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Item X of the provisional agenda

Annual report of the Compliance Committee to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol

Summary

The thirteenth annual report of the Compliance Committee to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol covers activities undertaken by the Committee from 9 September 2017 to 31 August 2018, namely: the facilitative branch's work, in the light of its analysis of review reports, and the continued consideration of its role in providing advice and facilitation; the consideration by the enforcement branch of the question of implementation with regard to compliance by Monaco; and the discussions of the plenary of the Compliance Committee.

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I. Introduction

A. Mandate

1. In accordance with section III, paragraph 2(a), of the “Procedures and mechanisms relating to compliance under the Kyoto Protocol” (annex to decision 27/CMP.1; hereinafter referred to as the procedures and mechanisms), the plenary of the Compliance Committee (hereinafter referred to as the plenary) is to report on the activities of the Compliance Committee (hereinafter referred to as the Committee) to each ordinary session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP).

B. Scope of the report

2. The thirteenth annual report of the Committee summarizes the work of and matters addressed by the Committee from 9 September 2017 to 31 August 2018.

C. Possible action to be taken by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol

3. According to section XII of the procedures and mechanisms, the CMP is to consider the annual report of the Committee.

4. The CMP may also wish:

(a) To invite the President of the CMP to undertake consultations on the nomination of members and alternate members of the Committee, as necessary (see paras. 8 and 9 below);

(b) To invite Parties to make contributions to the Trust Fund for Supplementary Activities in order to support the work of the Committee in the biennium 2018–2019.

II. Organizational matters

5. During the reporting period, the enforcement branch met twice, for its 31st meeting (in Bonn on 29 and 30 May 2018) and its 32nd meeting (in Bangkok on 29 and 30 August 2018); the facilitative branch met once, for its 21st meeting (in Bangkok on 29 and 30 August 2018). The 20th meeting of the plenary was held on 30 and 31 August 2018 in Bangkok.

6. The annotated agenda, documentation supporting agenda items and the Chairs’ report for each meeting of the plenary and of the facilitative and enforcement branches are available on the UNFCCC website.¹

A. Election of the Chairs and Vice-Chairs of the enforcement and facilitative branches

7. In accordance with section II, paragraph 4, of the procedures and mechanisms, on 26 March 2018, relying on decision-making by electronic means, the facilitative branch elected Ms. Emanuela Sardellitti as Chair and Mr. Mamadou Diobe Gueye as Vice-Chair. On the same date, the enforcement branch elected Mr. Joseph Aitaro as Chair and Mr. Milan Zvara as Vice-Chair. These chairs and vice-chairs constitute the new bureau of the Committee.

¹ <https://unfccc.int/compliance-committee-bodies-page>.

B. Membership of the Compliance Committee

8. The plenary wants to draw the attention of the CMP to the remaining five vacancies in the membership of the Committee. It requests the CMP, at its next session, to fill the remaining vacancies by electing a member and an alternate member from the Latin American and Caribbean States and an alternate member from Parties not included in Annex I to serve on the facilitative branch and a member and an alternate member from the Latin American and Caribbean States to serve on the enforcement branch for the remainder of their respective terms, until 31 December 2021.

9. The plenary expressed its hope that Parties will keep in mind the issue of gender balance when making nominations for membership of the Committee.

C. Transparency, communication and information

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

11. In accordance with rule 12, paragraph 2, of the rules of procedure, all documents prepared for the plenary and the meetings of the enforcement and facilitative branches have been made available on the UNFCCC website.²

D. Use of electronic means in decision-making

12. Pursuant to rule 11, paragraph 2, of the rules of procedure, the Committee may elaborate and take decisions using electronic means. In addition to elections of the bureau carried out relying on decision-making by electronic means as described in paragraph 7 above, the bureau of the Committee used electronic means to take a decision on the allocation of the questions of implementation with respect to Monaco. The enforcement branch also used electronic means to take a decision on a preliminary examination with respect to Monaco.

