

## 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 Protocol<sup>1</sup>, 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*’<sup>2</sup> (hereinafter “the true-up period 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 Committee<sup>3</sup>.
- 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).<sup>4</sup> 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.<sup>5</sup>
- 5) The ERT identified this problem as a question of implementation in accordance with decision 22/CMP.1 in conjunction with decision 4/CMP.11<sup>6</sup>.
- 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 Liechtenstein<sup>7</sup>. 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*

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<sup>1</sup> Decision 27/CMP.1, annex.

<sup>2</sup> Document FCCC/CP/CMP/2023/TPR/LIE.

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

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

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

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

<sup>7</sup> 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.”<sup>8</sup>*

- 8) At the 39th meeting of the enforcement branch held on 2 July 2024, a representative from Liechtenstein participated in the meeting of the enforcement branch and provided a short introduction regarding the question of implementation raised in 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.

***What the Compliance Committee does and the rules it follows:***

9. 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.
10. 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.
11. 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.
12. 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.
13. 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 (the timing of the review and assessment is case specific, and the branch is expected to complete it within four weeks).
14. 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).
15. 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>.

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

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 posted on 18 July 2024.

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