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Report of the Compliance Committee (for 2020 and 2021)

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 sixteenth 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 from 13 November 2020 to 9 September 2021. The report provides a summary of the consideration by the enforcement branch of the questions of implementation with regard to the compliance of Kazakhstan and Monaco, the continued consideration by the facilitative branch of its role in providing advice and facilitation in implementing the Kyoto Protocol, and the discussions in the plenary of the Compliance Committee, which included proposing amendments to the rules of procedure of the Compliance Committee of the Kyoto Protocol.

Abbreviations and acronyms

Annex B Party	Party included in Annex I with a commitment inscribed in the third column of Annex B in the Doha Amendment to the Kyoto Protocol
ARR	annual review report
CMP	Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol
COVID-19	coronavirus disease 2019
procedures and mechanisms	“Procedures and mechanisms relating to compliance under the Kyoto Protocol”

* This document was scheduled for publication after the standard publication date owing to circumstances beyond the submitter's control.

I. Introduction

A. Mandate

1. In accordance with section III, paragraph 2(a), of the procedures and mechanisms,¹ the plenary of the Compliance Committee is to report on the activities of the Committee at each ordinary session of the CMP.

B. Scope of the report

2. The sixteenth annual report of the Committee covers the period from 13 November 2020 to 9 September 2021. It includes reports on its meetings held in 2021 and summaries of the work of and matters addressed by the Committee during the reporting period.

C. Vision and role of the Compliance Committee

3. The Committee welcomed the entry into force of the Doha Amendment to the Kyoto Protocol on 31 December 2020 and continued its operations under decisions 27/CMP.1 and 8/CMP.9. The enforcement branch considered and decided on several questions of implementation arising from the implementation of the Kyoto Protocol in the second commitment period. In particular, the enforcement branch noted that, with regard to the legal effect of various provisions, the questions of implementation under its consideration arose from unresolved issues pertaining to language of a mandatory nature in the provisions of the Protocol which continue to be in force, such as those under Articles 7–8.² The Committee will continue its mandated work with respect to implementation in the second commitment period, which underpins the implementation of pre-2020 mitigation action under the Protocol and supports global efforts to combat climate change.

4. The successful achievement by Parties included in Annex I of the quantified emission limitation and reduction commitments set out for the second commitment period of the Kyoto Protocol is of crucial importance to ambition and will help maximize pre-2020 ambition under the climate change regime. The status reports of the annual inventories for the last year of the second commitment period will be submitted in 2022 and reviewed towards the end of 2022 or at the beginning of 2023. All Parties included in Annex I will be reviewed in this cycle. At the 22nd meeting of the plenary of the Compliance Committee, the Committee requested the CMP to set a date for the completion of the expert review process under Article 8 of the Kyoto Protocol for the last year of the second commitment period. The Committee also sought guidance from the CMP on the continued operation of the compliance mechanism of the Kyoto Protocol, including on its modalities and procedures, in the second commitment period and the parameters of the true-up period,³ particularly with respect to the consideration of questions of implementation arising from the review of the reports to be submitted to the secretariat by each Annex B Party upon expiration of the true-up period. The Committee will continue its work in accordance with the guidance provided by the CMP, taking into account any guidance on the eligibility of countries that have undertaken a target for the second commitment period but have not ratified the Doha Amendment.

D. Possible action by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol

5. According to section XII of the procedures and mechanisms, the CMP is to consider the annual report of the Committee. This report will be formally considered at CMP 16 along

¹ Decision 27/CMP.1, annex.

² Compliance Committee document CC-2020-1-4/Kazakhstan/EB, annex, para. 26. Available at <https://unfccc.int/process/the-kyoto-protocol/compliance-under-the-kyoto-protocol>.

³ Decision 13/CMP.1, annex, paras. 11, 12 and 34.

with the 2020 annual report, as the CMP exceptionally did not meet in 2020 owing to the postponement of CMP 16 as a result of the COVID-19 pandemic.

