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**CONFERENCIA DE LAS PARTES EN CALIDAD  
DE REUNIÓN DE LAS PARTES EN EL  
PROTOCOLO DE KYOTO**

Cuarto período de sesiones  
Poznan, 1º a 12 de diciembre de 2008

**Tema 7 del programa provisional  
Informe del Comité de Cumplimiento**

### **Informe anual del Comité de Cumplimiento a la Conferencia de las Partes en calidad de reunión de las Partes en el Protocolo de Kyoto\***

#### **Resumen**

El tercer informe anual del Comité de Cumplimiento a la Conferencia de las Partes en calidad de reunión de las Partes en el Protocolo de Kyoto abarca las actividades realizadas entre el 8 de septiembre de 2007 y el 9 de octubre de 2008. Contiene un resumen del examen de dos cuestiones de aplicación realizado por el grupo de control del cumplimiento durante el período objeto del informe y de las lecciones extraídas de esa tarea. También contiene las conclusiones del balance hecho por ese grupo y del taller sobre la presentación de informes y el examen organizado por el grupo de facilitación, así como las observaciones y recomendaciones formuladas por el Pleno en relación con esas actividades.

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\* Este documento se presentó con retraso para poder tener en cuenta los resultados de la quinta reunión del Pleno del Comité de Cumplimiento, que tuvo lugar los días 8 y 9 de octubre de 2008.

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## **I. Introducción**

### **A. Mandato**

1. De conformidad con el párrafo 2 a) de la sección III de los "Procedimientos y mecanismos relativos al cumplimiento previstos en el Protocolo de Kyoto" (anexo de la decisión 27/CMP.1; en adelante, "los procedimientos y mecanismos"), el Pleno del Comité de Cumplimiento debe informar sobre las actividades del Comité en cada período ordinario de sesiones de la Conferencia de las Partes en calidad de reunión de las Partes en el Protocolo de Kyoto (CP/RP).

### **B. Objeto del informe**

2. El tercer informe anual del Pleno del Comité de Cumplimiento abarca el período comprendido entre el 8 de septiembre de 2007 y el 9 de octubre de 2008. En él se resumen la labor realizada y las cuestiones tratadas por el Comité de Cumplimiento durante ese período.

### **C. Medidas que podría adoptar la Conferencia de las Partes en calidad de reunión de las Partes en el Protocolo de Kyoto**

3. De conformidad con la sección XII de los procedimientos y mecanismos, la CP/RP tal vez desee examinar este informe anual del Comité de Cumplimiento.

4. La CP/RP podría asimismo:

- a) Aprobar las enmiendas al reglamento que figuran en el anexo I del presente informe y que han sido elaboradas por el Pleno del Comité de Cumplimiento de conformidad con el párrafo 2 d) de la sección III de los procedimientos y mecanismos.
- b) Invitar a su Presidente a celebrar consultas sobre los nombramientos necesarios para cubrir la vacante en el grupo de facilitación del Comité de Cumplimiento.
- c) Invitar a las Partes a hacer contribuciones al Fondo Fiduciario para actividades suplementarias para el bienio 2008-2009 a fin de apoyar la labor del Comité de Cumplimiento.
- d) Decidir aplicar, en relación con los miembros del Comité de Cumplimiento, la práctica establecida en otros órganos constituidos en virtud del Protocolo de Kyoto, de manera que:
  - i) La duración del mandato de los miembros se aplique también a sus suplentes;
  - ii) Los miembros suplentes del Comité de Cumplimiento no ejerzan como tales durante más de dos mandatos consecutivos;
  - iii) Los mandatos desempeñados como miembro suplente no se incluyan en el límite de los dos mandatos consecutivos que puede desempeñar un miembro suplente que posteriormente sea nombrado miembro o, a la inversa, que los mandatos desempeñados como miembro no se incluyan en el límite de los dos mandatos consecutivos que puede desempeñar un miembro que posteriormente sea nombrado miembro suplente;
- e) Tener en cuenta, en su nuevo examen de la cuestión de las prerrogativas e inmunidades, la situación de los expertos a quienes el grupo de facilitación o el grupo de control del cumplimiento pidan asesoramiento.

