



**UNITED
NATIONS**



**Framework Convention
on Climate Change**

Distr.
GENERAL

FCCC/KP/CMP/2008/5
31 October 2008

Original: ENGLISH

**CONFERENCE OF THE PARTIES SERVING AS THE
MEETING OF THE PARTIES TO THE KYOTO PROTOCOL**
Fourth session
Poznan, 1–12 December 2008

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

The third 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 8 September 2007 to 9 October 2008. The report provides a summary of the consideration by the enforcement branch of two questions of implementation during the reporting period and lessons learned from this experience. It also contains conclusions of the stocktaking exercise undertaken by the enforcement branch and of the workshop on reporting and review of the facilitative branch, and observations and recommendations of the plenary arising from these activities.

* This document was submitted after the due date in order to take into account the outcomes of the fifth meeting of the plenary of the Compliance Committee, which took place from 8 to 9 October 2008.

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I. Introduction

A. Mandate

1. Under section III, paragraph 2 (a), of the “Procedures and mechanisms relating to compliance under the Kyoto Protocol” (annex to decision 27/CMP.1; hereinafter referred to as the procedures and mechanisms), the plenary of the Compliance Committee is to report on the activities of the Committee to each ordinary session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP).

B. Scope of the report

2. The third annual report of the plenary of the Compliance Committee covers the period from 8 September 2007 to 9 October 2008. It summarizes the work of and matters addressed by the 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 CMP may wish to consider this annual report of the Compliance Committee.

4. The CMP may also wish to:

- (a) Adopt the amendments to the rules of procedure, contained in annex I to this report, that have been developed by the plenary of the Compliance Committee in accordance with section III, paragraph 2 (d), of the procedures and mechanisms;
- (b) Invite the President of the CMP to undertake consultations on the nominations required to fill the vacancy in the facilitative branch of the Compliance Committee;
- (c) Invite Parties to make contributions to the Trust Fund for Supplementary Activities for the biennium 2008–2009 to support the work of the Compliance Committee;
- (d) Decide to apply the existing practice of other constituted bodies under the Kyoto Protocol to the Compliance Committee in relation to membership, so that:
 - (i) The length of term for each member also applies to his or her alternate member;
 - (ii) Alternate members of the Compliance Committee are not to serve for more than two consecutive terms as alternate members;
 - (iii) Terms served as an alternate member would not count towards the limit of two consecutive terms that can be served by an alternate member who is subsequently elected as a member or, conversely, terms served as a member would not count towards the limit of two consecutive terms that can be served by a member who is subsequently elected as an alternate member;
- (e) Take into account, in its further consideration of the question of privileges and immunities, the situation of experts from whom advice is sought by the facilitative branch or the enforcement branch;
- (f) Ensure that the Compliance Committee is treated consistently with other constituted bodies under the Kyoto Protocol when it comes to funding the costs of travel and participation. In this regard, the Compliance Committee urges the CMP to invite the Subsidiary Body for Implementation (SBI) take into account, in its consideration of

the proposed UNFCCC budget for the biennium 2010–2011, the proposals of the Compliance Committee that the CMP:

- (i) Extend funding for the costs of travel and participation in meetings of the Compliance Committee to all its members and alternate members;
- (ii) Authorize the secretariat to consider requests for funding related to travel and participation in Compliance Committee meetings by members and alternate members who are currently not eligible for such funding, as a temporary measure until such an extension of eligibility for funding is made, subject to the availability of resources and on a case-by-case basis;
- (iii) Follow the same United Nations rules and regulations on official travel as those applied to United Nations staff for the travel of eligible members and alternate members.

II. Organizational matters

5. The fifth meeting of the plenary of the Compliance Committee was held in Bonn, Germany, from 8 to 9 October 2008.

6. The sixth meeting of the facilitative branch was held in Bonn on 7 October 2008. The enforcement branch met four times in Bonn this year for its third, fourth, fifth and sixth meetings (from 4 to 6 March 2008, 16 to 17 April 2008, 14 to 15 June 2008 and 6 to 7 October 2008, respectively). In addition to these meetings, during the reporting period the bureau of the Compliance Committee and the facilitative and enforcement branches used electronic means to take decisions on the allocation of questions of implementation, on elections, on expert advice, and on preliminary examination, thereby reducing meeting-related costs.

7. The agenda and annotations, documentation supporting agenda items, and the chairpersons' report on each meeting of the plenary and the facilitative and enforcement branches are available on the UNFCCC website.¹ A list of the documents of the Compliance Committee for the reporting period is contained in annex II to this report.

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

8. Pursuant to the decision taken by the plenary at its fourth meeting and to rule 11, paragraph 2, of the "Rules of procedure of the Compliance Committee of the Kyoto Protocol" (annex to decision 4/CMP.2; hereinafter referred to as the rules of procedure), the enforcement branch elected Mr. Sebastian Oberthür as chairperson and Ms. Johanna Gertruida Sandea De Wet as vice-chairperson by consensus using electronic means on 11 February 2008, and the facilitative branch elected Mr. Ismail El Gizouli as chairperson and Mr. Marc Pallemarts as vice-chairperson by consensus using electronic means on 11 March 2008. These chairpersons and vice-chairpersons constitute the new bureau of the Committee.

9. The plenary expressed appreciation for the work of the members of the previous bureau, namely, Mr. Raúl Estrada-Oyuela, chairperson of the enforcement branch, Mr. Hironori Hamanaka, chairperson of the facilitative branch, Mr. Oberthür, vice-chairperson of the enforcement branch, and Mr. El Gizouli, vice-chairperson of the facilitative branch.

¹ <http://unfccc.int/kyoto_protocol/compliance/items/2875.php>.

B. Membership in the Compliance Committee

10. Mr. Hamanaka, a member of the Compliance Committee elected to serve in the facilitative branch until 31 December 2009, tendered his resignation from the Committee on 9 May 2008. Mr. Hamanaka served as chairperson of the facilitative branch from 1 March 2006 to 10 March 2008. Since the resignation of Mr. Hamanaka, Mr. Mark Berman, elected as an alternate member, has been serving as member. The plenary of the Committee requests the CMP to fill the vacancy in the facilitative branch by electing a member from Parties included in Annex I to serve for the remaining period of Mr. Hamanaka's term.

11. The plenary notes that while the procedures and mechanisms indicate the length of term for members of the Compliance Committee and the maximum number of consecutive terms that members can serve, the CMP did not specify the length of term for an alternate member of the Committee or the maximum number of consecutive terms that an alternate member can serve. The procedures and mechanisms also do not mention whether terms served as an alternate member would count towards the limit of two consecutive terms that can be served by members. The plenary invites the CMP to decide to apply the existing practice of other constituted bodies under the Kyoto Protocol to the Compliance Committee in relation to membership, so that:

- (a) The length of term for each member also applies to his or her alternate member;
- (b) Alternate members of the Compliance Committee are not to serve for more than two consecutive terms as alternate members;
- (c) Terms served as an alternate member would not count towards the limit of two consecutive terms that can be served by an alternate member who is subsequently elected as a member or, conversely, terms served as a member would not count towards the limit of two consecutive terms that can be served by a member who is subsequently elected as an alternate member.

C. Transparency, communication and information

12. Pursuant to rule 9, paragraph 1, of the rules of procedure, the fifth meeting of the plenary, the sixth meeting of the facilitative branch and parts of the third, fourth, fifth and sixth meetings of the enforcement branch that were held in public were recorded and broadcast on the Internet through the UNFCCC website.

13. The second annual report of the Compliance Committee, considered by the CMP at its third session, described agreement by the plenary on working arrangements with respect to public participation in meetings of the Compliance Committee (FCCC/KP/CMP/2007/6, paras. 15–17). Following this agreement, a simple system of notification and registration for those who would like to observe the meetings of the plenary and the branches has been established.

D. Privileges and immunities for members and alternate members of the Compliance Committee

14. In accordance with the conclusions of the SBI at its twenty-sixth session relating to privileges and immunities for individuals serving on constituted bodies established under the Kyoto Protocol,² the plenary notes that to date, no disputes, complaints or claims relating to the Compliance Committee or to individuals serving on the Committee with regard to their official functions have been raised. The plenary is, however, closely monitoring discussions at the sessions of the CMP and the SBI on privileges and immunities for individuals serving on Kyoto Protocol constituted bodies, particularly the discussions on the second review of the Kyoto Protocol pursuant to its Article 9. It observes that experts from whom advice is sought by the facilitative branch or the enforcement

² FCCC/SBI/2007/15, paragraphs 163–168.

branch under section VIII, paragraph 5, of the procedures and mechanisms do not enjoy immunity with regard to the expert advice they provide to the branches.

III. Work undertaken in the reporting period

A. Reports of expert review teams under Article 8 of the Kyoto Protocol and other information received by the plenary of the Compliance Committee

15. In accordance with section VI, paragraph 3, of the procedures and mechanisms, the secretariat forwarded to the Compliance Committee the reports from the expert review teams of the centralized in-depth reviews of the fourth national communications (IDRs) of Belgium, Bulgaria, the Czech Republic, France, Germany, Liechtenstein, Monaco, the Netherlands, Portugal and Spain. The plenary notes that to date it has received 26 IDRs and that the in-depth review of the fourth national communications³ of 11 Parties included in Annex I to the Convention (Annex I Parties) is scheduled for next year.⁴

16. Also in accordance with section VI, paragraph 3, of the procedures and mechanisms, the secretariat forwarded to the Compliance Committee the reports of the review of the initial reports (IRRs) of Belgium, Bulgaria, the Czech Republic, Denmark, Estonia, the European Community, Finland, France, Germany, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Monaco, the Netherlands, Norway, Poland, Portugal, Romania, the Russian Federation, Slovakia, Slovenia, Spain, Sweden, Ukraine, and the United Kingdom of Great Britain and Northern Ireland. The plenary notes that all 39 Annex I Parties that are also Parties to the Kyoto Protocol have submitted their initial reports. It also notes that to date it has received 36 IRRs and that the IRR of Australia is under preparation, the review of the initial report of Croatia is under preparation, and the review of the initial report of Belarus is postponed until the SBI considers the modalities and conditions of the review.⁵

17. In accordance with section VI, paragraph 1, of the procedures and mechanisms, the secretariat forwarded to the Compliance Committee the IRRs of Canada and Greece, which both indicated questions of implementation. In accordance with section VI, paragraph 2, of the procedures and mechanisms, these reports were also made available to Canada and Greece. Information on the work of the enforcement branch with respect to these questions of implementation is set out in chapters III B and III C below.

18. In accordance with section VI, paragraph 3, of the procedures and mechanisms and decision 22/CMP.1, annex, paragraph 49, the secretariat forwarded to the Compliance Committee the annual status reports of the greenhouse gas inventories (ASRs) of Austria, Belarus, Belgium, Bulgaria, Canada, the Czech Republic, Denmark, Estonia, the European Community, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Monaco, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, the Russian Federation, Slovakia, Slovenia, Spain, Sweden, Switzerland, Ukraine and the United Kingdom. The plenary notes that it has received 37 ASRs and that the ASRs of Australia and Croatia will be forwarded to the Committee from next year onwards.

³ The term "fourth national communication" as used in this report includes the first, second and third national communications that were submitted during the period when the majority of Parties included in Annex I submitted their fourth national communication in accordance with decision 4/CP.8.

⁴ These are the IDRs of Austria, Belarus, Canada, Croatia, the European Community, Ireland, Italy, Poland, Romania, the Russian Federation and Ukraine. Australia submitted its fourth national communication on 12 December 2005, before it became a Party to the Kyoto Protocol. Its fourth national communication is being reviewed under Convention guidelines. Of the 39 Annex I Parties that are also Parties to the Kyoto Protocol, only Luxembourg has not yet submitted its fourth national communication.

⁵ FCCC/KP/CMP/2007/9, paragraph 160.

