of the Compliance Committee, CC-2007-1-6/Greece/EB, 6 March 2008.

¹ All references to the Rules of procedure refer to the rules contained in the annex to decision 4/CMP.2.

² All section references in this document refer to the Procedures and mechanisms relating to compliance contained in the annex to decision 27/CMP.1.

³ See paragraph 244 and section II.A of the report of the expert review team contained in document FCCC/IRR/2007/GRC.

⁴ See paragraph 31(c) of the annex to decision 3/CMP.1, Modalities and procedures for a clean development mechanism as defined in Article 12 of the Kyoto Protocol; paragraph 21(c) of the annex to decision 9/CMP.1, Guidelines for the implementation of Article 6 of the Kyoto Protocol; and paragraph 2(c) of the annex to decision 11/CMP.1, Modalities, rules and guidelines for emissions trading under Article 17 of the Kyoto Protocol.

8. On 11 February 2008, the enforcement branch received a request for a hearing from Greece (CC-2007-1-4/Greece/EB), which also indicated that Greece intended to make a written submission under paragraph 1(b) of section X. On 26 February 2008, the enforcement branch received a written submission from Greece in accordance with paragraph 1 of section IX, paragraph 1(b) of section X, and rule 17 of the Rules of procedure (CC-2007-1-5/Greece/EB).

9. As requested by Greece on 11 February 2008, a hearing was held from 4 to 5 March 2008 in accordance with paragraph 2 of section IX and paragraph 1(c) of section X. The hearing formed part of the meeting of the enforcement branch that was held from 4 to 6 March 2008 to consider the adoption of a preliminary finding or a decision not to proceed. During the meeting, the enforcement branch received advice from the invited experts.

10. In its deliberations the enforcement branch considered the report of the expert review team related to Greece contained in document FCCC/IRR/2007/GRC, the comments of Greece on the report of the expert review team contained in document CC-2007-1-1/Greece/EB, the written submission of Greece contained in document CC-2007-1-5/Greece/EB, information presented by Greece during the hearing, advice from experts invited by the branch and other information and documentation presented during the hearing. No competent intergovernmental or non-governmental organization provided any information under paragraph 4 of section VIII.

CONCLUSIONS AND REASONS

11. According to the information submitted and presented by Greece, the review of the initial report of Greece coincided with a transitional period of the national system of Greece. During the first half of 2007, the technical responsibility for the inventory preparation moved from a sub-contracted entity to the Ministry for the Environment, Physical Planning and Public Works (MINENV). By the beginning of 2008, part of this technical responsibility had been assigned, on a contract basis, to another entity. Throughout this timeframe, the Ministry retained overall responsibility for Greece's national system.

12. In relation to the first transition, advice received from the invited experts from the expert review team that reviewed Greece's initial report pointed to three issues of particular concern that arose from the review that coincided with the transition in the national system of Greece:

- (a) A lack of clarity about the nature of the institutional and procedural arrangements for ensuring the continuity of the inventory preparation process (including the division of responsibilities between actors involved in the implementation of the national system);
- (b) A lack of information about the transfer of knowledge from the sub-contracted entity with technical responsibility for the inventory preparation to the new team; and
- (c) The lack of a possibility for the expert review team to meet with the staff assuming technical responsibility for inventory preparation to assess the arrangements for technical competence of this staff.

These same concerns that relate to the ability of Greece to maintain the necessary institutional and technical capacity arise in connection with the second transition.

13. During the hearing, Greece presented information on its new national system that contributed to the better understanding by the enforcement branch of the situation with respect to the question of implementation. Greece reported that it has made significant progress in the transition to its new national system, in particular with respect to clarifying institutional and procedural arrangements, dividing responsibilities between the actors involved in the implementation of its new national system, enhancing capacity and implementing other improvements. While the enforcement branch acknowledged the progress reported, questions remained regarding, in particular, the arrangements for the technical competence of the staff, the capacity for timely performance of the national system and the maintenance of the national system through transitions.