III. Work undertaken in the reporting period

A. Plenary

Reports of expert review teams under Article 8 of the Kyoto Protocol and other information received by the plenary

13. In accordance with section VI, paragraph 3, of the procedures and mechanisms, and decision 22/CMP.1, annex, paragraph 49, the secretariat forwarded to the Committee the reports on:

(a) Individual reviews of the annual submissions submitted in 2015 by the following Parties: Cyprus, European Union, Liechtenstein and United Kingdom of Great Britain and Northern Ireland;

(b) Individual reviews of the annual submissions submitted in 2016 by the following Parties: Cyprus, Czechia, European Union, Greece, Liechtenstein, Luxembourg, Portugal, Russian Federation and United Kingdom;

(c) Individual reviews of the annual submissions submitted in 2017 by the following Parties: Australia, Cyprus, Czechia, France, Greece, Hungary, Iceland, Lithuania,

² Documents relating to the plenary are available at <http://unfccc.int/3788.php>, documents relating to the facilitative branch are available at <http://unfccc.int/3786.php> and documents relating to the enforcement branch are available at <http://unfccc.int/3785.php>.

Malta, Monaco, Netherlands, New Zealand, Russian Federation, Slovakia, Spain, Sweden, Switzerland, Ukraine and United Kingdom;

(d) Reviews of the reports to facilitate the calculation of the assigned amount for the second commitment period of the Kyoto Protocol from the following Parties: Cyprus, Liechtenstein and United Kingdom;

(e) Annual inventories in 2018 from the following Parties (status reports): Austria, Belgium, Bulgaria, Croatia, Denmark, Estonia, European Union, Finland, Germany, Ireland, Italy, Japan, Latvia, Liechtenstein, Luxembourg, Norway, Poland, Portugal, Romania and Slovenia;

(f) Technical reviews of the seventh national communications submitted with the due date of 1 January 2018 by Czechia, Estonia, European Union, France, Germany, Hungary, Latvia, Liechtenstein, Lithuania, Monaco, Netherlands and Slovakia.

14. At its 20th meeting, the plenary noted the information provided to it by the secretariat on the status of submission and review of reports under the Kyoto Protocol.

B. Enforcement branch

15. In the reporting period, the enforcement branch considered a question of implementation with respect to Monaco.

16. On 23 March 2018, the Committee received a question of implementation raised in the report of the expert review team (ERT) performing the individual review of Monaco's 2017 annual submission.³ The bureau of the Committee, using electronic means, allocated the question of implementation to the enforcement branch on 3 April 2018 for an expedited procedure. On 19 April 2018, the enforcement branch, using electronic means, conducted a preliminary examination and decided to proceed with the question of implementation.⁴

17. The question of implementation relates to compliance with the "Guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol" (annex to decision 15/CMP.1 in conjunction with decision 3/CMP.11) and the "Guidelines for national systems for the estimation of anthropogenic greenhouse gas emissions by sources and removals by sinks under Article 5, paragraph 1, of the Kyoto Protocol" (annex to decision 19/CMP.1 in conjunction with decision 3/CMP.11). Particularly, the ERT noted significant delays in Monaco's submission of annual inventory reports: Monaco submitted its 2017 national inventory report (NIR) on 20 September 2017 and its 2016 NIR on 12 September 2017. The ERT also noted that the issue of timely submission of NIRs by Monaco had been identified in reviews prior to 2016⁵ and had been considered earlier by the Committee.⁶ In failing to submit the NIR within six weeks of the submission due date, the ERT considered that Monaco had not met the mandatory requirements stipulated in paragraph 3(a) of decision 15/CMP.1 in conjunction with decision 3/CMP.11.

18. Furthermore, the ERT considered that the late submission of NIRs indicated problems with Monaco's national system functions, particularly its implementation of national institutional arrangements and maintenance of capacity to ensure the timely performance of the functions defined in the guidelines for national systems, as outlined in decision 19/CMP.1, annex, paragraph 10(a), (b) and (d), in conjunction with decision 3/CMP.11 and its implementation of inventory preparation and management procedures defined in the guidelines for national systems, as outlined in decision 19/CMP.1, annex, paragraphs 14(g) and 16(a), in conjunction with decision 3/CMP.11.