19. The plenary recalls that under decision 26/CMP.1, paragraph 1, each initial review is to be completed no later than one year from the date of the submission of the initial report. The plenary expresses concern regarding the delay in the completion of some review reports, particularly the IRR of the European Community, which was published on 15 February 2008 or almost one year and two months after the submission of the European Community's initial report on 18 December 2006, and the IRR of Canada, which was published on 11 April 2008, almost one year and one month after the submission of Canada's initial report on 15 March 2007.

20. At its fifth meeting, the plenary considered the information provided to it by the secretariat on the status of submission and review of reports under the Kyoto Protocol (document CC/5/2008/5) and noted, with increasing concern, that to date, nearly three years after the deadline set out in decision 4/CP.8 in relation to decision 22/CMP.1, Luxembourg has failed to submit its fourth national communication containing the supplementary information required under Article 7, paragraph 2, of the Kyoto Protocol despite the concern expressed by the CMP in this regard.⁶

21. The enforcement branch, at its fourth meeting, noted the importance of ensuring that reviews under Article 8 of the Kyoto Protocol are performed consistently across Parties by each expert review team and decided to bring this matter to the attention of the plenary. At the request of the enforcement branch, the secretariat prepared a paper containing a description of the review process under Article 8 of the Kyoto Protocol and a synthesis of information in IRRs on national systems (document CC/5/2008/2) to serve as input to plenary discussions on this matter. After reviewing this paper and the additional information provided by the secretariat during its fifth meeting, the plenary considered issues related to the review process under Article 8.

22. The plenary expresses its appreciation to the expert review teams, supported by the secretariat, for their work in providing, with limited resources, high-quality review reports. The plenary welcomes the observation of the SBI at its twenty-eighth session that improvement of the reporting and review processes is of critical importance.⁷ However, the plenary is concerned about issues of consistency in the review process and resource limitations, including the lack of available experts. The review functions required under the Kyoto Protocol, which are crucial to the work of the Committee, may be seriously compromised by these issues, and therefore the plenary will continue to keep these issues under review at its future meetings.

B. Consideration by the enforcement branch of a question of implementation with respect to Greece

23. On 31 December 2007, the Compliance Committee received a question of implementation indicated in the IRR of Greece.⁸ The bureau of the Compliance Committee allocated the question of implementation to the enforcement branch on 8 January 2008. On 22 January 2008, the enforcement branch took a decision to proceed (see document CC-2007-1-2/Greece/EB) with the question of implementation, which relates to compliance with the "Guidelines for national systems under Article 5, paragraph 1, of the Kyoto Protocol" (decision 19/CMP.1) and the "Guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol" (decision 15/CMP.1).

24. The enforcement branch received a written submission from Greece and, from 4 to 5 March 2008, held a hearing at the request of the Party. In its preliminary finding dated 6 March 2008 (see document CC-2007-1-6/Greece/EB), the branch reached the determination that Greece was not in compliance with the guidelines referred to in paragraph 23 above. After receiving a further written submission from Greece, the branch confirmed its preliminary finding in a final decision (document CC-2007-1-8/Greece/EB) on 17 April 2008.

⁶ Decision 5/CMP.3, "Compliance under the Kyoto Protocol".

⁷ FCCC/SBI/2008/8, paragraph 93.

⁸ FCCC/IRR/2007/GRC.

25. On 16 July 2008, Greece submitted a plan pursuant to the final decision of the enforcement branch in accordance with section XV, paragraph 2, of the procedures and mechanisms. At its sixth meeting held from 6 to 7 October 2008, the enforcement branch requested Greece to submit a revised plan (see document CC-2007-1-10/Greece/EB).

26. In accordance with section III, paragraph 2 (a), of the procedures and mechanisms, the decisions taken by the enforcement branch with respect to Greece are contained in annex III to this report.

C. Consideration by the enforcement branch of a question of implementation with respect to Canada

27. On 14 April 2008, the Compliance Committee received a question of implementation indicated in the IRR of Canada.⁹ The bureau of the Compliance Committee allocated the question of implementation to the enforcement branch on 16 April 2008. On 2 May 2008, the enforcement branch took a decision to proceed (see document CC-2008-1-2/Canada/EB) with the question of implementation, which relates to compliance with the “Guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol” (decision 15/CMP.1) and the modalities for the accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol (decision 13/CMP.1), as well as the annex to decision 5/CMP.1 and the requirements of the technical standards for data exchange between registry systems.

28. The enforcement branch received a written submission from Canada and, on 14 June 2008, held a hearing at the request of Party. The enforcement branch adopted a decision not to proceed further (see document CC-2008-1-6/Canada/EB) on 15 June 2008.

29. In accordance with section III, paragraph 2 (a), of the procedures and mechanisms, the decisions taken by the enforcement branch with respect to Canada are contained in annex IV to this report.

30. On 11 July 2008, Canada made a “Further Written Submission” (contained in document CC-2008-1-7/Canada/EB). At the request of the chairperson of the enforcement branch, a message was sent to Canada, indicating that as the decision not to proceed further had concluded the proceedings with respect to the related question of implementation, Canada might wish to request that its communication contained in document CC-2008-1-7/Canada/EB be annexed to the annual report of the Compliance Committee to the CMP in accordance with rule 22, paragraph 2, of the rules of procedure.¹⁰ At the corresponding request of Canada, which was received in writing by the secretariat on 31 July 2008, the document entitled “Further Written Submission” has been included in this report as annex V.

D. Stocktaking exercise by the enforcement branch

31. At its sixth meeting, the enforcement branch reflected on its work in 2008 and suggested improvements that could be made to its consideration of questions of implementation. A background note prepared by the secretariat (document CC/EB/6/2008/2) was used as the basis for this stocktaking exercise.

32. The branch identified areas where amendments to the rules of procedure are required and agreed that its proposed working arrangements and amendments to the rules of procedure of the Compliance Committee should be forwarded to the plenary. The branch also agreed that members

⁹ FCCC/IRR/2007/CAN.

¹⁰ Rule 22, paragraph 2, states: “Comments in writing on a final decision submitted within 45 days from the receipt of that decision by the Party concerned shall be circulated by the secretariat to the members and alternate members of the relevant branch and shall be included in the Committee’s annual report to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.”

and alternate members serving as members could provide an explanation of a dissenting vote with respect to any decision of the branch, which would be included in an annex to the report on the meeting at which the decision was taken or to the report on the meeting subsequent to a decision taken by electronic means.

33. At the fifth meeting of the plenary, the chairperson of the enforcement branch gave an oral report on lessons learned and experience gained from its consideration of questions of implementation. The report was based on the stocktaking exercise referred to in paragraph 31 above.

34. The plenary considered the working arrangements and amendments proposed by the enforcement branch and agreed to submit proposed amendments to the rules of procedure contained in annex I to this report to the CMP for adoption at its fourth session.

35. The plenary stressed that it intends to forward to the CMP any amendments to the rules of procedure for adoption after careful consideration, taking into account any relevant experience gained.

E. Facilitative branch workshop on reporting and review

36. In response to a request made by the facilitative branch at its fourth meeting, a workshop on reporting and review was held in Bonn on 7 October 2008 to review the role of the compliance regime within the Kyoto Protocol system, to share knowledge and information on the interaction between the reporting, review and compliance systems and institutions, and to explore key issues on these topics.

37. As a result of discussions at the workshop, at its sixth meeting the branch agreed to continue discussions at its next meeting on how it can carry out its responsibility to provide advice and facilitation “with the aim of promoting compliance and providing for early warning of potential non-compliance” under section IV, paragraph 6 (a), of the procedures and mechanisms. The branch will also consider how it could make use of the wealth of information found in the expert review team reports forwarded to members and alternate members of the Compliance Committee pursuant to section VI, paragraph 3, of the procedures and mechanisms, to the extent that the information is relevant to the mandate of the branch.

IV. Participation of members and alternate members

38. The plenary again draws the attention of the CMP to the proposals contained in paragraph 27 of the Compliance Committee’s second annual report to the CMP¹¹ regarding the costs of travel and participation, and requests the CMP to ensure that these proposals are taken into account in its consideration of the proposed budget for the biennium 2010–2011.

39. As noted by the plenary, decision 5/CMP.3 requested the secretariat to provide information to Parties, in its preparation for the budget for the biennium 2010–2011, on the consequences of the proposal of the Compliance Committee to extend funding for the costs of travel and participation in meetings of the Committee to all its members and alternate members. The plenary expresses its hope that the CMP will take action based on this information at its fifth session.

V. Availability of resources

40. For the biennium 2008–2009, USD 1,022,500 was approved in the core budget of the UNFCCC for activities related to the Compliance Committee. In addition, USD 1,034,685 is to be provided from the Trust Fund for Supplementary Activities, which is an increase of USD 339,035 from the estimate given in the programme budget document for the biennium 2008–2009.¹² Costs not

¹¹ FCCC/KP/CMP/2007/6.

¹² FCCC/SBI/2007/8/Add.2.

previously factored in, or which have increased from the original projections, include webcasting, security arrangements that are required as a result of working arrangements allowing members of the public to observe the meetings of the Committee, and costs relating to the travel and participation of experts from whom advice is sought by the facilitative or enforcement branch.

41. At the end of 2007, the balance of contributions for the Compliance Committee under the Trust Fund for Supplementary Activities was USD 385,197, which was carried over to the biennium 2008–2009. As at the end of the reporting period, contributions of USD 168,872 had been received in 2008. The Committee expresses its thanks to Belgium, Japan and the United Kingdom for their generous contributions. The Committee requests the CMP to invite Parties to make contributions to the Trust Fund for Supplementary Activities for the biennium 2008–2009 to support the work of the Compliance Committee.

Annex I

Proposed amendments to the rules of procedure

In accordance with section III, paragraph 2 (d), of the annex to decision 27/CMP.1, the following text is put forward for adoption by the CMP as amendments to the rules of procedure of the Compliance Committee of the Kyoto Protocol contained in the annex to decision 4/CMP.2.

1. The following text should be inserted following rule 13:

“9 bis. CALCULATION OF TIME PERIODS

Rule 13 bis

For the purposes of calculating time periods:

- (a) The day of the act or event from which the period of time begins to run shall not be included. The last day of the period so calculated shall be included, unless it is a Saturday, Sunday or official UNFCCC holiday, or official national holiday in the case of a time limit applicable to a Party concerned, in which case the period shall be deemed to run until the end of the next working day;
- (b) Subject to subparagraph (a) above, where a period of time is expressed in weeks, months or years, the day on which the period of time expires shall be the same day of the week, month or year as the day from which the period of time begins to run, or if the month does not have such a date, the last day of that month.”

2. Rule 18 should be revised as follows, in order to extend coverage to the proposed new rule 25 bis, below:

“1. Any submission or comment under rules 14, 15, ~~and 17~~ and 25 bis shall be signed by the agent of the Party and be delivered to the secretariat in hard copy and by electronic means.”

3. The following text should be inserted as a new paragraph 3 under rule 25:

“3. The entitlement of the Party concerned to designate one or more persons to represent it during the consideration of a question of implementation pursuant to paragraph 2 of section VIII extends to any meeting convened to:

- (a) Consider reinstatement of eligibility under section X;
- (b) Review and assess any plan submitted to the enforcement branch under paragraph 2 or paragraph 6 of section XV;
- (c) Consider any progress report on the implementation of this plan submitted to the enforcement branch under paragraph 3 or paragraph 7 of section XV.”