6. The Committee continues to seek guidance from the CMP on the continued operation of the compliance mechanism of the Kyoto Protocol, including on its modalities and procedures, in the second commitment period subsequent to the entry into force of the Doha Amendment, particularly with respect to the consideration of questions of implementation arising from the review of the reports to be submitted to the secretariat by each Annex B Party upon expiration of the true-up period, noting the implications of the entry into force of the Amendment for the work of the Committee.⁴

7. The CMP may also wish to:

(a) Invite the President of the CMP to undertake consultations on the nomination of members and alternate members of the Committee to the currently vacant seats;

(b) Invite Parties, when considering the budget for the 2022–2023 biennium, to ensure that adequate resources are provided for the work of the Committee and its functions relating to the completion of work in the second commitment period of the Kyoto Protocol.

8. The Committee invites CMP 17 to consider and adopt the approved amendments to the rules of procedure of the Compliance Committee of the Kyoto Protocol⁵ contained in annex II, which will be provisionally applied by the Committee until adoption.

II. Organizational matters

9. During the reporting period, the Compliance Committee held the following meetings:

(a) The 36th meeting of the enforcement branch, on 7 September 2021;

(b) The 24th meeting of the facilitative branch, on 8 September 2021;

(c) The 23rd meeting of the plenary, on 9 September 2021.

10. All of the meetings were held virtually owing to the circumstances related to the COVID-19 pandemic. Meetings held virtually are deemed to have been held at the seat of the secretariat in Bonn.

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

A. Membership of the Compliance Committee

12. In accordance with rule 3, paragraph 1, of the rules of procedure of the Committee,⁷ the term of office of each member and alternate member of the Committee starts on 1 January of the calendar year immediately following his or her election and ends on 31 December, two or four years thereafter, as applicable.

13. The Committee welcomes the nominations of new members and alternate members and notes the importance of filling all vacant seats for the upcoming term during the elections at CMP 16.

14. The Committee wishes to draw the attention of the CMP to three vacancies in the facilitative branch of the Committee that have remained unfilled since 2019 owing to the absence of nominations of a member from the small island developing States, an alternate member from Parties not included in Annex I and an alternate member from Parties included

⁴ As per decision 13/CMP.1, para. 3, and annex, para. 49.

⁵ See <https://unfccc.int/process/the-kyoto-protocol/compliance-under-the-kyoto-protocol>.

⁶ <https://unfccc.int/Compliance-Committee-CC>.

⁷ Available at https://unfccc.int/files/kyoto_protocol/compliance/background/application/pdf/rules_of_procedure_of_the_compliance_committee_of_the_kp.pdf.

in Annex I, and to the importance of nominating and electing a member and two alternate members to fill these vacancies and serve the remainder of the term, until 31 December 2023.

15. The Committee also wishes to draw the attention of the CMP to two vacancies in the enforcement branch of the Committee that have remained unfilled since 2019 owing to the absence of nominations of an alternate member from the Eastern European States and a member from Parties not included in Annex I, and to the importance of nominating and electing a member and an alternate member to fill these vacancies and serve the remainder of the term, until 31 December 2023.

16. The Committee expresses its hope that Parties will keep in mind the goal of gender balance when submitting nominations for membership of the Committee.

B. Transparency, communication and information

17. In accordance with rule 9, paragraph 1, of the rules of procedure, 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 in accordance with the same rule.

18. In accordance with rule 12, paragraph 2, of the rules of procedure, all documents of the plenary and the enforcement and facilitative branches have been made available on the UNFCCC website.⁸

19. In view of the current shortfall in funding for the Committee, decisions are no longer made available in all United Nations languages. The Committee wishes to inform the CMP that rule 13, paragraph 3, of the rules of procedure, which relates to this matter, was not followed during the reporting period.

C. Use of electronic means in decision-making

20. Pursuant to rule 11, paragraph 2, of the rules of procedure, the Committee may elaborate and take decisions using electronic means. During the reporting period, the enforcement branch used electronic means to take a final decision with respect to Kazakhstan and to take a decision on the resolution of the question of implementation with respect to Monaco.