14. During the hearing, the enforcement branch took note of the fact that the 2005 national inventory for Greece, due on 15 April 2007, was submitted on 23 November 2007. It also received expert advice that identified the need for an in-country review on the basis of an annual inventory report generated by the new national system in order for the enforcement branch to assess compliance with the guidelines.

15. Based on the information submitted and presented, the enforcement branch concludes that the unresolved problem referred to in paragraph 5 above resulted in non-compliance with the guidelines at the time of finalisation of the report of the review of the initial report of Greece.

16. The information submitted and presented has not been sufficient for the enforcement branch to conclude that the question of implementation has now been fully resolved. Additional information is required that specifically addresses whether and how the national system is maintained through transitions. The enforcement branch agrees with the expert advice provided that a further in-country review of Greece's new national system, in conjunction with a review of an annual inventory report generated by this national system, is required for the enforcement branch to assess present compliance with the guidelines.

FINDING AND CONSEQUENCES

17. The enforcement branch determines that Greece is not in compliance with the guidelines for national systems under Article 5, paragraph 1, of the Kyoto Protocol (decision 19/CMP.1) and the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol (decision 15/CMP.1). Hence, Greece does not yet meet the eligibility requirement under Articles 6, 12 and 17 of the Kyoto Protocol to have in place a national system in accordance with Article 5, paragraph 1, of the Kyoto Protocol and the requirements in the guidelines decided thereunder.

18. In accordance with section XV, the enforcement branch applies the following consequences:

- (d) Greece is declared to be in non-compliance.
- (e) Greece shall develop a plan referred to in paragraph 1 of section XV and submit it within three months to the enforcement branch in accordance with paragraph 2 of section XV. The plan should demonstrate measures to ensure the maintenance of the national system through transitions and include appropriate administrative arrangements to support an in-country review by the expert review team of the new national system of Greece, coordinated by the secretariat in conjunction with a review of an annual inventory report generated by this national system.
- (f) Greece is not eligible to participate in the mechanisms under Articles 6, 12 and 17 of the Protocol pending the resolution of the question of implementation.

19. These findings and consequences take effect upon confirmation by a final decision of the enforcement branch.

Members participating in the consideration of the preliminary finding:

Johanna G. Susanna DE WET, Raúl ESTRADA OYUELA, René LEFEBER, Mary Jane MACE (alternate member serving as member), Stephan MICHEL, Bernard NAMANYA, Sebastian OBERTHÜR, Ilhomjon RAJABOV, Oleg SHAMANOV

Members participating in the consideration, elaboration and the adoption of the preliminary finding:

Johanna G. Susanna DE WET, Patricia ITURREGUI BYRNE (alternate member serving as member), René LEFEBER, Mary Jane MACE (alternate member serving as member), Stephan MICHEL, Bernard NAMANYA, Sebastian OBERTHÜR, Ilhomjon RAJABOV, Oleg SHAMANOV

This decision was adopted by consensus in Bonn on 6 March 2008.

DECISION ON THE REVIEW AND ASSESSMENT OF THE PLAN SUBMITTED UNDER PARAGRAPH 2 OF SECTION XV*

Party concerned: Greece

1. The final decision of the enforcement branch taken on 17 April 2008 (document CC-2007-1-8/Greece/EB) gave effect to the consequences contained in paragraph 18 of the preliminary finding of the branch as confirmed by and annexed to the final decision. According to subparagraph 18(b), Greece was to develop a plan referred to in paragraph 1 of section XV¹ and submit it within three months to the enforcement branch in accordance with paragraph 2 of section XV. In particular, the plan was to demonstrate measures to ensure the maintenance of the national system through transitions and include appropriate administrative arrangements to support an in-country review by the expert review team of the national system of Greece, coordinated by the secretariat in conjunction with a review of an annual inventory report generated by this national system.
2. Greece submitted a document entitled "Plan under section XV of annex to decision 27/CMP.1" to the enforcement branch on 16 July 2008 (document CC-2007-1-9/Greece/EB). In accordance with paragraph 2 of section XV, the branch reviewed and assessed the document submitted by Greece during its sixth meeting that was held from 6 to 7 October 2008.
3. The branch concludes that the document does not meet the requirements set out in paragraph 2 of section XV. The information provided on the elements specified in that paragraph, as well as on the particular issues set out in paragraph 18(b) of the annex to the final decision of the enforcement branch, is insufficient to enable the branch to complete the required assessment in accordance with paragraph 2 of section XV.
4. The branch requests Greece to submit, as early as possible, a revised plan which addresses the stipulated elements and issues explicitly, in order to facilitate future decision-making by the branch.