4. The following text should be inserted following rule 25:

“Rule 25 bis

1. A plan to be submitted by the Party concerned to the enforcement branch under paragraph 2 or paragraph 6 of section XV shall explicitly:
 - (a) Address, in separate sections, each of the elements specified in paragraph 2 or paragraph 6 of section XV;
 - (b) Respond to any specific issues raised in the part of the final decision of the enforcement branch applying the consequences.
2. The enforcement branch shall endeavour to conduct the review and assessment of the plan under paragraph 2 or paragraph 6 of section XV within four weeks from the date of receipt of the plan.
3. In its review and assessment, the enforcement branch shall assess whether the plan submitted:
 - (a) Sets out and adequately addresses the elements and issues referred to in paragraph 1 above;
 - (b) If implemented, is expected to remedy the non-compliance or to meet the quantified emission limitation or reduction commitment of the Party concerned in the subsequent commitment period, as envisaged in paragraph 2 and paragraph 6 of section XV, respectively.”

5. The following text should be inserted following the new proposed rule 25 bis:

“Rule 25 ter

The enforcement branch may hold a hearing requested by the Party concerned under section X, paragraph 1 (c), together with the meeting to adopt the preliminary finding or a decision not to proceed. Such a combined hearing and meeting shall be scheduled:

- (a) Within two weeks from the due date of the written submission under section X, paragraph 1 (b); or
- (b) Within two weeks of the due date of a request for a hearing under section X, paragraph 1 (c), if the Party concerned indicates, by the due date of a request for a hearing, that it does not intend to make a written submission under section X, paragraph 1 (b).”

Annex II

[ENGLISH ONLY]

Documents of the Compliance Committee¹

PLENARY

Title	Document No.	Date
<u>5th meeting</u>		
Provisional agenda and annotations	CC/5/2008/1	8 September 2008
Description of the elements of the review process under Article 8 and synthesis of the information regarding the review of national systems	CC/5/2008/2	1 October 2008
Annual report of the Compliance Committee to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol. Note by the secretariat	CC/5/2008/3	30 September 2008
Terms of office of alternate members of the Compliance Committee. Note by the secretariat	CC/5/2008/4	26 September 2008
Status of submission and review of reports under the Kyoto Protocol. Note by the secretariat	CC/5/2008/5	30 September 2008
Report on the meeting	CC/5/2008/6	30 October 2008

ENFORCEMENT BRANCH

Title	Document No.	Date
Report on the election of chairperson and vice-chairperson of the enforcement branch 2008	CC/EB/2008/1	11 February 2008
<u>3rd meeting</u>		
Provisional agenda and annotations	CC/EB/3/2008/1	27 February 2008
Report on the meeting	CC/EB/3/2008/2	18 March 2008
<u>4th meeting</u>		
Provisional agenda and annotations	CC/EB/4/2008/1	9 April 2008
Report on the meeting	CC/EB/4/2008/2	19 May 2008
<u>5th meeting</u>		
Provisional agenda and annotations	CC/EB/5/2008/1	6 June 2008

¹ These documents are available on the UNFCCC website at <http://unfccc.int/kyoto_protocol/compliance/items/2875.php>.

Title	Document No.	Date
Report on the meeting <u>6th meeting</u>	CC/EB/5/2008/2	23 June 2008
Provisional agenda and annotations	CC/EB/6/2008/1	8 September 2008
Provisional agenda and annotations	CC/EB/6/2008/1/Rev.1	11 September 2008
List of issues for enforcement branch stocktaking exercise	CC/EB/6/2008/2	24 September 2008
Report on the meeting	CC/EB/6/2008/3	30 October 2008

FACILITATIVE BRANCH

Title	Document No.	Date
Report on the election of chairperson and vice-chairperson of the facilitative branch 2008 <u>6th meeting</u>	CC/FB/2008/1	11 March 2008
Provisional agenda and annotations	CC/FB/6/2008/1	8 September 2008
Report on the meeting	CC/FB/6/2008/2	30 October 2008

EXPERT REVIEW TEAM REPORTS OF THE CENTRALIZED IN-DEPTH REVIEW OF FOURTH NATIONAL COMMUNICATIONS FORWARDED TO THE COMPLIANCE COMMITTEE UNDER SECTION VI, PARAGRAPH 3, OF THE ANNEX TO DECISION 27/CMP.1

Title	Document No.	Date
Report of the centralized in-depth review of the fourth national communication of Monaco. Note by the secretariat	CC/ERT/2008/1	17 September 2008
Report of the centralized in-depth review of the fourth national communication of the Czech Republic. Note by the secretariat	CC/ERT/2008/2	22 September 2008
Report of the centralized in-depth review of the fourth national communication of France. Note by the secretariat	CC/ERT/2008/3	22 September 2008
Report of the centralized in-depth review of the fourth national communication of Liechtenstein. Note by the secretariat	CC/ERT/2008/4	26 September 2008
Report of the centralized in-depth review of the fourth national communication of Germany. Note by the secretariat	CC/ERT/2008/5	26 September 2008
Report of the centralized in-depth review of the fourth national communication of Belgium. Note by the secretariat	CC/ERT/2008/6	7 October 2008

Title	Document No.	Date
Report of the centralized in-depth review of the fourth national communication of Portugal. Note by the secretariat	CC/ERT/2008/7	7 October 2008
Report of the centralized in-depth review of the fourth national communication of Bulgaria. Note by the secretariat	CC/ERT/2008/8	7 October 2008
Report of the centralized in-depth review of the fourth national communication of Spain. Note by the secretariat	CC/ERT/2008/9	7 October 2008
Report of the centralized in-depth review of the fourth national communication of the Netherlands. Note by the secretariat	CC/ERT/2008/10	8 October 2008

EXPERT REVIEW TEAM INITIAL REVIEW REPORTS FORWARDED TO THE COMPLIANCE COMMITTEE UNDER SECTION VI, PARAGRAPH 3, OF THE ANNEX TO DECISION 27/CMP.1

Title	Document No.	Date
Report of the review of the initial report of Slovakia. Note by the secretariat	CC/ERT/IRR/2007/6	2 October 2007
Report of the review of the initial report of the United Kingdom of Great Britain and Northern Ireland. Note by the secretariat	CC/ERT/IRR/2007/7	2 October 2007
Report of the review of the initial report of Ireland. Note by the secretariat	CC/ERT/IRR/2007/8	9 October 2007
Report of the review of the initial report of the Czech Republic. Note by the secretariat	CC/ERT/IRR/2007/9	16 October 2007
Report of the review of the initial report of the Kingdom of Norway. Note by the secretariat	CC/ERT/IRR/2007/10	16 October 2007
Report of the review of the initial report of Lithuania. Note by the secretariat	CC/ERT/IRR/2007/11	31 October 2007
Report of the review of the initial report of the Netherlands. Note by the secretariat	CC/ERT/IRR/2007/12	2 November 2007
Report of the review of the initial report of Denmark. Note by the secretariat	CC/ERT/IRR/2007/13	2 November 2007
Report of the review of the initial report of Spain. Note by the secretariat	CC/ERT/IRR/2007/14	8 November 2007
Report of the review of the initial report of Estonia. Note by the secretariat	CC/ERT/IRR/2007/15	15 November 2007

Title	Document No.	Date
Report of the review of the initial report of Slovenia. Note by the secretariat	CC/ERT/IRR/2007/16	15 November 2007
Report of the review of the initial report of Portugal. Note by the secretariat	CC/ERT/IRR/2007/17	15 November 2007
Report of the review of the initial report of Sweden. Note by the secretariat	CC/ERT/IRR/2007/18	19 November 2007
Report of the review of the initial report of Finland. Note by the secretariat	CC/ERT/IRR/2007/19	29 November 2007
Report of the review of the initial report of France. Note by the secretariat	CC/ERT/IRR/2007/20	29 November 2007
Report of the review of the initial report of Italy. Note by the secretariat	CC/ERT/IRR/2007/21	10 December 2007
Report of the review of the initial report of Belgium. Note by the secretariat	CC/ERT/IRR/2007/22	12 December 2007
Report of the review of the initial report of Ukraine. Note by the secretariat	CC/ERT/IRR/2007/23	13 December 2007
Report of the review of the initial report of Germany. Note by the secretariat	CC/ERT/IRR/2007/24	13 December 2007
Report of the review of the initial report of Liechtenstein. Note by the secretariat	CC/ERT/IRR/2007/25	14 December 2007
Report of the review of the initial report of Luxembourg. Note by the secretariat	CC/ERT/IRR/2007/26	14 December 2007
Report of the review of the initial report of Latvia. Note by the secretariat	CC/ERT/IRR/2007/27	14 December 2007
Report of the review of the initial report of Poland. Note by the secretariat	CC/ERT/IRR/2007/28	14 December 2007
Report of the review of the initial report of Iceland. Note by the secretariat	CC/ERT/IRR/2008/1	11 January 2008
Report of the review of the initial report of the European Community. Note by the secretariat	CC/ERT/IRR/2008/2	15 February 2008
Report of the review of the initial report of the Russian Federation. Note by the secretariat	CC/ERT/IRR/2008/3	18 February 2008
Report of the review of the initial report of Monaco. Note by the secretariat	CC/ERT/IRR/2008/5	24 April 2008

Title	Document No.	Date
Report of the review of the initial report of Bulgaria. Note by the secretariat	CC/ERT/IRR/2008/6	9 May 2008
Report of the review of the initial report of Romania. Note by the secretariat	CC/ERT/IRR/2008/7	16 May 2008

EXPERT REVIEW TEAM ANNUAL STATUS REPORTS OF GREENHOUSE GAS INVENTORIES FORWARDED TO THE COMPLIANCE COMMITTEE UNDER SECTION VI, PARAGRAPH 3, OF THE ANNEX TO DECISION 27/CMP.1 AND PARAGRAPH 49 OF THE ANNEX TO DECISION 22/CMP.1

Title	Document No.	Date
Annual status report of the greenhouse gas inventory of Romania. Note by the secretariat	CC/ERT/ASR/2008/1	29 May 2008
Annual status report of the greenhouse gas inventory of Greece. Note by the secretariat	CC/ERT/ASR/2008/2	30 May 2008
Annual status report of the greenhouse gas inventory of Hungary. Note by the secretariat	CC/ERT/ASR/2008/3	30 May 2008
Annual status report of the greenhouse gas inventory of Liechtenstein. Note by the secretariat	CC/ERT/ASR/2008/4	30 May 2008
Annual status report of the greenhouse gas inventory of Lithuania. Note by the secretariat	CC/ERT/ASR/2008/5	30 May 2008
Annual status report of the greenhouse gas inventory of Austria. Note by the secretariat	CC/ERT/ASR/2008/6	4 June 2008
Annual status report of the greenhouse gas inventory of Belgium. Note by the secretariat	CC/ERT/ASR/2008/7	4 June 2008
Annual status report of the greenhouse gas inventory of the Czech Republic. Note by the secretariat	CC/ERT/ASR/2008/8	4 June 2008
Annual status report of the greenhouse gas inventory of the Netherlands. Note by the secretariat	CC/ERT/ASR/2008/9	4 June 2008
Annual status report of the greenhouse gas inventory of Sweden. Note by the secretariat	CC/ERT/ASR/2008/10	4 June 2008
Annual status report of the greenhouse gas inventory of Portugal. Note by the secretariat	CC/ERT/ASR/2008/11	5 June 2008
Annual status report of the greenhouse gas inventory of Slovenia. Note by the secretariat	CC/ERT/ASR/2008/12	6 June 2008
Annual status report of the greenhouse gas inventory of Switzerland. Note by the secretariat	CC/ERT/ASR/2008/13	6 June 2008