19. On 30 May 2018, during its 31st meeting, in which Monaco participated through electronic means, the enforcement branch adopted a preliminary finding in which it found that Monaco was not in compliance with the "Guidelines for the preparation of the

³ FCCC/ARR/2017/MCO.

⁴ CC-2018-1-2/Monaco/EB.

⁵ See, for example, document FCCC/ARR/2014/MCO, paragraph 7.

⁶ See documents CC/EB/25/2014/1, CC/EB/25/2014/3, CC/EB/26/2015/1, CC/EB/26/2015/2 and CC/EB/27/2015/2.

information required under Article 7 of the Kyoto Protocol” (annex to decision 15/CMP.1 in conjunction with decision 3/CMP.11) in conjunction with the “Guidelines for national systems for the estimation of anthropogenic greenhouse gas emissions by sources and removals by sinks under Article 5, paragraph 1, of the Kyoto Protocol” (annex to decision 19/CMP.1 in conjunction with decision 3/CMP.11).

20. Monaco did not make any written submission under paragraph 7 of section IX and paragraph 1(e) of section X of the procedures and mechanisms⁷ or rule 17 of the rules of procedure.⁸ On 30 August 2018, during its 32nd meeting, in which Monaco participated through electronic means, the enforcement branch adopted a final decision, confirming its preliminary finding with respect to Monaco.⁹

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

C. Facilitative branch

22. At its 21st meeting, the facilitative branch continued its consideration of how it can best provide advice and facilitation to Parties in the light of the review reports by the ERTs that the branch analysed during the year.

23. The facilitative branch considered that there are many lessons learned that can be drawn from its experience and that complement the document “Experience of the facilitative branch of the Kyoto Protocol Compliance Committee in providing advice and facilitation to Parties in implementing the Kyoto Protocol” of August 2017.¹⁰ Such lessons include, but are not limited to, the following:

(a) The facilitative branch noted that its overall mandate is phrased in rather broad terms.¹¹ The branch recalled that while, over the years, it advanced the development of its own practice and the understanding of its role, it often struggled with the absence of guidance by the CMP on the actions that it could take in regard to its mandate;

(b) In particular, the facilitative branch recognized that it was important to have a clear understanding of what ‘facilitation’ means and what kind of advice the branch can offer. The branch highlighted that it has been lacking a set of concrete instruments and tools that it could use when approaching a Party to offer facilitation and advice. The branch also noted the limited resources and budgetary constraints;

(c) It was further noted that, notwithstanding increased experience and improvements in Parties’ reporting under the Kyoto Protocol, many frequently recurring issues continue to be identified by the ERTs, although very few questions of implementation have been raised in recent years;

(d) In the light of its experience so far, the facilitative branch noted that initiation by ‘self-referral’¹² has not been used by any Party to date and that the ‘Party-to-Party trigger’¹³ has only been used once since the Committee’s inception.¹⁴ The branch recognized that there is a need to improve the type of services it could provide to Parties for them to

⁷ Decision 27/CMP.1, available at

http://unfccc.int/files/kyoto_protocol/compliance/application/pdf/dec.27_cmp.1.pdf.

⁸ Rules of procedure: Annex to 4/CMP.2, as amended by 4/CMP.4 and 8/CMP.9, available at

http://unfccc.int/files/kyoto_protocol/compliance/application/pdf/consolidated_rop_with_cmp_4&cm_p9_amend_2014feb03.pdf.

⁹ CC-2018-1-4/Monaco/EB.

¹⁰ CC/FB/20/2017/2.

¹¹ On the overall mandate and functions see procedures and mechanisms, section IV, paragraphs 4–6; see also CC/FB/20/2017/2, paragraphs 4–16.