Members and alternate members participating in the consideration and elaboration of the decision:

Mohammad Sa'dat ALAM, Johanna G. Susanna DE WET, Patricia ITURREGUI BYRNE, Kirsten JACOBSEN, Tuomas KUOKKANEN, René LEFEBER, Mary Jane MACE, Stephan MICHEL, Bernard NAMANYA, Ainun NISHAT, Sebastian OBERTHÜR, Gladys K. RAMOTHWA, Ilhomjon RAJABOV, Oleg SHAMANOV, Vladimir TARASENKO

Members participating in the adoption of the decision:

Mohammad Sa'dat ALAM (alternate member serving as member), Johanna G. Susanna DE WET, Patricia ITURREGUI BYRNE (alternate member serving as member), René LEFEBER, Mary Jane MACE (alternate member serving as member), Stephan MICHEL, Bernard NAMANYA, Sebastian OBERTHÜR, Ilhomjon RAJABOV, Oleg SHAMANOV

This decision was adopted by consensus in Bonn on 7 October 2008.

* Enforcement branch of the Compliance Committee, CC-2007-1-10/Greece/EB, 7 October 2008.

¹ All section references in this document refer to the Procedures and mechanisms relating to compliance contained in the annex to decision 27/CMP.1.

Annexe IV

[ENGLISH ONLY]

**Decisions taken by the enforcement branch of the
Compliance Committee with respect to Canada****DECISION ON PRELIMINARY EXAMINATION****Party concerned: Canada*

1. On 11 April 2008, the secretariat received a question of implementation indicated in the report of the expert review team regarding the review of the initial report of Canada and contained in document FCCC/IRR/2007/CAN. In accordance with paragraph 1 of section VI¹ and paragraph 2 of rule 10 of the Rules of procedure of the Compliance Committee,² the question of implementation was deemed received by the Compliance Committee on 14 April 2008.
2. The bureau of the Compliance Committee allocated the question of implementation to the enforcement branch on 16 April 2008 under paragraph 1 of section VII, in accordance with paragraphs 4(b) and (c) of section V and paragraph 1 of rule 19 of the Rules of procedure.
3. On 17 April 2008, the secretariat notified the members and alternate members of the enforcement branch of the question of implementation, in accordance with paragraph 2 of rule 19 of the Rules of procedure, and of its allocation to the enforcement branch.
4. The question of implementation relates to compliance with the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol (decision 15/CMP.1) and the modalities for the accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol (decision 13/CMP.1). In particular, the expert review team concluded, after consideration of the provisions of the guidelines for review under Article 8 of the Kyoto Protocol (decision 22/CMP.1), that the status of Canada's national registry on the publication date of the review report was not in accordance with the guidelines and modalities referred to above.³
5. The question is related to the eligibility requirement referred to in paragraph 31(d) of the annex to decision 3/CMP.1, paragraph 21(d) of the annex to decision 9/CMP.1 and paragraph 2(d) of the annex to decision 11/CMP.1. Consequently, the expedited procedures as contained in section X apply.
6. Having conducted the preliminary examination in accordance with paragraph 2 of section VII and paragraph 1(a) of section X, the enforcement branch decides to proceed. The enforcement branch in particular notes that the question of implementation raised in the report by the expert review team of the review of the initial report of the Party concerned as indicated in paragraph 4 above is supported by sufficient evidence, is not *de minimis* or ill-founded, and is based on the requirements of the Kyoto Protocol.
7. In accordance with paragraph 5 of section VIII and rule 21 of the Rules of procedure, the enforcement branch agrees to seek expert advice on the content and basis of the report of the expert

* Enforcement branch of the Compliance Committee, CC-2008-1-2/Canada/EB, 2 May 2008.

