



COMPLIANCE COMMITTEE

**CC/3/2006/5
6 September 2006**

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

Proposal by the co-chairs

1. Under section XII (b) of the "Procedures and mechanisms relating to compliance under the Kyoto Protocol" (annex to decision 27/CMP.1) the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol is to consider the reports of the plenary of the Compliance Committee on the progress of its work.
2. At the second plenary meeting of the Committee held from 29 to 31 May 2006, the plenary requested the co-chairpersons to prepare a draft report, with the support of the secretariat, for circulation to members for consideration at its third meeting.
3. The attached draft is presented to the plenary for its consideration. It may be noted that some paragraphs will be added based on conclusions in the third meeting.

Regular Document

Distr.
GENERAL

FCCC/KP/CMP/2006/6

<Enter Date>

Draft as at 6 September 2006, 10:00

Original: ENGLISH

**CONFERENCE OF THE PARTIES SERVING AS THE
MEETING OF THE PARTIES TO THE KYOTO PROTOCOL**

Second session

Nairobi, 6–17 November 2006

Item 7 of the provisional agenda

Report of the Compliance Committee

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

Summary

This first annual report of the Compliance Committee to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (COP/MOP) covers activities undertaken from the first meeting of the Committee until early September 2006.

The report provides information on organizational matters and work undertaken in 2006 and makes a proposal with regard to additional resources required by the Committee.

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I. Introduction

A. Mandate

1. Under section XII (b) of the "Procedures and mechanisms relating to compliance under the Kyoto Protocol" (annex to decision 27/CMP.1; hereinafter referred to as procedures and mechanisms) the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (COP/MOP) is to consider the reports of the plenary of the Compliance Committee on the progress of its work.

B. Scope of the report

2. The first annual report of the plenary of the Compliance Committee covers the period between 1 March 2006 and 8 September 2006. It summarizes the work of and matters agreed by the Compliance Committee during that period.

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

3. In accordance with section XII of the procedures and mechanisms, the COP/MOP may wish to take note of the annual report of the Compliance Committee and take decisions on, inter alia:

- (a) The adoption of the rules of procedure, contained in annex I to this report, developed by the Compliance Committee, in accordance with section III, paragraph 2 (d), of the procedures and mechanisms;
- (b) The proposal of the Committee, referred to in paragraphs 24 and 26 of this report, made in accordance with section III, paragraph 2(c), of the procedures and mechanisms, in relation to funding the participation of all members and alternate members in the meetings of the plenary of the Committee, the meetings of the bureau, and the meetings and deliberations of the two branches of the Committee.

4. The COP/MOP may also wish to:

- (a) Elect a member from the Eastern European regional group and another member from the small island developing States to fill the vacancies in the facilitative branch;
- (b) Invite Parties to make contributions to the Trust Fund for Supplementary Activities for the biennium 2006–2007 to support the work of the Compliance Committee.

II. Organizational matters

5. The plenary of the Compliance Committee held three meetings during the reporting period. In accordance with paragraph 4 of decision 27/CMP.1, the secretariat organized the first meeting of the Compliance Committee in Bonn, Germany, from 1 to 3 March 2006. Two other meetings were subsequently held in Bonn from 29 to 31 May 2006 and from 5 to 8 September 2006, respectively.

6. The facilitative branch met four times in Bonn (from 1 to 3 March 2006, on 30 May 2006, on 20 June 2006 and on 6 September 2006), whereas the enforcement branch met once (from 1 to 3 March 2006).

7. The agenda and annotated agenda, documentation supporting agenda items, and the report on each meeting of the plenary and the facilitative and enforcement branches have been made publicly available on the UNFCCC website.¹

8. A list of the members and alternate members of the Compliance Committee is contained in annex II to this report.

A. Election of the chairperson and vice-chairperson of the enforcement and facilitative branches of the Compliance Committee

9. In accordance with section II, paragraph 4, of the procedures and mechanisms relating to compliance, the enforcement branch elected Mr. Raúl Estrada Oyuela as chairperson and Mr. Sebastian Oberthür as vice-chairperson, and the facilitative branch elected Mr. Hironori Hamanaka as chairperson and Mr. Ian Fry as vice-chairperson, each for a term of two years. After the resignation of Mr. Fry from the Compliance Committee, Mr. Ismail El-Gizouli, a member from the African regional group, was invited to be a friend of the chairperson of the facilitative branch and to serve in that capacity until the election of a vice-chairperson for the branch after the two vacancies in the branch have been filled by the COP/MOP.