Title	Document No.	Date
Annual status report of the greenhouse gas inventory of Estonia. Note by the secretariat	CC/ERT/ASR/2008/14	6 June 2008
Annual status report of the greenhouse gas inventory of the United Kingdom of Great Britain and Northern Ireland. Note by the secretariat	CC/ERT/ASR/2008/15	6 June 2008
Annual status report of the greenhouse gas inventory of Bulgaria. Note by the secretariat	CC/ERT/ASR/2008/16	6 June 2008
Annual status report of the greenhouse gas inventory of New Zealand. Note by the secretariat	CC/ERT/ASR/2008/17	20 June 2008
Annual status report of the greenhouse gas inventory of France. Note by the secretariat	CC/ERT/ASR/2008/18	20 June 2008
Annual status report of the greenhouse gas inventory of Ireland. Note by the secretariat	CC/ERT/ASR/2008/19	20 June 2008
Annual status report of the greenhouse gas inventory of Italy. Note by the secretariat	CC/ERT/ASR/2008/20	20 June 2008
Annual status report of the greenhouse gas inventory of Latvia. Note by the secretariat	CC/ERT/ASR/2008/21	20 June 2008
Annual status report of the greenhouse gas inventory of Denmark. Note by the secretariat	CC/ERT/ASR/2008/22	20 June 2008
Annual status report of the greenhouse gas inventory of Ukraine. Note by the secretariat	CC/ERT/ASR/2008/23	23 June 2008
Annual status report of the greenhouse gas inventory of Germany. Note by the secretariat	CC/ERT/ASR/2008/24	23 June 2008
Annual status report of the greenhouse gas inventory of the European Community. Note by the secretariat	CC/ERT/ASR/2008/25	23 June 2008
Annual status report of the greenhouse gas inventory of Iceland. Note by the secretariat	CC/ERT/ASR/2008/26	23 June 2008
Annual status report of the greenhouse gas inventory of Japan. Note by the secretariat	CC/ERT/ASR/2008/27	23 June 2008
Annual status report of the greenhouse gas inventory of Norway. Note by the secretariat	CC/ERT/ASR/2008/28	23 June 2008
Annual status report of the greenhouse gas inventory of Poland. Note by the secretariat	CC/ERT/ASR/2008/29	23 June 2008
Annual status report of the greenhouse gas inventory of Canada. Note by the secretariat	CC/ERT/ASR/2008/30	23 June 2008

Title	Document No.	Date
Annual status report of the greenhouse gas inventory of the Russian Federation. Note by the secretariat	CC/ERT/ASR/2008/31	25 June 2008
Annual status report of the greenhouse gas inventory of Spain. Note by the secretariat	CC/ERT/ASR/2008/32	25 June 2008
Annual status report of the greenhouse gas inventory of Luxembourg. Note by the secretariat	CC/ERT/ASR/2008/33	25 June 2008
Annual status report of the greenhouse gas inventory of Monaco. Note by the secretariat	CC/ERT/ASR/2008/34	25 June 2008
Annual status report of the greenhouse gas inventory of Belarus. Note by the secretariat	CC/ERT/ASR/2008/35	25 June 2008
Annual status report of the greenhouse gas inventory of Finland. Note by the secretariat	CC/ERT/ASR/2008/36	25 June 2008
Annual status report of the greenhouse gas inventory of Slovakia. Note by the secretariat	CC/ERT/ASR/2008/37	25 June 2008

LIST OF ENFORCEMENT BRANCH DELIBERATION DOCUMENTS WITH RESPECT TO GREECE

Title	Document No.	Date
Report of the review of the initial report of Greece. Note by the secretariat	CC/ERT/IRR/2007/29	31 December 2007
Report of the review of the initial report of Greece. Note by the secretariat	CC-2007-1-1/Greece/EB	8 January 2008
Decision on preliminary examination	CC-2007-1-2/Greece/EB	22 January 2008
Expert advice: Greece	CC-2007-1-3/Greece/EB	8 February 2008
Acknowledgment from Greece and request for hearing	CC-2007-1-4/Greece/EB	11 February 2008
Written submission of Greece	CC-2007-1-5/Greece/EB	26 February 2008
Preliminary finding	CC-2007-1-6/Greece/EB	6 March 2008
Further written submission of Greece	CC-2007-1-7/Greece/EB	9 April 2008
Final decision	CC-2007-1-8/Greece/EB	17 April 2008
Plan pursuant to final decision	CC-2007-1-9/Greece/EB	17 July 2008
Decision on the review and assessment of the plan submitted under paragraph 2 of section XV	CC-2007-1-10/Greece/EB	7 October 2008

LIST OF ENFORCEMENT BRANCH DELIBERATION DOCUMENTS WITH RESPECT TO CANADA

Title	Document No.	Date
Report of the review of the initial report of Canada. Note by the secretariat	CC/ERT/IRR/2008/4	14 April 2008
Report of the review of the initial report of Canada. Note by the secretariat	CC-2008-1-1/Canada/EB	17 April 2008
Decision on preliminary examination	CC-2008-1-2/Canada/EB	2 May 2008
Expert advice: Canada	CC-2008-1-3/Canada/EB	21 May 2008
Acknowledgment from Canada and request for hearing	CC-2008-1-4/Canada/EB	22 May 2008
Written submission of Canada	CC-2008-1-5/Canada/EB	6 June 2008
Decision not to proceed further	CC-2008-1-6/Canada/EB	15 June 2008
Document entitled "Further Written Submission of Canada"	CC-2008-1-7/Canada/EB	14 July 2008
Information note	Ref: CC-2008-1/Canada/EB	1 August 2008

Annex III

[ENGLISH ONLY]

**Decisions taken by the enforcement branch of the
Compliance Committee with respect to Greece**

DECISION ON PRELIMINARY EXAMINATION*

Party concerned: Greece

1. On 28 December 2007, the secretariat received a question of implementation indicated in the report of the expert review team regarding the review of the initial report of Greece and contained in document FCCC/IRR/2007/GRC. In accordance with section VI, paragraph 1¹ and rule 10, paragraph 2, of the Rules of procedure of the Compliance Committee,² the question of implementation was deemed received by the Compliance Committee on 31 December 2007.
2. The bureau of the Compliance Committee allocated the question of implementation to the enforcement branch on 7 January 2008 under section VII, paragraph 1, in accordance with section V, paragraph 4(b) and (c) and rule 19, paragraph 1, of the Rules of procedure.
3. On 8 January 2008, 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 its allocation to the enforcement branch.
4. The question of implementation relates to compliance with the guidelines for national systems under Article 5, paragraph 1, of the Kyoto Protocol (decision 19/CMP.1) and the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol (decision 15/CMP.1). In particular, the expert review team concluded that the maintenance of the institutional and procedural arrangements; the arrangements for the technical competence of the staff; and the capacity for timely performance of the national system is an unresolved problem.³
5. The question is related to the eligibility requirement referred to in paragraph 31(c), annex to decision 3/CMP.1, paragraph 21(c), annex to decision 9/CMP.1 and paragraph 2(c), annex to decision 11/CMP.1. Consequently, the expedited procedures as contained in section X apply.
6. Having conducted the preliminary examination in accordance with section VII, paragraph 2, and section X, paragraph 1(a), the enforcement branch decides to proceed. The enforcement branch in particular notes that the question of implementation raised in the report by the expert review team of the review of the initial report of the Party concerned as indicated in paragraph 4 above is supported by sufficient evidence, is not *de minimis* or ill-founded, and is based on the requirements of the Kyoto Protocol.
7. In accordance with section VIII, paragraph 5, and rule 21 of the Rules of procedure, the enforcement branch agrees to seek expert advice on the content and basis of the report of the expert review team contained in document FCCC/IRR/2007/GRC and on issues related to any decision of the enforcement branch with regard to the indicated question of implementation.

* Enforcement branch of the Compliance Committee, CC-2007-1-2/Greece/EB, 22 January 2008.

¹ All section references in this document refer to the Procedures and mechanisms relating to compliance contained in the annex to decision 27/CMP.1.

² Contained in the annex to decision 4/CMP.2.

³ See paragraph 244 and section II.A of the report of the expert review team contained in document FCCC/IRR/2007/GRC.

Members present: René J.M. LEFEBER, Wei SU, Amjad ABDULLA, Raúl ESTRADA-OYUELA, Oleg SHAMANOV, Sebastian OBERTHÜR, Stephan MICHEL, Bernard NAMANYA, Ilhomjon RAJABOV

Members voting for: René J.M. LEFEBER, Wei SU, Amjad ABDULLA, Raúl ESTRADA-OYUELA, Oleg SHAMANOV, Sebastian OBERTHÜR, Stephan MICHEL, Bernard NAMANYA, Ilhomjon RAJABOV

Members voting against: none

EXPERT ADVICE: GREECE*

1. The enforcement branch agreed to seek expert advice on the content and basis of the report of the expert review team contained in document FCCC/IRR/2007/GRC and on issues related to any decision of the enforcement branch with regard to the indicated question of implementation (CC-2007-1-2/Greece/EB, paragraph 7). The branch intends to receive the expert advice during its meeting to conduct a possible hearing (if so requested by the Party concerned) as well as deliberate, elaborate and adopt a preliminary finding. This meeting is scheduled to take place 19-21 February or 4-6 March 2008 (to be determined).

2. Experts from whom advice is sought are invited to be available on all three days. The enforcement branch will receive expert advice in accordance with the procedures and mechanisms relating to compliance contained in the annex to decision 27/CMP.1 and the Rules of procedure of the Compliance Committee contained in the annex to decision 4/CMP.2.

3. Experts to be invited:

- Mr. William Kojo Agyemang-Bonsu (Ghana)
- Mr. Paul Filliger (Switzerland)
- Mr. Teemu Santeri Oinonen (Finland)
- Ms. Tatiana Tugui (Moldova)

Indicative list of questions:

4. The overall question of implementation to be addressed relates to compliance with the guidelines for national systems under Article 5, paragraph 1 of the Kyoto Protocol (decision 19/CMP.1) and the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol (decision 15/CMP.1). In particular, the expert review team concluded that the maintenance of the institutional and procedural arrangements; the arrangements for the technical competence of the staff; and the capacity for timely performance of the national system is an unresolved problem.¹

5. In the context of this question of implementation, the enforcement branch will in particular seek the opinion of and ask questions to the invited experts on the following questions:

- a. What are the elements of a national system referred to in Article 5, paragraph 1, of the Kyoto Protocol and the relevant requirements under the Kyoto Protocol?
- b. What are the nature and scope of the problems identified in the report of the review of the initial report of Greece with respect to compliance with the guidelines for national systems under Article 5, paragraph 1, of the Kyoto Protocol (decision 19/CMP.1) and the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol (decision 15/CMP.1)?
- c. In addition to the three points explicitly mentioned in the last sentence of paragraph 244 of the report, are there other problematic aspects of the Greek national system with respect to compliance with the guidelines for national systems under Article 5, paragraph 1, of the Kyoto Protocol (decision 19/CMP.1) and the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol (decision 15/CMP.1)?

* Enforcement branch of the Compliance Committee, CC-2007-1-3/Greece/EB, 8 February 2008.

¹ See paragraph 244 and section II.A of the report of the expert review team contained in document FCCC/IRR/2007/GRC.

- d. What are the methodologies that the ERT has applied in assessing the national system of Greece and the preparation of related information by Greece and are these methodologies uniformly applied by various ERTs, including the following more specific questions:
- What exactly is the nature of the problems identified with respect to the maintenance of the institutional and procedural arrangements? Are these problems related to the existing Greek domestic administrative laws and regulations?
 - Which are the required standards for the technical competence of the staff and how are they observed in other Annex I Parties that you are familiar with?
 - What is the meaning of “capacity for timely performance”, which are the standards to measure that capacity and how is this capacity ensured in other Annex I Parties that you are familiar with?
- e. What action should be taken and which information should be submitted by Greece to resolve the question of implementation?
- f. What would be required to review the implementation of any action Greece may have taken since the ERT conducted the review or may take in the future with respect to the question of implementation?
6. The enforcement branch may put further more detailed follow-up questions related to the indicated areas to the invited experts during the meeting at which expert advice is received or considered. The branch may also request experts to provide advice on the assessment of any new information Greece may submit on action taken with respect to the question of implementation since the ERT conducted the review.