¹ All section references in this document refer to the Procedures and mechanisms relating to compliance contained in the annex to decision 27/CMP.1.

² Contained in the annex to decision 4/CMP.2.

³ See paragraph 140 and section II.A of the report of the expert review team contained in document FCCC/IRR/2007/CAN.

review team contained in document FCCC/IRR/2007/CAN and on issues related to any decision of the enforcement branch with regard to the indicated question of implementation.

Members participating in the consideration, elaboration and adoption of the decision on preliminary examination:

Amjad ABDULLA, Mohammad ALAM (alternate member serving as member), Raúl ESTRADA OYUELA, René J.M. LEFEBER, Stephan MICHEL, Bernard NAMANYA, Sebastian OBERTHÜR, Ilhomjon RAJABOV, Oleg SHAMANOV

This decision was adopted by consensus on 2 May 2008.

EXPERT ADVICE: CANADA*

1. The enforcement branch agreed to seek expert advice on the content and basis of the report of the expert review team contained in document FCCC/IRR/2007/CAN and on issues related to any decision of the enforcement branch with regard to the indicated question of implementation (CC-2008-1-2/Canada/EB, paragraph 7). The branch intends to receive the expert advice during its meeting to conduct a possible hearing (if so requested by the Party concerned) as well as deliberate, elaborate and adopt a preliminary finding or a decision not to proceed. This meeting is scheduled to take place 14-16 June 2008 (or 28-30 May 2008 if the Party concerned notifies the secretariat, at the same time as any request for a hearing due by 22 May 2008, that it will not make a written submission).
2. Experts from whom advice is sought are invited to be available on all three days. The enforcement branch will receive expert advice in accordance with the procedures and mechanisms relating to compliance contained in the annex to decision 27/CMP.1 and the Rules of procedure of the Compliance Committee contained in the annex to decision 4/CMP.2.
3. The following experts are to be invited:
 - Ms. Branca Americano (Brazil)
 - Mr. Audun Rosland (Norway)
 - Mr. Marco Sereno (Belgium)
 - Ms. Tatiana Tugui (Moldova)

Indicative list of questions:

4. The overall question of implementation to be addressed relates to compliance with the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol (decision 15/CMP.1) and the modalities for the accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol (decision 13/CMP.1). In particular, the expert review team concluded, after consideration of the provisions of the guidelines for review under Article 8 of the Kyoto Protocol (decision 22/CMP.1), that the status of Canada's national registry on the publication date of the review report was not in accordance with the guidelines and modalities referred to above.¹
5. In the context of this question of implementation, the enforcement branch will in particular seek the opinion of and ask questions to the invited experts on the following questions:
 - a. How does an expert review team assess the implementation by a Party of the requirements under the Kyoto Protocol relating to national registries?
 - b. From the perspective of a technical expert, what are the nature and scope of the problems identified in the report of the review of the initial report of Canada with respect to conformity with the modalities for the accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol (decision 13/CMP.1) and the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol (decision 15/CMP.1)?
 - c. What action should be taken and which information should be submitted by Canada to resolve the question of implementation, including the following more specific questions:
 - What information should be made available to demonstrate that Canada fulfils the national registry requirements defined in the annex to decision 13/CMP.1 and the

* Enforcement branch of the Compliance Committee, CC-2008-1-3/Canada/EB, 21 May 2008.

¹ See paragraph 140 and section II.A of the report of the expert review team contained in document FCCC/IRR/2007/CAN.

annex to decision 15/CMP.1, including the requirements of the technical standards for data exchange between registry systems referred to in paragraph 32 of the annex to decision 15/CMP.1?

- What is the role of an independent assessment report, pursuant to decision 16/CP.10, on the results of the technical assessment of the national registry, including the results of standardized testing? In particular, to what extent might the question of implementation be resolved on the basis of an independent assessment report?
- d. What would be required to review the implementation of any action Canada may have taken since the ERT conducted the review or may take in the future with respect to the question of implementation?
6. The enforcement branch may put further more detailed follow-up questions related to the indicated areas to the invited experts during the meeting at which expert advice is received or considered. The branch may also request experts to provide advice on the assessment of any new information received with respect to the question of implementation since the ERT conducted the review.

