

Informal information note by the secretariat:

The compliance procedure with respect to Monaco

- 1) Monaco submitted its 2017 annual inventory submission to the secretariat on 20 September 2017.
 - 2) On 23 March 2018, an international team of experts (expert review team) finalized its report of the individual review of the 2017 annual submission of Monaco. The individual review report contains a question which triggered the compliance mechanism of the Protocol.
 - 3) The question 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). A national system includes the institutional, legal and procedural arrangements for estimating emissions and sinks covered by the Protocol, and for reporting and archiving this information.
 - 4) Monaco was given an official notification of the question of implementation on 23 March 2018. The question was allocated to the enforcement branch on 4 April 2018 and the branch decided to proceed with the question on 19 April 2018. The question of implementation with respect to Monaco does not relate directly to whether it is in compliance with its 2020 emissions target. At this stage in the procedure Monaco has not been found in non-compliance.
 - 5) No request for a hearing was made by Monaco under paragraph 1(c) of section X and no written submission was made by Monaco under paragraph 1 of section IX and paragraph 1(b), of section X of decision 27/CMP.1 and rule 17 of the rules of procedure.
 - 6) The enforcement branch considered the question of implementation with respect to Monaco at its 31st meeting on 29 – 30 May 2018. The Party concerned participated in the meeting via a web link.
 - 7) At that meeting, the branch adopted a preliminary finding of non-compliance with respect to Monaco, stating that Monaco is not in 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) 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)
 - 8) The following consequences would apply to Monaco *if* the preliminary finding is confirmed by the final decision:
 - a. Declared to be in non-compliance;
 - b. Required to submit a plan to address its non-compliance within three months.
- The findings and consequences contained in the preliminary finding will take effect if they are confirmed by a final decision of the enforcement branch.
- 9) During its thirty-second meeting held in Bangkok, Thailand, on 29-30 August 2018, the enforcement branch confirmed its preliminary findings by a final decision and declared Monaco to be in non-compliance and requested the Party concerned to submit, within three months, a plan to address the non-compliance.
 - 10) On 1 March 2019, Monaco submitted its first progress report of its plan to address its non-compliance. The second progress report was submitted on 28 May 2019 and the third progress report was submitted on 24 September 2019.

What the Compliance Committee does and the rules it follows:

1. The Compliance Committee 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.
2. The members and alternate members of the 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.
3. The rules relevant to past cases include, for example, that a national system is required to produce a reliable accounting of greenhouse gas activity so that a country can demonstrate compliance with its emissions reduction target and that a country must have a national registry to account for its Kyoto Protocol units.
4. 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.
5. 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.
6. 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).
7. 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 question of implementation with respect to Monaco are available here: <https://unfccc.int/questions-of-implementation-monaco>.

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 1 October 2019.

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