PRELIMINARY FINDING*

Party concerned: Greece

In accordance with the Procedures and mechanisms relating to compliance contained in the annex to decision 27/CMP.1 and adopted under Article 18 of the Kyoto Protocol and the Rules of procedure of the Compliance Committee,¹ the enforcement branch adopts the following preliminary finding:

BACKGROUND

1. On 28 December 2007, the secretariat received a question of implementation indicated in the report of the expert review team regarding the review of the initial report of Greece and contained in document FCCC/IRR/2007/GRC. In accordance with paragraph 1 of section VI² and paragraph 2 of rule 10 of the Rules of procedure, the question of implementation was deemed received by the Compliance Committee on 31 December 2007.
2. The bureau of the Compliance Committee allocated the question of implementation to the enforcement branch on 7 January 2008 under paragraph 1 of section VII, in accordance with paragraph 4(b) and (c) of section V and paragraph 1 of rule 19 of the Rules of procedure.
3. On 8 January 2008, the secretariat notified the members and alternate members of the enforcement branch of the question of implementation, in accordance with paragraph 2 of rule 19 of the Rules of procedure, and of its allocation to the enforcement branch.
4. The enforcement branch decided in accordance with paragraph 2 of section VII to proceed with the question of implementation (CC-2007-1-2/Greece/EB). The question of implementation was identified as contained in paragraph 244 of document FCCC/IRR/2007/GRC.
5. The question of implementation relates to compliance with the guidelines for national systems under Article 5, paragraph 1, of the Kyoto Protocol (decision 19/CMP.1) and the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol (decision 15/CMP.1) (hereinafter referred to as “the guidelines”). In particular, it relates to the unresolved problem of the maintenance of the institutional and procedural arrangements, the arrangements for the technical competence of the staff, and the capacity for timely performance of the national system.³
6. The question furthermore relates to the eligibility requirement under Articles 6, 12 and 17 of the Kyoto Protocol to have in place a national system in accordance with Article 5, paragraph 1, of the Kyoto Protocol and the requirements in the guidelines decided thereunder.⁴ Consequently, the expedited procedures as contained in section X apply.
7. On 8 February 2008, the enforcement branch agreed to invite four experts on national systems drawn from the UNFCCC roster of experts to provide advice to the branch. Two of these

* Enforcement branch of the Compliance Committee, CC-2007-1-6/Greece/EB, 6 March 2008.

¹ All references to the Rules of procedure refer to the rules contained in the annex to decision 4/CMP.2.

² All section references in this document refer to the Procedures and mechanisms relating to compliance contained in the annex to decision 27/CMP.1.

³ See paragraph 244 and section II.A of the report of the expert review team contained in document FCCC/IRR/2007/GRC.

⁴ See paragraph 31(c) of the annex to decision 3/CMP.1, Modalities and procedures for a clean development mechanism as defined in Article 12 of the Kyoto Protocol; paragraph 21(c) of the annex to decision 9/CMP.1, Guidelines for the implementation of Article 6 of the Kyoto Protocol; and paragraph 2(c) of the annex to decision 11/CMP.1, Modalities, rules and guidelines for emissions trading under Article 17 of the Kyoto Protocol.

experts belonged to the expert review team that reviewed Greece's initial report (CC-2007-1-3/Greece/EB).

8. On 11 February 2008, the enforcement branch received a request for a hearing from Greece (CC-2007-1-4/Greece/EB), which also indicated that Greece intended to make a written submission under paragraph 1(b) of section X. On 26 February 2008, the enforcement branch received a written submission from Greece in accordance with paragraph 1 of section IX, paragraph 1(b) of section X, and rule 17 of the Rules of procedure (CC-2007-1-5/Greece/EB).

9. As requested by Greece on 11 February 2008, a hearing was held from 4 to 5 March 2008 in accordance with paragraph 2 of section IX and paragraph 1(c) of section X. The hearing formed part of the meeting of the enforcement branch that was held from 4 to 6 March 2008 to consider the adoption of a preliminary finding or a decision not to proceed. During the meeting, the enforcement branch received advice from the invited experts.

10. In its deliberations the enforcement branch considered the report of the expert review team related to Greece contained in document FCCC/IRR/2007/GRC, the comments of Greece on the report of the expert review team contained in document CC-2007-1-1/Greece/EB, the written submission of Greece contained in document CC-2007-1-5/Greece/EB, information presented by Greece during the hearing, advice from experts invited by the branch and other information and documentation presented during the hearing. No competent intergovernmental or non-governmental organization provided any information under paragraph 4 of section VIII.

CONCLUSIONS AND REASONS

11. According to the information submitted and presented by Greece, the review of the initial report of Greece coincided with a transitional period of the national system of Greece. During the first half of 2007, the technical responsibility for the inventory preparation moved from a sub-contracted entity to the Ministry for the Environment, Physical Planning and Public Works (MINENV). By the beginning of 2008, part of this technical responsibility had been assigned, on a contract basis, to another entity. Throughout this timeframe, the Ministry retained overall responsibility for Greece's national system.

12. In relation to the first transition, advice received from the invited experts from the expert review team that reviewed Greece's initial report pointed to three issues of particular concern that arose from the review that coincided with the transition in the national system of Greece:

- (a) A lack of clarity about the nature of the institutional and procedural arrangements for ensuring the continuity of the inventory preparation process (including the division of responsibilities between actors involved in the implementation of the national system);
- (b) A lack of information about the transfer of knowledge from the sub-contracted entity with technical responsibility for the inventory preparation to the new team; and
- (c) The lack of a possibility for the expert review team to meet with the staff assuming technical responsibility for inventory preparation to assess the arrangements for technical competence of this staff.

These same concerns that relate to the ability of Greece to maintain the necessary institutional and technical capacity arise in connection with the second transition.

13. During the hearing, Greece presented information on its new national system that contributed to the better understanding by the enforcement branch of the situation with respect to the question of implementation. Greece reported that it has made significant progress in the transition to its new national system, in particular with respect to clarifying institutional and procedural arrangements,

dividing responsibilities between the actors involved in the implementation of its new national system, enhancing capacity and implementing other improvements. While the enforcement branch acknowledged the progress reported, questions remained regarding, in particular, the arrangements for the technical competence of the staff, the capacity for timely performance of the national system and the maintenance of the national system through transitions.

14. During the hearing, the enforcement branch took note of the fact that the 2005 national inventory for Greece, due on 15 April 2007, was submitted on 23 November 2007. It also received expert advice that identified the need for an in-country review on the basis of an annual inventory report generated by the new national system in order for the enforcement branch to assess compliance with the guidelines.

15. Based on the information submitted and presented, the enforcement branch concludes that the unresolved problem referred to in paragraph 5 above resulted in non-compliance with the guidelines at the time of finalisation of the report of the review of the initial report of Greece.

16. The information submitted and presented has not been sufficient for the enforcement branch to conclude that the question of implementation has now been fully resolved. Additional information is required that specifically addresses whether and how the national system is maintained through transitions. The enforcement branch agrees with the expert advice provided that a further in-country review of Greece's new national system, in conjunction with a review of an annual inventory report generated by this national system, is required for the enforcement branch to assess present compliance with the guidelines.

FINDING AND CONSEQUENCES

17. The enforcement branch determines that Greece is not in compliance with the guidelines for national systems under Article 5, paragraph 1, of the Kyoto Protocol (decision 19/CMP.1) and the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol (decision 15/CMP.1). Hence, Greece does not yet meet the eligibility requirement under Articles 6, 12 and 17 of the Kyoto Protocol to have in place a national system in accordance with Article 5, paragraph 1, of the Kyoto Protocol and the requirements in the guidelines decided thereunder.

18. In accordance with section XV, the enforcement branch applies the following consequences:

- (a) Greece is declared to be in non-compliance.
- (b) Greece shall develop a plan referred to in paragraph 1 of section XV and submit it within three months to the enforcement branch in accordance with paragraph 2 of section XV. The plan should demonstrate measures to ensure the maintenance of the national system through transitions and include appropriate administrative arrangements to support an in-country review by the expert review team of the new national system of Greece, coordinated by the secretariat in conjunction with a review of an annual inventory report generated by this national system.
- (c) Greece is not eligible to participate in the mechanisms under Articles 6, 12 and 17 of the Protocol pending the resolution of the question of implementation.

19. These findings and consequences take effect upon confirmation by a final decision of the enforcement branch.

Members participating in the consideration of the preliminary finding:

Johanna G. Susanna DE WET, Raúl ESTRADA OYUELA, René LEFEBER, Mary Jane MACE (alternate member serving as member), Stephan MICHEL, Bernard NAMANYA, Sebastian OBERTHÜR, Ilhomjon RAJABOV, Oleg SHAMANOV

Members participating in the consideration, elaboration and the adoption of the preliminary finding:

Johanna G. Susanna DE WET, Patricia ITURREGUI BYRNE (alternate member serving as member), René LEFEBER, Mary Jane MACE (alternate member serving as member), Stephan MICHEL, Bernard NAMANYA, Sebastian OBERTHÜR, Ilhomjon RAJABOV, Oleg SHAMANOV

This decision was adopted by consensus in Bonn on 6 March 2008.

FINAL DECISION*

Party concerned: Greece

In accordance with the Procedures and mechanisms relating to compliance contained in the annex to decision 27/CMP.1 and adopted under Article 18 of the Kyoto Protocol and pursuant to the Rules of procedure of the Compliance Committee,¹ the enforcement branch adopts the following final decision:

BACKGROUND

1. On 6 March 2008, the enforcement branch adopted a preliminary finding of non-compliance with respect to Greece (CC-2007-1-6/Greece/EB). On 8 April 2008, the enforcement branch received a further written submission from Greece in accordance with paragraph 7 of section IX,² paragraph 1(e) of section X and rule 17 of the Rules of procedure (CC-2007-1-7/Greece/EB). The enforcement branch considered this further written submission in elaborating and adopting a final decision at its meeting held from 16 to 17 April 2008.
2. In accordance with paragraph 1(d) of rule 22 of the Rules of procedure, the enforcement branch confirms that the Party concerned had an opportunity to comment in writing on all information considered.

CONCLUSIONS AND REASONS

3. After full consideration of the information contained in the further written submission of Greece, the enforcement branch concludes that the information submitted is insufficient to alter the preliminary finding of this branch. In this respect, the branch notes that the timely provision of the annual inventory submission for Greece, due on 15 April 2008, by itself does not demonstrate compliance with the guidelines for national systems under Article 5, paragraph 1, of the Kyoto Protocol, in particular paragraph 10 of the annex to decision 19/CMP.1, and the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol contained in the annex to decision 15/CMP.1. The branch further observes that the initial report of Greece has been reviewed under the guidelines for review under Article 8 of the Kyoto Protocol (decision 22/CMP.1) that provide for a thorough and comprehensive technical assessment of all aspects of the implementation by a Party of the Kyoto Protocol.

DECISION

4. The branch confirms, in accordance with paragraph 8 of section IX, paragraph 1(f) of section X, and rule 22 of the Rules of procedure, the preliminary finding annexed hereto, which shall be deemed to form an integral part of this final decision.
5. The consequences set out in paragraph 18 of the preliminary finding shall take effect forthwith, and the consequences set out in paragraph 18(c) of the preliminary finding shall be applied taking into account the guidelines adopted under Articles 6, 12 and 17 of the Protocol.

* Enforcement branch of the Compliance Committee, CC-2007-1-8/Greece/EB, 17 April 2008.

¹ All references to the Rules of procedure refer to the rules contained in the annex to decision 4/CMP.2.

² All section references in this document refer to the Procedures and mechanisms relating to compliance contained in the annex to decision 27/CMP.1.