DECISION NOT TO PROCEED FURTHER*

Party concerned: Canada

In accordance with the Procedures and mechanisms relating to compliance contained in the annex to decision 27/CMP.1 and adopted under Article 18 of the Kyoto Protocol and the Rules of procedure of the Compliance Committee,¹ the enforcement branch adopts the following decision not to proceed further:

BACKGROUND

1. On 11 April 2008, the secretariat received a question of implementation indicated in the report of the expert review team regarding the review of the initial report of Canada and contained in document FCCC/IRR/2007/CAN (hereinafter referred to as “the review report”). In accordance with paragraph 1 of section VI² and paragraph 2 of rule 10 of the Rules of procedure, the question of implementation was deemed received by the Compliance Committee on 14 April 2008.
2. The bureau of the Compliance Committee allocated the question of implementation to the enforcement branch on 16 April 2008 under paragraph 1 of section VII, in accordance with paragraph 4(b) and (c) of section V and paragraph 1 of rule 19 of the Rules of procedure.
3. On 17 April 2008, the secretariat notified the members and alternate members of the enforcement branch of the question of implementation, in accordance with paragraph 2 of rule 19 of the Rules of procedure, and of its allocation to the enforcement branch.
4. On 2 May 2008, the enforcement branch decided in accordance with paragraph 2 of section VII and paragraph 1(a) of section X to proceed with the question of implementation (CC-2008-1-2/Canada/EB). The question of implementation was identified as contained in section III.C of the review report.
5. The question of implementation relates to compliance with the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol (decision 15/CMP.1; hereinafter referred to as “the guidelines”) and the modalities for the accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol (decision 13/CMP.1; hereinafter referred to as “the modalities”). Accordingly, the question also relates to the annex to decision 5/CMP.1 and the requirements of the technical standards for data exchange between registry systems (hereinafter referred to as “the data exchange standards”). The expert review team concluded, after consideration of the provisions of the guidelines for review under Article 8 of the Kyoto Protocol (decision 22/CMP.1), that the status of Canada’s national registry on the publication date of the review report was not in accordance with the guidelines and modalities.
6. As the question furthermore relates to the eligibility requirement referred to in paragraph 31(d) of the annex to decision 3/CMP.1, paragraph 21(d) of the annex to decision 9/CMP.1 and paragraph 2(d) of the annex to decision 11/CMP.1 to have in place a national registry in accordance with Article 7, paragraph 4, of the Kyoto Protocol and the requirements in the guidelines decided thereunder, the expedited procedures as contained in section X were found to apply.
7. On 21 May 2008, the enforcement branch agreed to invite four experts on national registries drawn from the UNFCCC roster of experts to provide advice to the branch (CC-2008-1-3/Canada/EB). Two of these experts belonged to the expert review team that reviewed Canada’s initial report.

* Enforcement branch of the Compliance Committee, CC-2008-1-6/Canada/EB, 15 June 2008.

¹ All references to the Rules of procedure in this document refer to the rules contained in the annex to decision 4/CMP.2.

² Unless otherwise indicated, all section references in this document refer to the Procedures and mechanisms relating to compliance contained in the annex to decision 27/CMP.1.

8. On 22 May 2008, the enforcement branch received a request for a hearing from Canada (CC-2008-1-4/Canada/EB), which also indicated that Canada intended to make a written submission under paragraph 1(b) of section X. On 5 June 2008, the enforcement branch received a written submission from Canada (CC-2008-1-5/Canada/EB) in accordance with paragraph 1 of section IX, paragraph 1(b) of section X, and rule 17 of the Rules of procedure.
9. As requested by Canada on 22 May 2008, a hearing was held on 14 June 2008 in accordance with paragraph 2 of section IX and paragraph 1(c) of section X. The hearing formed part of the meeting of the enforcement branch that was held from 14 to 15 June 2008 to consider the adoption of a preliminary finding or a decision not to proceed further. During the meeting, the enforcement branch received advice from the invited experts.
10. In its deliberations the enforcement branch considered the review report, the written submission of Canada contained in document CC-2008-1-5/Canada/EB, information presented by Canada during the hearing, the independent assessment report of the national registry of Canada (Reference: Reg_IAR_CA_2008_1)³ and advice from experts invited by the branch. No competent intergovernmental or non-governmental organization provided any information under paragraph 4 of section VIII.