- f) Velar por que el Comité de Cumplimiento reciba el mismo trato que otros órganos constituidos en el marco del Protocolo de Kyoto en lo que se refiere a la financiación de los gastos de viaje y participación. A ese respecto, el Comité de Cumplimiento insta a la CP/RP a que pida al Órgano Subsidiario de Ejecución (OSE) que, al examinar el presupuesto de la Convención Marco propuesto para el bienio 2010–2011, tome en consideración las propuestas del Comité de Cumplimiento en el sentido de que la CP/RP:
- i) Haga extensiva la financiación de los gastos de viaje y de participación en las reuniones del Comité de Cumplimiento a todos sus miembros y miembros suplentes;
  - ii) Autorice a la secretaría a tomar en consideración las solicitudes de financiación relacionadas con los viajes y la participación en las reuniones del Comité de Cumplimiento que presenten los miembros y los miembros suplentes que en la actualidad no tengan derecho a ella, como medida temporal hasta que se les conceda ese derecho, con sujeción a la disponibilidad de recursos y según las circunstancias de cada caso;
  - iii) Aplique a los viajes de los miembros y miembros suplentes que puedan optar a esa financiación el reglamento que rige en las Naciones Unidas para los viajes oficiales de los funcionarios.

## II. Cuestiones de organización

5. La quinta reunión del Pleno del Comité de Cumplimiento se celebró en Bonn (Alemania) los días 8 y 9 de octubre de 2008.

6. La sexta reunión del grupo de facilitación se celebró en Bonn el 7 de octubre de 2008. El grupo de control del cumplimiento se reunió cuatro veces en Bonn durante el presente año para celebrar sus reuniones tercera, cuarta, quinta y sexta (del 4 al 6 de marzo de 2008, el 16 y 17 de abril de 2008, el 14 y 15 de junio de 2008 y el 6 y 7 de octubre de 2008, respectivamente). Además de esas reuniones, durante el período objeto del informe la Mesa del Comité de Cumplimiento y los grupos de facilitación y de control del cumplimiento utilizaron medios electrónicos para adoptar decisiones sobre la asignación de las cuestiones de aplicación, las elecciones, el asesoramiento de expertos y el examen preliminar, con lo que se redujeron los gastos relacionados con las reuniones.

7. El programa y las anotaciones, la documentación de antecedentes sobre los temas del programa y el informe de los presidentes sobre cada reunión del Pleno y de los grupos de facilitación y de control del cumplimiento pueden consultarse en el sitio web de la Convención<sup>1</sup>. En el anexo II del presente informe figura una lista de los documentos del Comité de Cumplimiento correspondientes al período objeto del informe.

### A. Elección de los presidentes y vicepresidentes de los grupos de control del cumplimiento y de facilitación del Comité de Cumplimiento

8. De conformidad con la decisión adoptada por el Pleno en su cuarta reunión y con el párrafo 2 del artículo 11 del "Reglamento del Comité de Cumplimiento del Protocolo de Kyoto" (anexo de la decisión 4/CMP.2; en adelante, el reglamento), el 11 de febrero de 2008 el grupo de control del cumplimiento, utilizando medios electrónicos y por consenso, eligió Presidente al Sr. Sebastian Oberthür y Vicepresidenta a la Sra. Johanna Gertruida Sandea De Wet; el 11 de marzo de 2008 el grupo de

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<sup>1</sup> [http://unfccc.int/kyoto\\_protocol/compliance/items/2875.php](http://unfccc.int/kyoto_protocol/compliance/items/2875.php).

facilitación, utilizando medios electrónicos y por consenso, eligió Presidente al Sr. Ismail El Gizouli y Vicepresidente al Sr. Marc Pallemerts. Esos presidentes y vicepresidentes constituyen la nueva Mesa del Comité.