B. Rules of procedure

10. The Committee approved its rules of procedure, contained in annex I to this report, at its third meeting in September 2006.

C. Membership issues

11. Mr. Wojtek Galinski, a member of the Committee from the Eastern European regional group and elected to serve in the facilitative branch for a term of two years, tendered his resignation from the Compliance Committee on 12 May 2006. Since the resignation of Mr. Galinski, Mr. Valeriy Sedyakin, elected as an alternate member, has been serving as member. The Committee expressed its appreciation to Mr. Galinski for his contribution to the work of the Committee and the facilitative branch in particular and requested the COP/MOP to elect a replacement for Mr. Galinski.

12. Mr. Ian Fry, a member of the Committee from the small island developing States and elected to serve in the facilitative branch for a term of two years, resigned from the Compliance Committee on 5 June 2006. Mr. Fry was also the vice-chairperson of the facilitative branch. Since the resignation of Mr. Fry, Mr. Héctor Conde Almeida, elected as an alternate member, has been serving as member. The Committee expressed its appreciation to Mr. Fry for his contribution to the work of the Committee, and the facilitative branch and the bureau in particular and requested the COP/MOP to elect a replacement for Mr. Fry.

III. Work undertaken in the reporting period

A. Status of national communications and reports demonstrating progress of Parties included in Annex I to the Convention

13. In accordance with the guidelines for review under Article 8 of the Kyoto Protocol, contained in the annex to decision 22/CMP.1, delays in submitting national communications (beyond six weeks after the due date) should be brought to the attention, inter alia, of the Compliance Committee. Fourth national communications from Annex I Parties were due to be submitted to the secretariat by 1 January 2006 (decision 4/CP.8).

¹ <http://unfccc.int>

14. At its first plenary meeting, the Committee considered information provided by the secretariat on the status of fourth national communications submitted in accordance with Article 12 of the Convention and decision 4/CP.8. The Committee decided to continue its consideration of the information provided by the secretariat at its next meeting, along with any update to such information.

15. At the second plenary meeting of the Committee, the secretariat provided updated information on the status of fourth national communications. As requested by the Committee, the secretariat also provided information on progress reports submitted in accordance with Article 3, paragraph 2, of the Kyoto Protocol and decisions 22/CP.7 and 25/CP.8. The Committee requested another update on the status of fourth national communications and progress reports for its third meeting.

16. At its third meeting, the Committee discussed an update on the status of fourth national communications and progress reports.

B. Provisions relating to enforcement and facilitation

17. The Committee discussed links between the work of the Compliance Committee and relevant functions under the Kyoto Protocol. In addition, the facilitative branch discussed provisions relating to facilitation with reference to section IV of the procedures and mechanisms.

C. Deliberations

18. On 31 May 2006, the facilitative branch of the Compliance Committee began a preliminary examination of the submission by South Africa, as Chairman of the Group of 77 and China, on behalf of the Group of 77 and China entitled "Compliance with Article 3.1 of the Kyoto Protocol", in accordance with section VII, paragraph 2, of the procedures and mechanisms. The facilitative branch continued its deliberations on 20 June 2006.

19. The facilitative branch made a number of attempts to reach agreement on a decision to proceed and a decision not to proceed by consensus. When all efforts at reaching consensus had been exhausted, a vote was taken electronically, on 21 June 2006, resulting in the failure to adopt either a decision to proceed or a decision not to proceed by a majority of three-fourths of the members present and voting, as required by section II, paragraph 9, of the procedures and mechanisms in relation to section VII, paragraphs 4 and 6.