CONCLUSIONS AND REASONS

11. According to the review report, Canada had not established a national registry, as required under section II of the modalities, by the time of the in-country visit, nor a registry system that had initialised with the international transaction log by the publication date of the review report. Canada had also not provided sufficient information on its national registry as required in paragraph 32 of the guidelines. As a result, no independent assessment report was forwarded to the expert review team, pursuant to decision 16/CP.10, on the results of the technical assessment of the national registry, including the results of standardized testing.
12. In its written submission and at the hearing, Canada acknowledged that the establishment of its national registry had been delayed and attributed this delay to domestic procurement procedures, which were only initiated on 5 July 2007, subsequent to the announcement of Canada's *Turning the Corner* plan to reduce greenhouse gas emissions and air pollution.
13. Canada provided in its written submission a description, as required by paragraph 32 of the annex to decision 15/CMP.1, of how its national registry performs the functions defined in the annex to decision 13/CMP.1 and the annex to decision 5/CMP.1, and complies with the requirements of the data exchange standards. It supplemented this information at the hearing.
14. At the hearing, Canada confirmed that it had established its national registry, and represented that the national registry meets the relevant requirements under Article 7 of the Kyoto Protocol. Canada indicated that it expected its registry to commence live operations at the end of 2008 or the beginning of 2009.
15. Canada noted that the independent assessment report of its national registry was published by the secretariat on 12 June 2008. The independent assessment report indicates that the national registry of Canada:
- “has fulfilled sufficient obligations regarding conformity with the Data Exchange Standards. These obligations include having adequate transaction procedures; adequate security measures to prevent and resolve unauthorized manipulations; and adequate measures for data storage and registry recovery. While the Documentation Evaluation, as reported in Addendum 1 [of this report], identified some minor limitations in the state of registry readiness, these limitations are to

³ http://unfccc.int/essential_background/library/items/3599.php?rec=j&prire=6427#beg

be rectified prior to the registry commencing live operations. The registry is therefore deemed sufficiently compliant with the registry requirements defined in decisions 13/CMP.1 and 5/CMP.1, noting that registries do not have obligations regarding Operational Performance or Public Availability of Information prior to the operational phase.”

16. The branch received expert advice that, in respect of paragraph 32 of the guidelines, the information provided by Canada in its written submission, together with the independent assessment report would have enabled a technical assessment that Canada had established a national registry that can perform the functions defined in the annex to decision 13/CMP.1 and the annex to decision 5/CMP.1 and complies with the requirements of the data exchange standards.

17. Based on the information submitted and presented, the enforcement branch concludes that:

- (g) The status of Canada’s national registry resulted in non-compliance with the guidelines and the modalities on the publication date of the review report; and
- (h) There is a sufficient factual basis to avert a finding of non-compliance on the date of this decision.

DECISION

18. The enforcement branch determines, in accordance with paragraph 4 of section IX, paragraph 1 (d) of section X and rule 22 of the Rules of procedure, not to proceed further with the question of implementation relating to compliance with the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol and the modalities for the accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol.

Members and alternate members participating in the consideration and elaboration of the decision:

Amjad ABDULLA, Mohammad Sa’dat ALAM, Joseph A. AMOUGOU, Johanna G. Susanna DE WET, Raúl ESTRADA OYUELA, Kirsten JACOBSEN, René LEFEBER, Mary Jane MACE, Stephan MICHEL, Bernard NAMANYA, Sebastian OBERTHÜR, Gladys K. RAMOTHWA, Ilhomjon RAJABOV, Oleg SHAMANOV, SU Wei, Vladimir TARASENKO

Members participating in the adoption of the decision:

Amjad ABDULLA, Johanna G. Susanna DE WET, Raúl ESTRADA OYUELA, René LEFEBER, Stephan MICHEL, Bernard NAMANYA, Sebastian OBERTHÜR, Ilhomjon RAJABOV, Oleg SHAMANOV, SU Wei

This decision was adopted by consensus in Bonn on 15 June 2008.