Members participating in the consideration of the final decision:

Johanna G. Susanna DE WET, Raúl ESTRADA OYUELA, René LEFEBER, Mary Jane MACE (alternate member serving as member), Stephan MICHEL, Gladys Kenabetsho RAMOTHWA (alternate member serving as member), Sebastian OBERTHÜR, Ilhomjon RAJABOV, Oleg SHAMANOV

Members participating in the consideration, elaboration and the adoption of the final decision:

Johanna G. Susanna DE WET, Raúl ESTRADA OYUELA, René LEFEBER, Mary Jane MACE (alternate member serving as member), Stephan MICHEL, Gladys Kenabetsho RAMOTHWA (alternate member serving as member), Sebastian OBERTHÜR, Ilhomjon RAJABOV, Oleg SHAMANOV

Members voting for:

Johanna G. Susanna DE WET, Raúl ESTRADA OYUELA, Mary Jane MACE (alternate member serving as member), Stephan MICHEL, Gladys Kenabetsho RAMOTHWA (alternate member serving as member), Sebastian OBERTHÜR, Ilhomjon RAJABOV, Oleg SHAMANOV

Members voting against:

René LEFEBER

This decision was adopted in Bonn on 17 April 2008.

Annex

PRELIMINARY FINDING*

Party concerned: Greece

In accordance with the Procedures and mechanisms relating to compliance contained in the annex to decision 27/CMP.1 and adopted under Article 18 of the Kyoto Protocol and the Rules of procedure of the Compliance Committee,¹ the enforcement branch adopts the following preliminary finding:

BACKGROUND

1. On 28 December 2007, the secretariat received a question of implementation indicated in the report of the expert review team regarding the review of the initial report of Greece and contained in document FCCC/IRR/2007/GRC. In accordance with paragraph 1 of section VI² and paragraph 2 of rule 10 of the Rules of procedure, the question of implementation was deemed received by the Compliance Committee on 31 December 2007.
2. The bureau of the Compliance Committee allocated the question of implementation to the enforcement branch on 7 January 2008 under paragraph 1 of section VII, in accordance with paragraph 4(b) and (c) of section V and paragraph 1 of rule 19 of the Rules of procedure.
3. On 8 January 2008, the secretariat notified the members and alternate members of the enforcement branch of the question of implementation, in accordance with paragraph 2 of rule 19 of the Rules of procedure, and of its allocation to the enforcement branch.
4. The enforcement branch decided in accordance with paragraph 2 of section VII to proceed with the question of implementation (CC-2007-1-2/Greece/EB). The question of implementation was identified as contained in paragraph 244 of document FCCC/IRR/2007/GRC.
5. The question of implementation relates to compliance with the guidelines for national systems under Article 5, paragraph 1, of the Kyoto Protocol (decision 19/CMP.1) and the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol (decision 15/CMP.1) (hereinafter referred to as “the guidelines”). In particular, it relates to the unresolved problem of the maintenance of the institutional and procedural arrangements, the arrangements for the technical competence of the staff, and the capacity for timely performance of the national system.³
6. The question furthermore relates to the eligibility requirement under Articles 6, 12 and 17 of the Kyoto Protocol to have in place a national system in accordance with Article 5, paragraph 1, of the Kyoto Protocol and the requirements in the guidelines decided thereunder.⁴ Consequently, the expedited procedures as contained in section X apply.
7. On 8 February 2008, the enforcement branch agreed to invite four experts on national systems drawn from the UNFCCC roster of experts to provide advice to the branch. Two of these experts belonged to the expert review team that reviewed Greece’s initial report (CC-2007-1-3/Greece/EB).

* Enforcement branch of the Compliance Committee, CC-2007-1-6/Greece/EB, 6 March 2008.

¹ All references to the Rules of procedure refer to the rules contained in the annex to decision 4/CMP.2.

² All section references in this document refer to the Procedures and mechanisms relating to compliance contained in the annex to decision 27/CMP.1.

³ See paragraph 244 and section II.A of the report of the expert review team contained in document FCCC/IRR/2007/GRC.

⁴ See paragraph 31(c) of the annex to decision 3/CMP.1, Modalities and procedures for a clean development mechanism as defined in Article 12 of the Kyoto Protocol; paragraph 21(c) of the annex to decision 9/CMP.1, Guidelines for the implementation of Article 6 of the Kyoto Protocol; and paragraph 2(c) of the annex to decision 11/CMP.1, Modalities, rules and guidelines for emissions trading under Article 17 of the Kyoto Protocol.

8. On 11 February 2008, the enforcement branch received a request for a hearing from Greece (CC-2007-1-4/Greece/EB), which also indicated that Greece intended to make a written submission under paragraph 1(b) of section X. On 26 February 2008, the enforcement branch received a written submission from Greece in accordance with paragraph 1 of section IX, paragraph 1(b) of section X, and rule 17 of the Rules of procedure (CC-2007-1-5/Greece/EB).

9. As requested by Greece on 11 February 2008, a hearing was held from 4 to 5 March 2008 in accordance with paragraph 2 of section IX and paragraph 1(c) of section X. The hearing formed part of the meeting of the enforcement branch that was held from 4 to 6 March 2008 to consider the adoption of a preliminary finding or a decision not to proceed. During the meeting, the enforcement branch received advice from the invited experts.

10. In its deliberations the enforcement branch considered the report of the expert review team related to Greece contained in document FCCC/IRR/2007/GRC, the comments of Greece on the report of the expert review team contained in document CC-2007-1-1/Greece/EB, the written submission of Greece contained in document CC-2007-1-5/Greece/EB, information presented by Greece during the hearing, advice from experts invited by the branch and other information and documentation presented during the hearing. No competent intergovernmental or non-governmental organization provided any information under paragraph 4 of section VIII.

CONCLUSIONS AND REASONS

11. According to the information submitted and presented by Greece, the review of the initial report of Greece coincided with a transitional period of the national system of Greece. During the first half of 2007, the technical responsibility for the inventory preparation moved from a sub-contracted entity to the Ministry for the Environment, Physical Planning and Public Works (MINENV). By the beginning of 2008, part of this technical responsibility had been assigned, on a contract basis, to another entity. Throughout this timeframe, the Ministry retained overall responsibility for Greece's national system.

12. In relation to the first transition, advice received from the invited experts from the expert review team that reviewed Greece's initial report pointed to three issues of particular concern that arose from the review that coincided with the transition in the national system of Greece:

- (a) A lack of clarity about the nature of the institutional and procedural arrangements for ensuring the continuity of the inventory preparation process (including the division of responsibilities between actors involved in the implementation of the national system);
- (b) A lack of information about the transfer of knowledge from the sub-contracted entity with technical responsibility for the inventory preparation to the new team; and
- (c) The lack of a possibility for the expert review team to meet with the staff assuming technical responsibility for inventory preparation to assess the arrangements for technical competence of this staff.

These same concerns that relate to the ability of Greece to maintain the necessary institutional and technical capacity arise in connection with the second transition.

13. During the hearing, Greece presented information on its new national system that contributed to the better understanding by the enforcement branch of the situation with respect to the question of implementation. Greece reported that it has made significant progress in the transition to its new national system, in particular with respect to clarifying institutional and procedural arrangements, dividing responsibilities between the actors involved in the implementation of its new national system, enhancing capacity and implementing other improvements. While the enforcement branch acknowledged the progress reported, questions remained regarding, in particular, the arrangements for the technical competence of the staff, the capacity for timely performance of the national system and the maintenance of the national system through transitions.

14. During the hearing, the enforcement branch took note of the fact that the 2005 national inventory for Greece, due on 15 April 2007, was submitted on 23 November 2007. It also received expert advice that identified the need for an in-country review on the basis of an annual inventory report generated by the new national system in order for the enforcement branch to assess compliance with the guidelines.

15. Based on the information submitted and presented, the enforcement branch concludes that the unresolved problem referred to in paragraph 5 above resulted in non-compliance with the guidelines at the time of finalisation of the report of the review of the initial report of Greece.

16. The information submitted and presented has not been sufficient for the enforcement branch to conclude that the question of implementation has now been fully resolved. Additional information is required that specifically addresses whether and how the national system is maintained through transitions. The enforcement branch agrees with the expert advice provided that a further in-country review of Greece's new national system, in conjunction with a review of an annual inventory report generated by this national system, is required for the enforcement branch to assess present compliance with the guidelines.

FINDING AND CONSEQUENCES

17. The enforcement branch determines that Greece is not in compliance with the guidelines for national systems under Article 5, paragraph 1, of the Kyoto Protocol (decision 19/CMP.1) and the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol (decision 15/CMP.1). Hence, Greece does not yet meet the eligibility requirement under Articles 6, 12 and 17 of the Kyoto Protocol to have in place a national system in accordance with Article 5, paragraph 1, of the Kyoto Protocol and the requirements in the guidelines decided thereunder.

18. In accordance with section XV, the enforcement branch applies the following consequences:

- (a) Greece is declared to be in non-compliance.
- (b) Greece shall develop a plan referred to in paragraph 1 of section XV and submit it within three months to the enforcement branch in accordance with paragraph 2 of section XV. The plan should demonstrate measures to ensure the maintenance of the national system through transitions and include appropriate administrative arrangements to support an in-country review by the expert review team of the new national system of Greece, coordinated by the secretariat in conjunction with a review of an annual inventory report generated by this national system.
- (c) Greece is not eligible to participate in the mechanisms under Articles 6, 12 and 17 of the Protocol pending the resolution of the question of implementation.

19. These findings and consequences take effect upon confirmation by a final decision of the enforcement branch.

Members participating in the consideration of the preliminary finding:

Johanna G. Susanna DE WET, Raúl ESTRADA OYUELA, René LEFEBER, Mary Jane MACE (alternate member serving as member), Stephan MICHEL, Bernard NAMANYA, Sebastian OBERTHÜR, Ilhomjon RAJABOV, Oleg SHAMANOV

Members participating in the consideration, elaboration and the adoption of the preliminary finding:

Johanna G. Susanna DE WET, Patricia ITURREGUI BYRNE (alternate member serving as member), René LEFEBER, Mary Jane MACE (alternate member serving as member), Stephan MICHEL, Bernard NAMANYA, Sebastian OBERTHÜR, Ilhomjon RAJABOV, Oleg SHAMANOV

This decision was adopted by consensus in Bonn on 6 March 2008.

DECISION ON THE REVIEW AND ASSESSMENT OF THE PLAN SUBMITTED UNDER PARAGRAPH 2 OF SECTION XV*

Party concerned: Greece

1. The final decision of the enforcement branch taken on 17 April 2008 (document CC-2007-1-8/Greece/EB) gave effect to the consequences contained in paragraph 18 of the preliminary finding of the branch as confirmed by and annexed to the final decision. According to subparagraph 18(b), Greece was to develop a plan referred to in paragraph 1 of section XV¹ and submit it within three months to the enforcement branch in accordance with paragraph 2 of section XV. In particular, the plan was to demonstrate measures to ensure the maintenance of the national system through transitions and include appropriate administrative arrangements to support an in-country review by the expert review team of the national system of Greece, coordinated by the secretariat in conjunction with a review of an annual inventory report generated by this national system.
2. Greece submitted a document entitled “Plan under section XV of annex to decision 27/CMP.1” to the enforcement branch on 16 July 2008 (document CC-2007-1-9/Greece/EB). In accordance with paragraph 2 of section XV, the branch reviewed and assessed the document submitted by Greece during its sixth meeting that was held from 6 to 7 October 2008.
3. The branch concludes that the document does not meet the requirements set out in paragraph 2 of section XV. The information provided on the elements specified in that paragraph, as well as on the particular issues set out in paragraph 18(b) of the annex to the final decision of the enforcement branch, is insufficient to enable the branch to complete the required assessment in accordance with paragraph 2 of section XV.
4. The branch requests Greece to submit, as early as possible, a revised plan which addresses the stipulated elements and issues explicitly, in order to facilitate future decision-making by the branch.