III. Work undertaken in the reporting period

A. Activities of the plenary

1. Consideration of the reports of expert review teams under Article 8 of the Kyoto Protocol

21. In accordance with section VI, paragraph 3, of the procedures and mechanisms, and decision 22/CMP.1, annex, paragraph 49, the members and alternate members of the facilitative branch of the Committee received the following reports:

(a) The 2020 ARR of Australia, Austria, Belgium, Bulgaria, Croatia, Cyprus, Denmark, Estonia, Finland, Germany, Hungary, Ireland, Japan, Latvia, Norway, Poland, Portugal, Romania, the Russian Federation, Slovenia and Sweden;

(b) The 2021 status reports of the annual inventories of Australia, Austria, Belarus, Belgium, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, the European Union,

⁸ Documents relating to the plenary, facilitative branch and enforcement branch are available at <https://unfccc.int/process/bodies/constituted-bodies/compliance-committee-cc/compliance-committee-plenary>, <https://unfccc.int/process/bodies/constituted-bodies/compliance-committee-cc/facilitative-branch> and <https://unfccc.int/process/bodies/constituted-bodies/compliance-committee-cc/enforcement-branch>, respectively.

Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Kazakhstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, Ukraine and the United Kingdom of Great Britain and Northern Ireland.

2. Entry into force of the Doha Amendment to the Kyoto Protocol

22. The plenary welcomed the entry into force of the Doha Amendment, which was adopted through decision 1/CMP.8, on 31 December 2020.

23. The plenary noted that, following the entry into force of the Doha Amendment, it would continue its work in response to the mandates under decisions 27/CMP.1 and 8/CMP.8 as well as Articles 7–8 of the Kyoto Protocol with respect to the implementation of the second commitment period, and that it would consider questions of implementation arising from the review of the true-up period reports in accordance with the parameters of the true-up period set out by the CMP.

24. The plenary sought guidance from the CMP on the continued operation of the compliance mechanism of the Kyoto Protocol, including on its modalities and procedures, in the second commitment period and the parameters of the true-up period, particularly with respect to the consideration of questions of implementation arising from the review of the true-up period reports.

3. Amendments to the rules of procedure of the Compliance Committee

25. The plenary approved the proposed amendments to the rules of procedure of the Compliance Committee to enable members and alternate members to remain in office until their successors have been elected and to allow for the intersessional replacement of members and alternate members. The plenary decided to invite CMP 17 to consider and adopt the approved amendments to the rules of procedure of the ⁹Committee contained in annex II, which will be provisionally applied by the Committee until adoption.

B. Activities of the enforcement branch

26. In the reporting period, the enforcement branch did not receive any new questions of implementation and continued to consider the ongoing questions of implementation with respect to Monaco¹⁰ and Kazakhstan¹¹ from the previous reporting period, welcomed the entry into force of the Doha Amendment and considered proposed amendments to the rules of procedure of the Committee.

27. In accordance with section III, paragraph 2(a), of the procedures and mechanisms, the progress reports submitted by Kazakhstan and Monaco during the reporting period are listed in annex I.

1. Question of implementation with respect to Monaco

28. Monaco, in accordance with section XV, paragraph 3, of the procedures and mechanisms, submitted its seventh progress report¹² on its compliance plan¹³ on 14 January 2021. In this report, Monaco provided updated information on the entry into force of the legal provisions for data collection, as requested by the branch at its 35th meeting.

⁹ <https://unfccc.int/Compliance-Committee-CC>.

¹⁰ All documents relating to the 2018 question of implementation for Monaco are available at <https://unfccc.int/process-and-meetings/the-kyoto-protocol/compliance-under-the-kyoto-protocol/questions-of-implementation-monaco>.

¹¹ All documents relating to the 2019 questions of implementation for Kazakhstan are available at <https://unfccc.int/process-and-meetings/the-kyoto-protocol/compliance-under-the-kyoto-protocol/questions-of-implementation-kazakhstan>, and those relating to the 2020 questions of implementation are available at <https://unfccc.int/process-and-meetings/the-kyoto-protocol/compliance-under-the-kyoto-protocol/questions-of-implementation-kazakhstan-2020>.

¹² Compliance Committee document CC-2018-1-13/Monaco/EB.

¹³ Compliance Committee document CC-2018-1-5/Monaco/EB.

29. The enforcement branch reviewed this progress report and concluded that, on the basis of the information submitted by the Party prior to the meeting and presented before the branch at the meeting, which was considered by the branch, the question of implementation with respect to Monaco has been resolved. The branch noted that all measures described in Monaco's compliance plan have been implemented.