Annexe V

[ENGLISH ONLY]

**DOCUMENT ENTITLED
“FURTHER WRITTEN SUBMISSION OF CANADA”***

Foreign Affairs and
International Trade Canada

Assistant
Deputy Minister

Affaires étrangères et
Commerce international Canada

Sous-ministre
adjoint

July 11, 2008

Mr. Feng Gao
Secretary to the Compliance Committee
UNFCCC Secretariat
Martin-Luther-King-Strasse 8
53175, Bonn, Germany

Dear Mr. Gao,

Please find attached a further written submission to the Enforcement Branch of the Compliance Committee made pursuant to section X, subparagraph 1(e) of the Procedures and mechanisms relating to compliance under the Kyoto Protocol.

Yours sincerely,

Agent for Canada



Keith H. Christie
Assistant Deputy Minister
Global Issues Branch

Enclosure

* Enforcement branch of the Compliance Committee, CC-2008-1-7/Canada/EB, 14 July 2008.

FURTHER WRITTEN SUBMISSION OF CANADA
Under Section X, paragraph 1(e) of the Annex to Decision 27/CMP.1

In Response to the “Decision Not to Proceed Further” of the Enforcement Branch of the
Compliance Committee under the Kyoto Protocol
(CC-2007-1-6/Canada/EB)

Ottawa, 11 July 2008

FURTHER WRITTEN SUBMISSION of CANADA
Under Section X, paragraph 1(e) of the Annex to Decision 27/CMP.1

In Response to the "Decision Not to Proceed Further" of the Enforcement Branch of the
Compliance Committee under the Kyoto Protocol
(CC-2007-1-6/Canada/EB)
11 July 2008

SUMMARY

1. Canada welcomes the Enforcement Branch of the Compliance Committee decision on 15 June 2008 not to proceed further with the question of implementation with respect to Canada's National Registry. In this submission, Canada addresses one aspect of the reasoning contained in that decision and proposes textual changes to ensure that all of the decision is within the mandate of the Enforcement Branch as set out in the Procedures and Mechanisms Relating to Compliance under the Kyoto Protocol in decision 27/CMP.1.

I. BACKGROUND

2. The Enforcement Branch of the Compliance Committee established under the Kyoto Protocol held its fifth meeting in Bonn, Germany on 14-15 June 2008 to consider, *inter alia*, a question of implementation with respect to Canada's National Registry. On 14 June 2008, Canada made oral representations, in support of its written submission communicated on 5 June 2008, to confirm the establishment of its national registry and full compliance with Article 7 of the Kyoto Protocol (decision 15/CMP.1) and the modalities for accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol (decision 13/CMP.1).

3. On 15 June 2008, the Enforcement Branch made a determination not to proceed further as follows:

"The enforcement branch determines, in accordance with paragraph 4 of section IX, paragraph 1(d) of section X and rule 22 of the Rules of procedure, not to proceed further with the question of implementation relating to compliance with the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol and the modalities for the accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol." (paragraph 18, CC-2007-1-6/Canada/EB)

4. In the course of its decision, the Enforcement Branch made the following conclusions at paragraph 17:

"Based on the information submitted and presented, the enforcement branch concludes that:

- (a) the status of Canada's national registry resulted in non-compliance with the guidelines and the modalities on the publication date of the review report; and
- (b) there is a sufficient factual basis to avert a finding of non-compliance at the date of this decision."

5. While Canada welcomes the decision of the Enforcement Branch not to proceed further in this matter, Canada notes that paragraph 17 lies outside of the Enforcement Body's mandate and should, therefore, be removed from the text.