Members and alternate members participating in the consideration and elaboration of the decision:

Mohammad Sa'dat ALAM, Johanna G. Susanna DE WET, Patricia ITURREGUI BYRNE, Kirsten JACOBSEN, Tuomas KUOKKANEN, René LEFEBER, Mary Jane MACE, Stephan MICHEL, Bernard NAMANYA, Ainun NISHAT, Sebastian OBERTHÜR, Gladys K. RAMOTHWA, Ilhomjon RAJABOV, Oleg SHAMANOV, Vladimir TARASENKO

Members participating in the adoption of the decision:

Mohammad Sa'dat ALAM (alternate member serving as member), Johanna G. Susanna DE WET, Patricia ITURREGUI BYRNE (alternate member serving as member), René LEFEBER, Mary Jane MACE (alternate member serving as member), Stephan MICHEL, Bernard NAMANYA, Sebastian OBERTHÜR, Ilhomjon RAJABOV, Oleg SHAMANOV

This decision was adopted by consensus in Bonn on 7 October 2008.

* Enforcement branch of the Compliance Committee, CC-2007-1-10/Greece/EB, 7 October 2008.

¹ All section references in this document refer to the Procedures and mechanisms relating to compliance contained in the annex to decision 27/CMP.1.

Annex IV

[ENGLISH ONLY]

**Decisions taken by the enforcement branch of the
Compliance Committee with respect to Canada**

DECISION ON PRELIMINARY EXAMINATION*

Party concerned: Canada

1. On 11 April 2008, the secretariat received a question of implementation indicated in the report of the expert review team regarding the review of the initial report of Canada and contained in document FCCC/IRR/2007/CAN. In accordance with paragraph 1 of section VI¹ and paragraph 2 of rule 10 of the Rules of procedure of the Compliance Committee,² the question of implementation was deemed received by the Compliance Committee on 14 April 2008.
2. The bureau of the Compliance Committee allocated the question of implementation to the enforcement branch on 16 April 2008 under paragraph 1 of section VII, in accordance with paragraphs 4(b) and (c) of section V and paragraph 1 of rule 19 of the Rules of procedure.
3. On 17 April 2008, the secretariat notified the members and alternate members of the enforcement branch of the question of implementation, in accordance with paragraph 2 of rule 19 of the Rules of procedure, and of its allocation to the enforcement branch.
4. The question of implementation relates to compliance with the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol (decision 15/CMP.1) and the modalities for the accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol (decision 13/CMP.1). In particular, the expert review team concluded, after consideration of the provisions of the guidelines for review under Article 8 of the Kyoto Protocol (decision 22/CMP.1), that the status of Canada's national registry on the publication date of the review report was not in accordance with the guidelines and modalities referred to above.³
5. The question is related to the eligibility requirement referred to in paragraph 31(d) of the annex to decision 3/CMP.1, paragraph 21(d) of the annex to decision 9/CMP.1 and paragraph 2(d) of the annex to decision 11/CMP.1. Consequently, the expedited procedures as contained in section X apply.
6. Having conducted the preliminary examination in accordance with paragraph 2 of section VII and paragraph 1(a) of section X, the enforcement branch decides to proceed. The enforcement branch in particular notes that the question of implementation raised in the report by the expert review team of the review of the initial report of the Party concerned as indicated in paragraph 4 above is supported by sufficient evidence, is not *de minimis* or ill-founded, and is based on the requirements of the Kyoto Protocol.
7. In accordance with paragraph 5 of section VIII and rule 21 of the Rules of procedure, the enforcement branch agrees to seek expert advice on the content and basis of the report of the expert

* Enforcement branch of the Compliance Committee, CC-2008-1-2/Canada/EB, 2 May 2008.

¹ All section references in this document refer to the Procedures and mechanisms relating to compliance contained in the annex to decision 27/CMP.1.

² Contained in the annex to decision 4/CMP.2.

³ See paragraph 140 and section II.A of the report of the expert review team contained in document FCCC/IRR/2007/CAN.

review team contained in document FCCC/IRR/2007/CAN and on issues related to any decision of the enforcement branch with regard to the indicated question of implementation.

Members participating in the consideration, elaboration and adoption of the decision on preliminary examination:

Amjad ABDULLA, Mohammad ALAM (alternate member serving as member), Raúl ESTRADA OYUELA, René J.M. LEFEBER, Stephan MICHEL, Bernard NAMANYA, Sebastian OBERTHÜR, Ilhomjon RAJABOV, Oleg SHAMANOV

This decision was adopted by consensus on 2 May 2008.

EXPERT ADVICE: CANADA*

1. The enforcement branch agreed to seek expert advice on the content and basis of the report of the expert review team contained in document FCCC/IRR/2007/CAN and on issues related to any decision of the enforcement branch with regard to the indicated question of implementation (CC-2008-1-2/Canada/EB, paragraph 7). The branch intends to receive the expert advice during its meeting to conduct a possible hearing (if so requested by the Party concerned) as well as deliberate, elaborate and adopt a preliminary finding or a decision not to proceed. This meeting is scheduled to take place 14-16 June 2008 (or 28-30 May 2008 if the Party concerned notifies the secretariat, at the same time as any request for a hearing due by 22 May 2008, that it will not make a written submission).
2. Experts from whom advice is sought are invited to be available on all three days. The enforcement branch will receive expert advice in accordance with the procedures and mechanisms relating to compliance contained in the annex to decision 27/CMP.1 and the Rules of procedure of the Compliance Committee contained in the annex to decision 4/CMP.2.
3. The following experts are to be invited:
 - Ms. Branca Americano (Brazil)
 - Mr. Audun Rosland (Norway)
 - Mr. Marco Sereno (Belgium)
 - Ms. Tatiana Tugui (Moldova)

Indicative list of questions:

4. The overall question of implementation to be addressed relates to compliance with the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol (decision 15/CMP.1) and the modalities for the accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol (decision 13/CMP.1). In particular, the expert review team concluded, after consideration of the provisions of the guidelines for review under Article 8 of the Kyoto Protocol (decision 22/CMP.1), that the status of Canada's national registry on the publication date of the review report was not in accordance with the guidelines and modalities referred to above.¹
5. In the context of this question of implementation, the enforcement branch will in particular seek the opinion of and ask questions to the invited experts on the following questions:
 - a. How does an expert review team assess the implementation by a Party of the requirements under the Kyoto Protocol relating to national registries?
 - b. From the perspective of a technical expert, what are the nature and scope of the problems identified in the report of the review of the initial report of Canada with respect to conformity with the modalities for the accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol (decision 13/CMP.1) and the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol (decision 15/CMP.1)?
 - c. What action should be taken and which information should be submitted by Canada to resolve the question of implementation, including the following more specific questions:
 - What information should be made available to demonstrate that Canada fulfils the national registry requirements defined in the annex to decision 13/CMP.1 and the

* Enforcement branch of the Compliance Committee, CC-2008-1-3/Canada/EB, 21 May 2008.

¹ See paragraph 140 and section II.A of the report of the expert review team contained in document FCCC/IRR/2007/CAN.

annex to decision 15/CMP.1, including the requirements of the technical standards for data exchange between registry systems referred to in paragraph 32 of the annex to decision 15/CMP.1?

- What is the role of an independent assessment report, pursuant to decision 16/CP.10, on the results of the technical assessment of the national registry, including the results of standardized testing? In particular, to what extent might the question of implementation be resolved on the basis of an independent assessment report?
- d. What would be required to review the implementation of any action Canada may have taken since the ERT conducted the review or may take in the future with respect to the question of implementation?
6. The enforcement branch may put further more detailed follow-up questions related to the indicated areas to the invited experts during the meeting at which expert advice is received or considered. The branch may also request experts to provide advice on the assessment of any new information received with respect to the question of implementation since the ERT conducted the review.

DECISION NOT TO PROCEED FURTHER*

Party concerned: Canada

In accordance with the Procedures and mechanisms relating to compliance contained in the annex to decision 27/CMP.1 and adopted under Article 18 of the Kyoto Protocol and the Rules of procedure of the Compliance Committee,¹ the enforcement branch adopts the following decision not to proceed further:

BACKGROUND

1. On 11 April 2008, the secretariat received a question of implementation indicated in the report of the expert review team regarding the review of the initial report of Canada and contained in document FCCC/IRR/2007/CAN (hereinafter referred to as “the review report”). In accordance with paragraph 1 of section VI² and paragraph 2 of rule 10 of the Rules of procedure, the question of implementation was deemed received by the Compliance Committee on 14 April 2008.
2. The bureau of the Compliance Committee allocated the question of implementation to the enforcement branch on 16 April 2008 under paragraph 1 of section VII, in accordance with paragraph 4(b) and (c) of section V and paragraph 1 of rule 19 of the Rules of procedure.
3. On 17 April 2008, the secretariat notified the members and alternate members of the enforcement branch of the question of implementation, in accordance with paragraph 2 of rule 19 of the Rules of procedure, and of its allocation to the enforcement branch.
4. On 2 May 2008, the enforcement branch decided in accordance with paragraph 2 of section VII and paragraph 1(a) of section X to proceed with the question of implementation (CC-2008-1-2/Canada/EB). The question of implementation was identified as contained in section III.C of the review report.
5. The question of implementation relates to compliance with the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol (decision 15/CMP.1; hereinafter referred to as “the guidelines”) and the modalities for the accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol (decision 13/CMP.1; hereinafter referred to as “the modalities”). Accordingly, the question also relates to the annex to decision 5/CMP.1 and the requirements of the technical standards for data exchange between registry systems (hereinafter referred to as “the data exchange standards”). The expert review team concluded, after consideration of the provisions of the guidelines for review under Article 8 of the Kyoto Protocol (decision 22/CMP.1), that the status of Canada’s national registry on the publication date of the review report was not in accordance with the guidelines and modalities.
6. As the question furthermore relates to the eligibility requirement referred to in paragraph 31(d) of the annex to decision 3/CMP.1, paragraph 21(d) of the annex to decision 9/CMP.1 and paragraph 2(d) of the annex to decision 11/CMP.1 to have in place a national registry in accordance with Article 7, paragraph 4, of the Kyoto Protocol and the requirements in the guidelines decided thereunder, the expedited procedures as contained in section X were found to apply.
7. On 21 May 2008, the enforcement branch agreed to invite four experts on national registries drawn from the UNFCCC roster of experts to provide advice to the branch (CC-2008-1-3/Canada/EB). Two of these experts belonged to the expert review team that reviewed Canada’s initial report.

* Enforcement branch of the Compliance Committee, CC-2008-1-6/Canada/EB, 15 June 2008.

¹ All references to the Rules of procedure in this document refer to the rules contained in the annex to decision 4/CMP.2.

² Unless otherwise indicated, all section references in this document refer to the Procedures and mechanisms relating to compliance contained in the annex to decision 27/CMP.1.

8. On 22 May 2008, the enforcement branch received a request for a hearing from Canada (CC-2008-1-4/Canada/EB), which also indicated that Canada intended to make a written submission under paragraph 1(b) of section X. On 5 June 2008, the enforcement branch received a written submission from Canada (CC-2008-1-5/Canada/EB) in accordance with paragraph 1 of section IX, paragraph 1(b) of section X, and rule 17 of the Rules of procedure.
9. As requested by Canada on 22 May 2008, a hearing was held on 14 June 2008 in accordance with paragraph 2 of section IX and paragraph 1(c) of section X. The hearing formed part of the meeting of the enforcement branch that was held from 14 to 15 June 2008 to consider the adoption of a preliminary finding or a decision not to proceed further. During the meeting, the enforcement branch received advice from the invited experts.
10. In its deliberations the enforcement branch considered the review report, the written submission of Canada contained in document CC-2008-1-5/Canada/EB, information presented by Canada during the hearing, the independent assessment report of the national registry of Canada (Reference: Reg_IAR_CA_2008_1)³ and advice from experts invited by the branch. No competent intergovernmental or non-governmental organization provided any information under paragraph 4 of section VIII.

