

Informal information note by the secretariat:

The Kyoto Protocol compliance procedure with respect to Liechtenstein

- 1) In accordance with section VI, paragraph 1 of the procedures and mechanisms relating to compliance under the Kyoto Protocol¹, the Compliance Committee received a question of implementation raised by the Expert Review Team (ERT) in the ‘*Report on the review of the report upon expiration of the additional period for fulfilling commitments for the second commitment period of the Kyoto Protocol of Liechtenstein submitted in 2023*’² (Report on the review of the TUP report).
- 2) Pursuant to section VII, paragraph 1 of the procedures and mechanisms, the bureau of the Compliance Committee allocated the question of implementation with regard to Liechtenstein to the enforcement branch on 24 May 2024, in accordance with section V, paragraphs 4 to 6 of the procedures and mechanisms and rule 19, paragraph 1 of the rules of procedure of the Compliance Committee³.
- 3) On 27 May 2024, 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 their allocation to the enforcement branch.
- 4) The question of implementation relates to compliance with Article 3, paragraph 1 bis, of the Doha Amendment (annex I to decision 1/CMP.8).⁴ In particular, on the basis of the assessment of the information submitted by Liechtenstein and paragraph 91 of the annex to decision 22/CMP.1 entitled “Guidelines for review under Article 8 of the Kyoto Protocol”, the ERT concluded that the aggregate anthropogenic greenhouse gas (GHG) emissions of Liechtenstein in the second commitment period exceed the quantity of emission reduction units (ERUs), certified emission reductions (CERs), temporary certified emission reductions (tCERs), long-term certified emission reductions (lCERs), assigned amount units (AAUs) and removal units (RMUs) in the retirement account of Liechtenstein for the second commitment period.⁵
- 5) The ERT identified this problem as a question of implementation in accordance with decision 22/CMP.1 in conjunction with decision 4/CMP.11⁶.
- 6) In accordance with section VII, paragraphs 2 and 3 of the procedures and mechanisms and rule 11, paragraph 2 of the rules of procedure, on 19 June 2024, the enforcement branch adopted by electronic means a decision on preliminary examination with respect to Liechtenstein⁷. The same day, Liechtenstein, as the Party concerned, was notified in writing of the decision on preliminary examination.
- 7) In its decision on preliminary examination with respect to Liechtenstein, the enforcement branch decided as follows:

“6. *The enforcement branch decides to consider the question of implementation described in paragraph 4 above following the procedures for the enforcement branch as contained in section IX.*

7. *Having conducted the preliminary examination in accordance with paragraphs 2 and 3 of section VII, the enforcement branch decides to proceed. In particular, the enforcement branch notes that the question of implementation raised in the report by the ERT on the review*

¹ Decision 27/CMP.1, annex.

² Document FCCC/CP/CMP/2023/TPR/LIE.

³ Decision 4/CMP.2, annex, as amended by decisions 4/CMP.4, 8/CMP.9 and 6/CMP.17

⁴ See FCCC/KP/CMP/2023/TPR/LIE, paragraphs 8 and 9 and table 2.

⁵ See FCCC/KP/CMP/2023/TPR/LIE, paragraph 6 and table 1.

⁶ Document FCCC/CP/CMP/2023/TPR/LIE, paragraph 8.

⁷ Compliance Committee document CC-2024-1-2/Liechtenstein/EB.

of the report upon expiration of the additional period for fulfilling commitments for the second commitment period of the Kyoto Protocol of Liechtenstein submitted in 2023, as indicated in paragraph 4 above, is supported by sufficient information, is not de minimis or ill-founded, and is based on the requirements of the Kyoto Protocol.”⁸