II. ANALYSIS

6. The mandate of the Enforcement Body is set out in the Annex to decision 27/CMP.1. Section V(4) of the Annex states that:

"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."

7. Section XV, paragraph 1, then stipulates the two possible consequences that shall be applied by the Enforcement Branch when it has determined first 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 Kyoto Protocol:

"(a) Declaration of non-compliance; and

(b) Development of a plan [...]."

8. Pursuant to these provisions, the Enforcement Branch is mandated to apply consequences to present, not past situations where compliance might be at issue. Section V, paragraph 4 states that "The Enforcement branch shall be responsible for determining whether a Party included in Annex I *is* not in compliance [...] [our emphasis]". Moreover, section XV, paragraph 1 states that the Enforcement Branch shall apply consequences when it "has determined that a Party *is* not in compliance [...] [our emphasis]". Neither provision uses the word "was".

9. Consistent with its mandate, the Enforcement Branch determined not to proceed further. Therefore, the Enforcement Branch was not mandated to make a declaration of non-compliance, nor to develop a plan.

10. The Enforcement Branch opined, however, in paragraph 17(a) that "the status of Canada's national registry resulted in non-compliance with the guidelines and the modalities on the publication date of the review report." In Canada's respectful view, this conclusion fell outside the mandate given by the Parties to the Kyoto Protocol in decision 27/CMP.1. The sole issue before the Enforcement Branch was the current status of Canada's registry, and the Enforcement Branch decided not to proceed further with the question of implementation in relation thereof. The status of Canada's registry at some earlier point in time was not among the issues that the Enforcement Branch was mandated to consider, nor was it necessary to engage in such a line of inquiry in order to determine whether Canada's current situation required further action. Entirely in keeping with its important role, the

Enforcement Branch analysed the material concerning the current status of Canada's registry and reached the conclusion that no further action on its part was necessary. In Canada's submission, however, the Enforcement Branch need not, and should not, have stepped outside of its mandate to make its observations concerning the past status of Canada's registry.

11. In addition, the conclusion in paragraph 17(b) of the decision states that "there is a sufficient factual basis to avert a finding of **non-compliance** at the date of this decision [our emphasis]", rather than simply concluding that the question of implementation has been resolved after consideration of the evidence before it (including the Independent Assessment Report, Canada's written and oral submissions, and the advice and testimony of the UNFCCC experts). Given that the entire compliance process established under decision 27/CMP.1, including the written submission and oral hearing, is aimed at determining compliance in the first place, the use of the word "non-compliance" in 17(b) is inconsistent with a "Decision Not To Proceed Further."

III. PROPOSED RELIEF

12. In view of the above analysis, Canada invites the Enforcement Branch simply to delete paragraph 17(a) from its "Decision Not To Proceed Further" to ensure that the Enforcement Branch is entirely consistent with the authority conferred upon it by the COP/MOP in decision 27/CMP.1. As stated in paragraph 16 of the "Decision Not To Proceed Further", the Enforcement Branch received expert advice that "information provided by Canada in its written submission, together with the independent assessment report" confirms that "Canada had established a national registry that can perform the functions defined in the annex to decision 13/CMP.1 and the annex to decision 5/CMP.1 and complies with the requirements of the data exchange standards." Therefore, the question of implementation has been resolved.

13. In addition, Canada invites the Enforcement Branch to alter the text of paragraph 17 (b) from its "Decision Not To Proceed Further" as follows:

"Based on the information submitted and presented, the enforcement branch concludes that, although the status of Canada's national registry raised a question of implementation with the guidelines and the modalities on the publication date of the expert review team report, this question of implementation has now been resolved."

IV. CONCLUSION

14. In Canada's view, the Enforcement Branch stepped beyond the limits of its mandate in offering its opinion on the past status of Canada's registry. Canada welcomes the Enforcement Branch's decision that no further action on its part was necessary, but respectfully requests that the Enforcement Branch delete paragraph 17 (a) of its decision as this passage relates to a matter outside of the Enforcement Branch's mandate, and substitute paragraph 17 (b) of its decision with the text suggested in paragraph 13 above as this is more consistent with a "Decision Not To Proceed Further."