CONCLUSIONS AND REASONS

11. According to the review report, Canada had not established a national registry, as required under section II of the modalities, by the time of the in-country visit, nor a registry system that had initialised with the international transaction log by the publication date of the review report. Canada had also not provided sufficient information on its national registry as required in paragraph 32 of the guidelines. As a result, no independent assessment report was forwarded to the expert review team, pursuant to decision 16/CP.10, on the results of the technical assessment of the national registry, including the results of standardized testing.
12. In its written submission and at the hearing, Canada acknowledged that the establishment of its national registry had been delayed and attributed this delay to domestic procurement procedures, which were only initiated on 5 July 2007, subsequent to the announcement of Canada's *Turning the Corner* plan to reduce greenhouse gas emissions and air pollution.
13. Canada provided in its written submission a description, as required by paragraph 32 of the annex to decision 15/CMP.1, of how its national registry performs the functions defined in the annex to decision 13/CMP.1 and the annex to decision 5/CMP.1, and complies with the requirements of the data exchange standards. It supplemented this information at the hearing.
14. At the hearing, Canada confirmed that it had established its national registry, and represented that the national registry meets the relevant requirements under Article 7 of the Kyoto Protocol. Canada indicated that it expected its registry to commence live operations at the end of 2008 or the beginning of 2009.
15. Canada noted that the independent assessment report of its national registry was published by the secretariat on 12 June 2008. The independent assessment report indicates that the national registry of Canada:

“has fulfilled sufficient obligations regarding conformity with the Data Exchange Standards. These obligations include having adequate transaction procedures; adequate security measures to prevent and resolve unauthorized manipulations; and adequate measures for data storage and registry recovery. While the Documentation Evaluation, as reported in Addendum 1 [of this report], identified some minor limitations in the state of registry readiness, these limitations are to be rectified prior to the registry commencing live operations. The registry is therefore deemed sufficiently compliant with the registry requirements defined in decisions 13/CMP.1 and

³ http://unfccc.int/essential_background/library/items/3599.php?rec=j&preref=6427#beg

5/CMP.1, noting that registries do not have obligations regarding Operational Performance or Public Availability of Information prior to the operational phase.”

16. The branch received expert advice that, in respect of paragraph 32 of the guidelines, the information provided by Canada in its written submission, together with the independent assessment report would have enabled a technical assessment that Canada had established a national registry that can perform the functions defined in the annex to decision 13/CMP.1 and the annex to decision 5/CMP.1 and complies with the requirements of the data exchange standards.

17. Based on the information submitted and presented, the enforcement branch concludes that:

- (a) The status of Canada’s national registry resulted in non-compliance with the guidelines and the modalities on the publication date of the review report; and
- (b) There is a sufficient factual basis to avert a finding of non-compliance on the date of this decision.

DECISION

18. The enforcement branch determines, in accordance with paragraph 4 of section IX, paragraph 1 (d) of section X and rule 22 of the Rules of procedure, not to proceed further with the question of implementation relating to compliance with the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol and the modalities for the accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol.

Members and alternate members participating in the consideration and elaboration of the decision:

Amjad ABDULLA, Mohammad Sa’dat ALAM, Joseph A. AMOUGOU, Johanna G. Susanna DE WET, Raúl ESTRADA OYUELA, Kirsten JACOBSEN, René LEFEBER, Mary Jane MACE, Stephan MICHEL, Bernard NAMANYA, Sebastian OBERTHÜR, Gladys K. RAMOTHWA, Ilhomjon RAJABOV, Oleg SHAMANOV, SU Wei, Vladimir TARASENKO

Members participating in the adoption of the decision:

Amjad ABDULLA, Johanna G. Susanna DE WET, Raúl ESTRADA OYUELA, René LEFEBER, Stephan MICHEL, Bernard NAMANYA, Sebastian OBERTHÜR, Ilhomjon RAJABOV, Oleg SHAMANOV, SU Wei

This decision was adopted by consensus in Bonn on 15 June 2008.

Annex V

[ENGLISH ONLY]

**DOCUMENT ENTITLED
“FURTHER WRITTEN SUBMISSION OF CANADA”***

Foreign Affairs and
International Trade Canada

Assistant
Deputy Minister

Affaires étrangères et
Commerce international Canada

Sous-ministre
adjoint

July 11, 2008

Mr. Feng Gao
Secretary to the Compliance Committee
UNFCCC Secretariat
Martin-Luther-King-Strasse 8
53175, Bonn, Germany

Dear Mr. Gao,

Please find attached a further written submission to the Enforcement Branch of the Compliance Committee made pursuant to section X, subparagraph 1(e) of the Procedures and mechanisms relating to compliance under the Kyoto Protocol.

Yours sincerely,

Agent for Canada



Keith H. Christie
Assistant Deputy Minister
Global Issues Branch

Enclosure

* Enforcement branch of the Compliance Committee, CC-2008-1-7/Canada/EB, 14 July 2008.

FURTHER WRITTEN SUBMISSION OF CANADA

Under Section X, paragraph 1(e) of the Annex to Decision 27/CMP.1

In Response to the “Decision Not to Proceed Further” of the Enforcement Branch of
the Compliance Committee under the Kyoto Protocol
(CC-2007-1-6/Canada/EB)

Ottawa, 11 July 2008

FURTHER WRITTEN SUBMISSION of CANADA
Under Section X, paragraph 1(e) of the Annex to Decision 27/CMP.1

In Response to the “Decision Not to Proceed Further” of the Enforcement Branch of the
Compliance Committee under the Kyoto Protocol
(CC-2007-1-6/Canada/EB)
11 July 2008

SUMMARY

1. Canada welcomes the Enforcement Branch of the Compliance Committee decision on 15 June 2008 not to proceed further with the question of implementation with respect to Canada’s National Registry. In this submission, Canada addresses one aspect of the reasoning contained in that decision and proposes textual changes to ensure that all of the decision is within the mandate of the Enforcement Branch as set out in the Procedures and Mechanisms Relating to Compliance under the Kyoto Protocol in decision 27/CMP.1.

I. BACKGROUND

2. The Enforcement Branch of the Compliance Committee established under the Kyoto Protocol held its fifth meeting in Bonn, Germany on 14-15 June 2008 to consider, *inter alia*, a question of implementation with respect to Canada’s National Registry. On 14 June 2008, Canada made oral representations, in support of its written submission communicated on 5 June 2008, to confirm the establishment of its national registry and full compliance with Article 7 of the Kyoto Protocol (decision 15/CMP.1) and the modalities for accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol (decision 13/CMP.1).

3. On 15 June 2008, the Enforcement Branch made a determination not to proceed further as follows:

“The enforcement branch determines, in accordance with paragraph 4 of section IX, paragraph 1(d) of section X and rule 22 of the Rules of procedure, not to proceed further with the question of implementation relating to compliance with the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol and the modalities for the accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol.” (paragraph 18, CC-2007-1-6/Canada/EB)

4. In the course of its decision, the Enforcement Branch made the following conclusions at paragraph 17:

“Based on the information submitted and presented, the enforcement branch concludes that:

- (a) the status of Canada’s national registry resulted in non-compliance with the guidelines and the modalities on the publication date of the review report; and
- (b) there is a sufficient factual basis to avert a finding of non-compliance at the date of this decision.”

5. While Canada welcomes the decision of the Enforcement Branch not to proceed further in this matter, Canada notes that paragraph 17 lies outside of the Enforcement Body's mandate and should, therefore, be removed from the text.

II. ANALYSIS

6. The mandate of the Enforcement Body is set out in the Annex to decision 27/CMP.1. Section V(4) of the Annex states that:

"The enforcement branch shall be responsible for determining whether a Party included in Annex I is not in compliance with:

(a) Its quantified emission limitation or reduction commitment under Article 3, paragraph 1, of the Protocol;

(b) The methodological and reporting requirements under Article 5, paragraphs 1 and 2, and Article 7, paragraphs 1 and 4, of the Protocol; and

(c) The eligibility requirements under Articles 6, 12 and 17 of the Protocol."

7. Section XV, paragraph 1, then stipulates the two possible consequences that shall be applied by the Enforcement Branch when it has determined first that a Party is not in compliance with Article 5, paragraph 1 or paragraph 2, or Article 7, paragraph 1 or paragraph 4 of the Kyoto Protocol:

"(a) Declaration of non-compliance; and

(b) Development of a plan [...]."

8. Pursuant to these provisions, the Enforcement Branch is mandated to apply consequences to present, not past situations where compliance might be at issue. Section V, paragraph 4 states that "The Enforcement branch shall be responsible for determining whether a Party included in Annex I *is* not in compliance [...] [our emphasis]". Moreover, section XV, paragraph 1 states that the Enforcement Branch shall apply consequences when it "has determined that a Party *is* not in compliance [...] [our emphasis]". Neither provision uses the word "was".

9. Consistent with its mandate, the Enforcement Branch determined not to proceed further. Therefore, the Enforcement Branch was not mandated to make a declaration of non-compliance, nor to develop a plan.

10. The Enforcement Branch opined, however, in paragraph 17(a) that "the status of Canada's national registry resulted in non-compliance with the guidelines and the modalities on the publication date of the review report." In Canada's respectful view, this conclusion fell outside the mandate given by the Parties to the Kyoto Protocol in decision 27/CMP.1. The sole issue before the Enforcement Branch was the current status of Canada's registry, and the Enforcement Branch decided not to proceed further with the question of implementation in relation thereof. The status of Canada's registry at some earlier point in time was not among the issues that the Enforcement Branch was mandated to consider, nor was it necessary to engage in such a line of inquiry in order to determine whether Canada's current situation required further action. Entirely in keeping with its important role, the

Enforcement Branch analysed the material concerning the current status of Canada's registry and reached the conclusion that no further action on its part was necessary. In Canada's submission, however, the Enforcement Branch need not, and should not, have stepped outside of its mandate to make its observations concerning the past status of Canada's registry.

11. In addition, the conclusion in paragraph 17(b) of the decision states that "there is a sufficient factual basis to avert a finding of **non-compliance** at the date of this decision [our emphasis]", rather than simply concluding that the question of implementation has been resolved after consideration of the evidence before it (including the Independent Assessment Report, Canada's written and oral submissions, and the advice and testimony of the UNFCCC experts). Given that the entire compliance process established under decision 27/CMP.1, including the written submission and oral hearing, is aimed at determining compliance in the first place, the use of the word "non-compliance" in 17(b) is inconsistent with a "Decision Not To Proceed Further."

III. PROPOSED RELIEF

12. In view of the above analysis, Canada invites the Enforcement Branch simply to delete paragraph 17(a) from its "Decision Not To Proceed Further" to ensure that the Enforcement Branch is entirely consistent with the authority conferred upon it by the COP/MOP in decision 27/CMP.1. As stated in paragraph 16 of the "Decision Not To Proceed Further", the Enforcement Branch received expert advice that "information provided by Canada in its written submission, together with the independent assessment report" confirms that "Canada had established a national registry that can perform the functions defined in the annex to decision 13/CMP.1 and the annex to decision 5/CMP.1 and complies with the requirements of the data exchange standards." Therefore, the question of implementation has been resolved.

13. In addition, Canada invites the Enforcement Branch to alter the text of paragraph 17 (b) from its "Decision Not To Proceed Further" as follows:

"Based on the information submitted and presented, the enforcement branch concludes that, although the status of Canada's national registry raised a question of implementation with the guidelines and the modalities on the publication date of the expert review team report, this question of implementation has now been resolved."

IV. CONCLUSION

14. In Canada's view, the Enforcement Branch stepped beyond the limits of its mandate in offering its opinion on the past status of Canada's registry. Canada welcomes the Enforcement Branch's decision that no further action on its part was necessary, but respectfully requests that the Enforcement Branch delete paragraph 17 (a) of its decision as this passage relates to a matter outside of the Enforcement Branch's mandate, and substitute paragraph 17 (b) of its decision with the text suggested in paragraph 13 above as this is more consistent with a "Decision Not To Proceed Further."