20. During its deliberations of 20 June 2006 on the submission by South Africa, the facilitative branch noted that Latvia's fourth national communication and its progress report had been received by the secretariat on 25 May 2006, before the facilitative branch began its consideration of the submission by South Africa and that since consideration of the submission by the branch began, Slovenia's fourth national communication and its progress report had been received by the secretariat on 12 June 2006. The decisions not to proceed against Latvia (CC-2006-8-3/Latvia/FB) and Slovenia (CC-2006-14-2/Slovenia/FB) were both adopted by a majority of three-fourths of the members present and voting. Accordingly, the facilitative branch decided not to proceed against both these Parties.

21. The facilitative branch decided to report the outcomes of the deliberations to the next plenary meeting of the Compliance Committee (CC/3/2006/5).

22. At its third plenary meeting, the Committee decided to include the matters raised by the facilitative branch in its report to the COP/MOP. The "Report to the Compliance Committee on the deliberations in the facilitative branch relating to the submission entitled 'Compliance with Article 3.1 of the Kyoto Protocol'" is contained in annex III to this report.

23. In accordance with section III, paragraph 2 (a), of the procedures and mechanisms, a list of decisions taken by the facilitative branch for the reporting period is contained in annex IV to this report.

IV. Participation of members and alternate members

24. Members and alternate members of the Compliance Committee are elected to serve in their individual capacities and may be called upon to make decisions that would adversely affect the interests of their national government. In order for members and alternate members to maintain their independence, the Committee recommends that all members and alternate members receive support for their travel-related expenses and to ensure that a quorum to adopt decisions is reached for Committee meetings and deliberations that may be held at short notice, members and alternate members whose journeys are more 16 hours travel on business class.

V. Availability of resources

25. For the biennium 2006–2007, a total of USD 540,000 is available for the Compliance Committee from the programme budget to cover four meetings of each branch.¹ Four additional meetings of each branch are to be financed from the Trust Fund for Supplementary Activities. Of the USD 617,160 under the budget item "Support to the Compliance Committee" in the Trust Fund for Supplementary Activities² only USD 50,000 has been received by the secretariat so far. The balance of USD 567,160 would be required for the effective functioning of the Committee based on the anticipated number of meetings of the plenary and the branches of the Committee in 2007.

26. If financial support is provided for the travel-related costs of all members and alternate members of the Compliance Committee, an additional amount of USD 350,000 will be needed for travel costs in 2007. If members and alternate members whose journeys are more than 16 hours travel on business class, a further amount of USD 70,000 will be required. For the biennium 2006–2007, a total of USD 987,160 is required for the effective functioning of the Compliance Committee.

¹ FCCC/SBI/2005/8/Add.1.

² FCCC/SBI/2005/8/Add.2. This amount covers travel of members and alternate members of the Compliance Committee, operating expenses relating to the meetings of the plenary of the Committee, meetings of the bureau, and meetings and deliberations of the two branches of the Committee, staff costs, consultancies and data processing equipment and software.

Annex I

**Draft rules of procedure of the Compliance Committee
of the Kyoto Protocol**

[N.B. Insert text approved by the Compliance Committee]

Annex II**Members and alternate members of the Compliance Committee****Enforcement Branch**

Member	Alternate	Group
Mr. Nuno S. Lacasta ¹	Mr. René J. M. Lefebvre ¹	Western Europe and Others
Ms. Johanna G. S. De Wet ²	Mr. J. Armathé Amougou ²	Africa
Mr. Su Wei ²	Mr. Mohammad Sa'dat Alam ²	Asia
Mr. Amjad Adbulla ¹	Ms. Mary J. Mace ¹	small island developing States
Mr. Raúl Estrada Oyuela ²	Ms. Patricia Iturregui Byrne ²	Latin America and the Caribbean
Mr. Oleg Shamanov ¹	Mr. Valdimir Tarasenko ¹	Eastern Europe
Mr. Sebastian Oberthür ²	Mr. Tuomas Kuokkanen ²	Annex I Parties ³
Mr. Stephan Michel ¹	Ms. Kirsten Jacobsen ¹	Annex I Parties ³
Mr. Bernard Namanya ²	Ms. Gladys K. Ramothwa ²	Non-Annex I Parties ⁴
Mr. Ilhomjon Rajabov ¹	Mr. Ainun Nishat ¹	Non-Annex I Parties ⁴