- 8) At the 39th meeting of the enforcement branch held on 2 July 2024, a representative from Liechtenstein provided a short introduction regarding the question of implementation raised in the report on the review of the true-up period report. The representative from Liechtenstein reiterated the Party’s willingness and readiness to make the necessary retirements as soon as retirement is allowed again.⁹
- 9) As per section IX, paragraph 4 of the procedures and mechanisms, the branch considered the question of implementation with respect to Liechtenstein and on 31 October 2024 adopted a preliminary finding by electronic means that Liechtenstein is not in compliance with Article 3, paragraph 1 bis, of the Doha Amendment to the Kyoto Protocol.¹⁰
- 10) Within the deadline of ten weeks from the date of receipt of the notification of the preliminary finding for making a written submission pursuant to section IX, paragraph 7, of the annex to decision 27/CMP.1, Liechtenstein submitted its written submission to the secretariat regarding the decision on preliminary finding adopted by the enforcement branch on 31 October 2024.¹¹ On 23 January 2025, the enforcement branch received from Liechtenstein a corrigendum to the written submission.¹²
- 11) According to section IX, paragraph 8 of the annex to decision 27/CMP.1, the enforcement branch shall, within four weeks from the date it received the written submission, consider it and adopt a final decision, indicating whether the preliminary finding, as a whole or any part of it to be specified, is confirmed.
- 12) The final decision on the question of implementation with respect to Liechtenstein was adopted by the enforcement branch by electronic means on 4 February 2025.¹³ The enforcement branch confirmed its preliminary finding with respect to Liechtenstein’s non-compliance with Article 3, paragraph 1 bis, of the Doha Amendment to the Kyoto Protocol, and the mandatory requirements set out in the “Modalities for the accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol” (annex to decision 13/CMP.1, in conjunction with decision 3/CMP.11) and 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), as set out in paragraph 16 of the preliminary finding.
- 13) The branch decided to apply the consequences outlined in paragraph 18, subparagraphs (a) to (c), of the preliminary finding.
- 14) In accordance with section VIII, paragraph 7, and section IX, paragraph 10 of the annex to decision 27/CMP.1, the enforcement branch through the secretariat notified Liechtenstein in writing of its final decision, including conclusions and reasons therefore on 5 February 2025. The secretariat made the final decision available to other Parties and to the public on the dedicated webpages of the enforcement branch on the UNFCCC website.¹⁴
- 15) In accordance with section XV, paragraph 6 of the annex to decision 27/CMP.1, Liechtenstein shall submit to the enforcement branch for review and assessment a compliance action plan as referred to in paragraph 18(b) of the preliminary finding, and confirmed in paragraph 9 of the final decision, within three months after the determination of non-compliance or, where the circumstances of an individual case so warrant, such longer period that the enforcement branch considers appropriate.

⁸ Compliance Committee document CC-2024-1-2/Liechtenstein/EB, paragraphs 6 and 7.

⁹ Compliance Committee document CC/EB/39/2024/2, paragraph 16.

¹⁰ Compliance Committee document CC-2024-1-3/Liechtenstein/EB.

¹¹ Compliance Committee document CC-2024-1-4/Liechtenstein/EB.

¹² Compliance Committee document CC-2024-1-5/Liechtenstein/EB.

¹³ Compliance Committee document CC-2024-1-6/Liechtenstein/EB.

¹⁴ <https://unfccc.int/process-and-meetings/the-kyoto-protocol/compliance-under-the-kyoto-protocol/questions-of-implementation-liechtenstein>.

What the Compliance Committee does and the rules it follows:

- 16) The Compliance Committee of the Kyoto Protocol is an independent body set up to facilitate, promote and, where necessary, enforce compliance with the rules of the Kyoto Protocol. The Committee is composed of two branches: the enforcement branch, which is made up of legal experts from developed and developing countries; and the facilitative branch, which is made up of experts from developed and developing countries with competence related to climate change and in relevant fields.
- 17) The members and alternate members of the Kyoto Protocol Compliance Committee take an oath, which included a commitment to be impartial and conscientious as well as an undertaking on confidentiality, which means that they cannot comment on closed discussions of the branch. The branch speaks through its written decisions.
- 18) Cases come to the Committee in the form of ‘questions of implementation’ from a Party to the Kyoto Protocol or an expert review team (of independent experts from different countries). So far, most of the questions of implementation have been allocated to the enforcement branch, in accordance with its mandate. The branch may and has sought expert advice, in particular, it asked members of the expert review team to present their report and advice, and also asked other independent experts for their advice. The Party concerned may also make written submissions and present its views during a hearing.
- 19) In all cases of non-compliance, the enforcement branch of the Compliance Committee makes a public declaration of non-compliance and of the consequences applied.
- 20) Any country in non-compliance must submit a ‘compliance action plan’ within three months of a decision by the enforcement branch. The plan is subject to review and assessment by the enforcement branch.
- 21) There are no financial penalties under the Kyoto Protocol, nor is there any consequence which involves loss of credits (although there is a loss of access to the carbon market).
- 22) Any country found in non-compliance can appeal to the CMP against a decision of the enforcement branch, but only for issues relating to its emissions reduction target and only in the case of denial of due process.

Further information:

Further information on the compliance mechanism under the Kyoto Protocol is available here: <https://unfccc.int/process/the-kyoto-protocol/compliance-under-the-kyoto-protocol>.

Documents relating to the consideration by the enforcement branch of the questions of implementation with respect to Liechtenstein are available here: <https://unfccc.int/process-and-meetings/the-kyoto-protocol/compliance-under-the-kyoto-protocol/questions-of-implementation-liechtenstein>.

Disclaimer

This note should not be relied upon for any legal interpretation. It has been prepared with limited use of technical terms and references. This note was initially posted on 18 July 2024, with the most recent update on 7 February 2025.

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