9. El Pleno agradeció la labor realizada por los miembros de la Mesa anterior, a saber, el Sr. Raúl Estrada Oyuela, Presidente del grupo de control del cumplimiento, el Sr. Hironori Hamanaka, Presidente del grupo de facilitación, el Sr. Oberthür, Vicepresidente del grupo de control del cumplimiento y el Sr. El Gizouli, Vicepresidente del grupo de facilitación.

### **B. Miembros del Comité de Cumplimiento**

10. El Sr. Hamanaka, miembro del Comité de Cumplimiento elegido para integrar el grupo de facilitación hasta el 31 de diciembre de 2009, presentó su dimisión al Comité el 9 de mayo de 2008. El Sr. Hamanaka había sido Presidente del grupo de facilitación del 1º de marzo de 2006 al 10 de marzo de 2008. Desde su dimisión, el Sr. Mark Berman, elegido miembro suplente, ha prestado servicio como miembro. El Pleno del Comité pide a la CP/RP que elija a un miembro de las Partes incluidas en el anexo I para cubrir la vacante existente en el grupo de facilitación durante el período restante del mandato del Sr. Hamanaka.

11. El Pleno observa que, aunque en los procedimientos y mecanismos se indica la duración del mandato de los miembros del Comité de Cumplimiento y el número máximo de mandatos consecutivos que los miembros pueden desempeñar, la CP/RP no especificó la duración del mandato de los miembros suplentes del Comité ni el número máximo de mandatos consecutivos que un miembro suplente puede desempeñar. En los procedimientos y mecanismos tampoco se menciona si los mandatos de un miembro suplente se incluyen en el límite de dos mandatos consecutivos que los miembros pueden desempeñar. El Pleno pide a la CP/RP que decida aplicar en relación con los miembros del Comité de Cumplimiento la práctica establecida en otros órganos constituidos en el marco del Protocolo de Kyoto, de manera que:

- a) La duración del mandato de los miembros se aplique también a sus suplentes;
- b) Los miembros suplentes del Comité de Cumplimiento no ejerzan como tales durante más de dos mandatos consecutivos;
- c) Los mandatos desempeñados como miembro suplente no se incluyan en el límite de los dos mandatos consecutivos que puede desempeñar un miembro suplente que posteriormente sea nombrado miembro o, a la inversa, que los mandatos desempeñados como miembro no se incluyan en el límite de los dos mandatos consecutivos que puede desempeñar un miembro que posteriormente sea nombrado miembro suplente.

### **C. Transparencia, comunicación e información**

12. De conformidad con el párrafo 1 del artículo 9 del reglamento, la quinta reunión del Pleno, la sexta reunión del grupo de facilitación y partes de las reuniones tercera, cuarta, quinta y sexta del grupo de control del cumplimiento, que fueron públicas, se registraron y difundieron en el sitio web de la Convención Marco.

13. En el segundo informe anual del Comité de Cumplimiento, que fue examinado por la CP/RP en su tercer período de sesiones, se describía el acuerdo alcanzado por el Pleno sobre las disposiciones de funcionamiento en relación con la participación pública en las reuniones del Comité de Cumplimiento (FCCC/KP/CMP/2007/6, párrs. 15 a 17). De conformidad con ese acuerdo, se ha establecido un sencillo sistema de notificación y registro para quienes quieran asistir como observadores a las reuniones del pleno y de los grupos.