30. In accordance with section X, paragraph 2, of the procedures and mechanisms, the branch adopted a decision by electronic means on 8 February 2021 on the resolution of the question of implementation with respect to Monaco.¹⁴

2. Questions of implementation with respect to Kazakhstan

31. On 10 November 2020, during its 35th meeting, the enforcement branch adopted by consensus the preliminary finding¹⁵ that Kazakhstan 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 decisions 3/CMP.11 and 2/CMP.8), 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), the methodological and reporting requirements contained in decisions 2/CMP.8, 3/CMP.11 and 15/CMP.1, and the national registry requirements contained in decision 13/CMP.1, annex, chapter II, in conjunction with decision 3/CMP.11. The enforcement branch did not receive any further submissions from Kazakhstan.

32. On 13 January 2021, the enforcement branch adopted by electronic means the final decision¹⁶ with respect to Kazakhstan, which confirmed the preliminary finding.

33. In accordance with paragraphs 24 and 29 of the preliminary finding and paragraph 6 of the final decision, the first progress report was to be submitted by Kazakhstan, in accordance with section XV, paragraph 3, of the procedures and mechanisms and the decision on the review and assessment of the compliance plan,¹⁷ no later than 31 January 2021, with subsequent progress reports to be submitted periodically thereafter, at least once every six months, to address the questions of implementation raised in the 2017 ARR, 2017 in-depth review report and 2019 ARR, and the recommendations of the enforcement branch contained in the review and assessment of the compliance plan.

34. Kazakhstan submitted its first progress report¹⁸ on 22 February 2021. Kazakhstan's second progress report was submitted on 12 August 2021.¹⁹

35. At its 36th meeting, the enforcement branch considered the first and second progress reports submitted by Kazakhstan in accordance with paragraph 29 of the preliminary finding and paragraph 6 of the final decision. Representatives of Kazakhstan participated in the meeting, making a presentation on the progress reports and answering questions from the branch.

36. The enforcement branch noted with appreciation the progress of Kazakhstan, as described in its first and second progress reports and the presentation made by its representatives at the 36th meeting of the branch, in addressing the questions of implementation. The branch looks forward to receiving information in further progress reports and in the national inventory report of Kazakhstan to be submitted in 2022 that will allow the questions of implementation to be resolved in the near future.

3. Other matters

37. The enforcement branch welcomed the entry into force of the Doha Amendment and engaged in a discussion on its work on matters related to the second commitment period.

¹⁴ Compliance Committee document CC-2018-1-14/Monaco/EB.

¹⁵ Compliance Committee document CC-2020-1-2/Kazakhstan/EB.

¹⁶ Compliance Committee document CC-2020-1-4/Kazakhstan/EB.

¹⁷ Compliance Committee document CC-2019-1-12/Kazakhstan/EB.

¹⁸ Compliance Committee document CC-2020-1-5/Kazakhstan/EB.

¹⁹ Compliance Committee document CC-2020-1-6/Kazakhstan/EB.

38. The enforcement branch considered the proposed amendments to the rules of procedure of the Committee to enable members and alternate members to remain in office until their successors have been elected and to allow for the intersessional replacement of members and alternate members.

C. Activities of the facilitative branch

39. Following the deliberations at its 23rd meeting, the facilitative branch agreed to continue the reviews of the ARRs as per the practical working arrangements decided at its 22nd meeting, which included improvements to the working modalities of the working groups that would review the ARRs to enhance their efficiency and coordination, including improvements to the “General Analysis and Overview” guiding tool developed in 2019 to review the reports.

40. In this reporting period, the secretariat distributed the review reports to the members and alternate members of the facilitative branch for their consideration, in accordance with section VI, paragraph 3, of the procedures and mechanisms. The secretariat also continued to maintain an electronic platform, which the working groups used to share their analyses and suggestions. However, the Committee was unable to conduct any reviews during the reporting period owing to the challenges associated with meeting virtually as a result of the COVID-19 pandemic. The Committee agreed to continue the review of the 2020 and 2021 ARRs in the subsequent reporting period.

41. At its 24th meeting, the facilitative branch noted the conclusion of the second commitment period of the Kyoto Protocol and the implications for the work of the branch. The branch discussed how it could build on experience in applying the “General Analysis and Overview” guiding tool and develop working arrangements that will enhance its efficiency in reviewing the remaining 2020 ARRs and the 2021 ARRs. The branch viewed the following arrangements as being beneficial to maximizing efficiency: distributing the reports among three working groups, each comprising a mix of experienced and new members and alternate members; engaging with the working groups during their discussions on the reports; and dedicating more time during the meetings of the branch to discuss the outcomes of the reviews.