Facilitative Branch

Member	Alternate	Group
Mr. Marc Pallemmaerts ¹	Mr. Pierre Ducret ¹	Western Europe and Others
Mr. Ismail A. R. El Gizouli ²	Mr. Ratemo W. Michieka ²	Africa
Mr. Khalid M. Abuleif ²	Mr. Jai-Chul Choi ²	Asia
<i>vacant</i>	Mr. Héctor Conde Almeida ¹	small island developing States
Ms. María Andrea Albán Durán ²	Mr. Ato J. Lewis ²	Latin America and the Caribbean
<i>vacant</i>	Mr. Valeriy Sedyakin ¹	Eastern Europe
Mr. Hironori Hamanaka ²	Mr. Mark Berman ²	Annex I Parties ³
Ms. Anna Dixelius ¹	Mr. Nicola Notaro ¹	Annex I Parties ³
Mr. Mamadou Honadia ¹	Ms. Inar Ichsana Ishak ¹	Non-Annex I Parties ⁴
Mr. Javad Aghazadeh Khoei ²	Mr. Paata Janelidze ²	Non-Annex I Parties ⁴

¹ For a term of two years.² For a term of four years.³ Parties included in Annex I to the Convention.⁴ Parties not included in Annex I to the Convention.

Annex III**Report to the Compliance Committee on the Deliberations in the Facilitative Branch Relating to the Submission Entitled "Compliance with Article 3.1 of the Kyoto Protocol"**

1. On 31 May 2006, the facilitative branch of the Compliance Committee began a preliminary examination of the submission by South Africa, as Chairman of the Group of 77 and China, on behalf of the Group of 77 and China entitled "Compliance with Article 3.1 of the Kyoto Protocol," in accordance with section VII, paragraph 2 of the annex to decision 27/CMP.1. It continued its deliberations on 20 June 2006. The branch could not come to a consensus at this time.
2. The branch made a number of attempts to arrive at a consensus. When all efforts to reach agreement on a decision by consensus had been exhausted, a vote was taken electronically on 21 June 2006, resulting in the failure to adopt either a decision to proceed or a decision not to proceed by a majority of three-fourths of the members present and voting, as required by section II, paragraph 9 of the annex to decision 27/CMP.1 in relation to section VII, paragraphs 4 and 6 of the annex to decision 27/CMP.1.
3. On the decision to proceed, worded as follows:

"The submission was received by the facilitative branch of the Compliance Committee on 31 May, 2006. The branch decided to defer taking a decision until 20 June 2006. The branch continued its deliberations and undertook the preliminary examination of the question of implementation on 20 June 2006, in accordance with section VII, paragraph 2, of the annex to decision 27/CMP.1. A vote was taken on 21 June 2006 by electronic means.

In accordance with section VII, para 4, of decision 27/CMP.1, the facilitative branch decides to proceed with the question of implementation submitted by South Africa, as Chairman of the Group of 77 and China, on behalf of the Group of 77 and China, with the following statement on the question of implementation:

Failure to submit a national communication containing the supplementary information required pursuant to para 139 of the annex to decision 22/CMP.1, decision 25/CP.8, para 3, articles 7.4 and 8.3 of the Kyoto Protocol.

This decision was taken on the basis that the submission by South Africa, as Chairman of the Group of 77 and China, on behalf of the Group of 77 and China, fully addressed the requirements under section VI.1 (b) and VII.2. (a), (b) and (c).

Therefore, within its mandate provided for under section IV, para 4 and para 6 (c) the Branch shall take the necessary actions to provide advice, facilitation and promotion to each Party concerned.