¹² See section VI, paragraph 1(a), of the procedures and mechanisms.

¹³ See section VI, paragraph 1(b), of the procedures and mechanisms.

¹⁴ See document CC/FB/20/2017/2, paragraphs 20–21.

engage in more substantive discussions with the branch on particular implementation issues that Parties may encounter;

(e) The facilitative branch stressed that it is important to understand the causes and reasons behind the difficulties that Parties face in implementing the Kyoto Protocol and complying with their commitments, so that it is able to offer targeted responses and to inform the CMP on any possible systemic implementation issues. It was further noted that even where specific causes are identified by ERTs, the current review processes do not foresee a follow-up.

24. Furthermore, the facilitative branch recognized the importance of engaging in further dialogue with lead reviewers in order to improve the branch's understanding of the causes and how the ERTs work, and to facilitate, in a collaborative manner, the provision of high-quality information and reporting by Parties.

25. The facilitative branch requested its Chair and Vice-Chair, with the support of the members and alternate members of the branch, to prepare a list of questions for the consideration of the lead reviewers at their annual meeting. This may include questions on issues encountered by several Parties, as well as questions on issues highlighted in individual review reports.

26. The branch requested its Chair and Vice-Chair to share the list of questions with the lead reviewers well in advance of their meeting in March 2019 and to explore, with the assistance of the secretariat, the practical modalities for the engagement with the lead reviewers. To this end, members and alternate members of the facilitative branch should send any suggested questions to the secretariat as soon as possible and no later than 31 December 2018.

27. The facilitative branch proposed that the bureau of the Committee explore, with the assistance of the secretariat, the feasibility of members of the bureau and members and alternate members of the facilitative branch, including those coordinating the four teams of the branch in 2018,¹⁵ attending the lead reviewers' meetings to be held in March 2019 subject to the availability of financial resources. The purpose would be a focused interaction with lead reviewers that could cover the questions identified by the facilitative branch referred to in paragraph 25 above. The bureau members are invited to report back to the Committee and its branches as appropriate. Such discussions could inform future consideration by the facilitative branch of possible instruments and tools that it could use when offering facilitation and advice to a Party (see para, 23(b) above).

28. Furthermore, members and alternate members of the facilitative branch will continue to analyse the review reports forwarded to the Committee in accordance with section VI, paragraph 3, of the procedures and mechanisms and may bring any issue to the attention of the branch for consideration at its next meeting.

IV. Budget for the work of the Compliance Committee

29. For the biennium 2018–2019, an estimated EUR 705,300 from the overall Legal Affairs programme core budget has been allocated for activities related to the Committee.¹⁶ In addition, EUR 447,480 has been approved for support to the Compliance Committee in the resource requirements for the Trust Fund for Supplementary Activities.¹⁷ This amount would cover the cost of one of four mandated meetings of the Committee and of the translation of Committee decisions into the official languages of the United Nations. As at 1 August 2018, no contributions earmarked for the activities of the Compliance Committee had been made to this trust fund for the biennium.

30. The Committee urges the CMP to invite Parties to make contributions to the Trust Fund for Supplementary Activities for the biennium 2018–2019 in support of the work of the Committee.

¹⁵ See document CC/FB/20/2017/3, paragraph 13(a).

¹⁶ This amount does not include secretariat-wide operating costs, programme support costs (overhead) or the working capital reserve as defined in decision 27/CP.19.

¹⁷ Decision 27/CP.19, table 5.

Annex**Decisions taken by the enforcement branch of the
Compliance Committee during the reporting period****Monaco**

<i>Title</i>	<i>Compliance Committee document number</i>	<i>Date</i>
Decision on preliminary examination	CC-2018-1-2/Monaco/EB	19 April 2018
Preliminary finding	CC-2018-1-3/Monaco/EB	30 May 2018
Final decision	CC-2018-1-4/Monaco/EB	30 August 2018

Note: Decisions taken during the reporting period with respect to Monaco are available at <https://unfccc.int/questions-of-implementation-monaco>.