42. At its 23rd meeting, the facilitative branch considered developing a compendium of best practices and lessons learned while fulfilling its mandate to provide advice and facilitation to Parties in implementing the Kyoto Protocol. At its 24th meeting, a member of the branch presented a draft outline of the compendium with a view to the branch collectively developing the document. The compendium will consolidate the findings and analysis of the branch on ways to identify issues in implementing the Kyoto Protocol that are persistent or significant, or both, and whose resolution may benefit from the branch’s facilitation or advice. The branch decided the compendium will take the form of an update to the ‘experience document’ prepared in 2017.²⁰ The branch also decided to share best practices and lessons learned in reviewing ARRs with other relevant UNFCCC constituted bodies, in particular the Paris Agreement Implementation and Compliance Committee.

43. Recognizing the expiration of the maximum term of four years allocated to its members and alternate members, the facilitative branch noted the importance of assisting new members and alternate members in building their experience through an induction session to be held early in the year following their election.

44. The branch welcomed the entry into force of the Doha Amendment and considered the proposed amendments to the rules of procedure of the Committee to enable members and alternate members to remain in office until their successors have been elected and to allow for the intersessional replacement of members and alternate members.

45. The branch shared its views on meeting virtually and expressed a strong preference for in-person meetings, noting their importance for new members and alternate members in particular. The branch acknowledged that, despite the preference for in-person meetings, the

²⁰ Compliance Committee document CC/FB/20/2017/2.

evolving global situation resulting from the COVID-19 pandemic may require the branch to meet virtually or hold hybrid meetings with members attending in person and alternates attending virtually.

D. Budget for the work of the Compliance Committee

46. For the biennium 2020–2021, the Committee notes that, as part of the overall core budget of the Legal Affairs division, funds have been foreseen for only one (in-person) meeting of the Committee per year.²¹

47. Owing to the virtual format of meetings of the Committee in 2020 and 2021 as a result of the COVID-19 pandemic, an estimated EUR 100,000 was saved in meeting and travel costs of the branches and plenary.

48. The plenary took note of the information provided by the secretariat on funding and staffing for the current and next biennium.

²¹ See decision 17/CP.25, table 1, and document FCCC/SBI/2019/4/Add.1, table 19.

Annex I

Documents of the enforcement branch of the Compliance Committee during the reporting period

Monaco

<i>Title</i>	<i>Compliance Committee document number</i>	<i>Date received</i>
Seventh progress report	CC-2018-1-13/Monaco/EB	14 January 2021
Decision on the resolution of the question of implementation	CC-2018-1-14/Monaco/EB	8 February 2021

Kazakhstan

<i>Title</i>	<i>Compliance Committee document number</i>	<i>Date received</i>
Final decision	CC-2020-1-4/Kazakhstan/EB	13 January 2021
First progress report	CC-2020-1-5/Kazakhstan/EB	22 February 2021
Second progress report	CC-2020-1-6/Kazakhstan/EB	12 August 2021

Annex II

Approved amendments to the rules of procedure of the Compliance Committee of the Kyoto Protocol

The plenary proposes¹ the following amendments to the rules of procedure of the Compliance Committee of the Kyoto Protocol² for consideration and adoption at CMP 17.

Amendments to rule 3

In rule 3, paragraph 1, the following text should be inserted at the end of the paragraph:

“ Each member and alternate member shall remain in office until his or her successor is elected.”

In rule 3, paragraph 5, should be replaced by the following text:

“If a member or an alternate member resigns or is otherwise unable to complete the assigned term of office or to perform the functions of that office, the Committee may decide, bearing in mind the proximity of the next session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, to appoint another member or alternate member from the same group or constituency to replace the said member or alternate member for the remainder of the term of that member or alternate member, in which case the appointment shall count as one term.”

¹ In accordance with decision 27/CMP.1, annex, section III, para. 2(d).

² As contained in the annex to decision 4/CMP.2 and amended in the annex to decision 4/CMP.4 and the annex to decision 8/CMP.9. Available in current form at https://unfccc.int/files/kyoto_protocol/compliance/background/application/pdf/rules_of_procedure_of_the_compliance_committee_of_the_kp.pdf.