The Facilitative Branch shall complete its consideration and agree on the final decision on the submission by South Africa at its September meeting, taking into account the provisions of section VI, VII and VIII of decision 27/CMP.1."

four (4) members voted for the decision to proceed, four (4) members against and two (2) members abstained.

4. On the decision not to proceed worded as follows:

“The submission was received by the facilitative branch of the Compliance Committee on 31 May, 2006. The branch decided to defer taking a decision until 20 June 2006. The branch continued its deliberations and undertook the preliminary examination of the question of implementation on 20 June 2006, in accordance with section VII, paragraph 2, of the annex to decision 27/CMP.1. A vote was taken on 21 June 2006 by electronic means.

Following a preliminary examination, the branch found that the submission addressed to the compliance committee by South Africa, as Chairman of the Group of 77 and China, on behalf of the Group of 77 and China, could not be regarded as a question of implementation within the meaning of section VII.2 of the annex to decision 27/CMP.1, for the following reasons:

a) The communication was not submitted by a Party on its own behalf through a representative duly authorized for this purpose.

The procedures and mechanisms do not provide for the possibility of groups of Parties making submissions by proxy nor give the facilitative branch a mandate to consider any question of implementation that has not been duly submitted in accordance with section VI.1 of the annex to decision 27/CMP.1.

b) The submission does not clearly and individually name the Parties with respect to which it purports to raise a question of implementation.

c) The submission is not supported by information corroborating the question of implementation it purports to raise, nor does it substantiate that this question relates to any of the specific commitments under the Kyoto Protocol identified in either of paragraphs 5 or 6 of section VII.

Accordingly, the branch decided not to proceed.

This decision not to proceed is without prejudice to the right of any Party to submit a question of implementation with respect to the same matter through its duly authorized representatives.”

five (5) members voted for the decision not to proceed, five (5) members against and no member abstained.

5. Under the circumstances, the facilitative branch was unable to take a decision on whether to proceed or not to proceed. Consequently, it could not complete the preliminary examination within three weeks from its receipt of the submission, in accordance with section VIII, paragraph 3 of the annex to decision 27/CMP.1

6. The branch noted that Latvia’s fourth national communication submitted in accordance with Article 12 of the Convention and decision 4/CP.8 and its progress report submitted in accordance with Article 3.2 of the Kyoto Protocol and decisions 22/CP.7 and 25/CP.8 have been received by the secretariat on 25 May 2006, before the branch began its consideration and that since consideration by the branch began, Slovenia’s fourth national communication and its progress report have been

received by the secretariat on 12 June 2006. **The decision not to proceed against Latvia (CC-2006-8-3/Latvia/FB) and the decision not to proceed against Slovenia (CC-2006-14-2/Slovenia/FB) were both adopted by a vote of seven for the decision not to proceed, one against, and two abstentions. Accordingly, the branch decided not to proceed against both these Parties.**

7. A copy of this report shall be sent to South Africa, as Chairman of the Group of 77 and China and to the 15 Parties to whom the submission was sent by the secretariat, namely: Austria (CC-2006-1/FB); Bulgaria (CC-2006-2/FB); Canada (CC-2006-3/FB); France (CC-2006-4/FB); Germany (CC-2006-5/FB); Ireland (CC-2006-6/FB); Italy (CC-2006-7/FB); Latvia (CC-2006-8/FB); Liechtenstein (CC-2006-9/FB); Luxembourg (CC-2006-10/FB); Poland (CC-2006-11/FB); Portugal (CC-2006-12/FB); Russian Federation (CC-2006-13/FB); Slovenia (CC-2006-14/FB); and Ukraine (CC-2006-15/FB), in accordance with section VII of the annex to decision 27/CMP.1.

Annex IV**Decisions taken by the facilitative branch
of the Compliance Committee**

Document Symbol	Title	Date
CC-2006-8-3/Latvia/FB	Decision not to proceed against Latvia	21 June 2006
CC-2006-14-2/Slovenia/FB	Decision not to proceed against Slovenia	21 June 2006