#### **D. Prerrogativas e inmunidades de los miembros y miembros suplentes del Comité de Cumplimiento**

14. De conformidad con las conclusiones del OSE en su 26º período de sesiones relativas a las prerrogativas e inmunidades de las personas que desempeñan funciones en los órganos constituidos en virtud del Protocolo de Kyoto<sup>2</sup>, el Pleno señala que hasta la fecha no se han producido controversias, quejas o reclamaciones en relación con el Comité de Cumplimiento o respecto de las funciones oficiales de las personas que prestan servicio en el Comité. No obstante, el Pleno sigue atentamente los debates en los períodos de sesiones de la CP/RP y del OSE sobre las prerrogativas e inmunidades de las personas que desempeñan funciones en los órganos constituidos en virtud del Protocolo de Kyoto, especialmente los debates sobre el segundo examen del Protocolo de Kyoto de conformidad con su artículo 9. El Pleno observa que los expertos a quienes el grupo de facilitación o el grupo de control del cumplimiento piden asesoramiento de conformidad con el párrafo 5 de la sección VIII de los procedimientos y mecanismos no gozan de inmunidad en relación con el asesoramiento especializado que proporcionan a los grupos.

### **III. Labor realizada en el período objeto del informe**

#### **A. Informes elaborados por los equipos de expertos en cumplimiento del artículo 8 del Protocolo de Kyoto y demás información recibida por el Pleno del Comité de Cumplimiento**

15. De conformidad con el párrafo 3 de la sección VI de los procedimientos y mecanismos, la secretaría transmitió al Comité de Cumplimiento los informes de los equipos de expertos sobre el examen a fondo centralizado de las cuartas comunicaciones nacionales de Alemania, Bélgica, Bulgaria, España, Francia, Liechtenstein, Mónaco, los Países Bajos, Portugal y la República Checa. El Pleno observa que, al día de la fecha, ha recibido 26 exámenes a fondo de las comunicaciones y que está previsto que el próximo año se realice el examen a fondo de las cuartas comunicaciones nacionales<sup>3</sup> de 11 Partes incluidas en el anexo I de la Convención (Partes del anexo I)<sup>4</sup>.

16. También de conformidad con el párrafo 3 de la sección VI de los procedimientos y mecanismos, la secretaría transmitió al Comité de Cumplimiento los informes del examen de los informes iniciales de Alemania, Bélgica, Bulgaria, la Comunidad Europea, Dinamarca, Eslovaquia, Eslovenia, España, Estonia, la Federación de Rusia, Finlandia, Francia, Irlanda, Islandia, Italia, Letonia, Liechtenstein, Lituania, Luxemburgo, Mónaco, Noruega, los Países Bajos, Polonia, Portugal, el Reino Unido de Gran Bretaña e Irlanda del Norte, la República Checa, Rumania, Suecia y Ucrania. El Pleno observa que las 39 Partes del anexo I que son también Partes en el Protocolo de Kyoto han presentado su informe inicial. También observa que al día de la fecha ha recibido 36 exámenes de informes iniciales y que se está preparando el

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<sup>2</sup> FCCC/SBI/2007/15, párrs. 163 a 168.

<sup>3</sup> La expresión "cuarta comunicación nacional" utilizada en el presente informe incluye las comunicaciones nacionales primera, segunda y tercera recibidas durante el período en que la mayoría de las Partes incluidas en el anexo I presentaron sus cuartas comunicaciones nacionales de conformidad con la decisión 4/CP.8.

<sup>4</sup> Se trata de los exámenes a fondo de las comunicaciones de Austria, Belarús, el Canadá, la Comunidad Europea, Croacia, la Federación de Rusia, Italia, Irlanda, Polonia, Rumania y Ucrania. Australia presentó su cuarta comunicación nacional el 12 de diciembre de 2005, antes de ser Parte en el Protocolo de Kyoto. Su cuarta comunicación nacional se está examinando de conformidad con las directrices de la Convención. De las 39 Partes del anexo I que son también Partes en el Protocolo de Kyoto, únicamente Luxemburgo no ha presentado todavía su cuarta comunicación nacional.

examen de los informes iniciales de Australia y de Croacia, y que el examen del informe inicial de Belarús se ha pospuesto hasta que el OSE examine las modalidades y condiciones del examen<sup>5</sup>.

17. De conformidad con el párrafo 1 de la sección VI de los procedimientos y mecanismos, la secretaría transmitió al Comité de Cumplimiento los exámenes de los informes iniciales del Canadá y de Grecia, en los que se indicaban cuestiones de aplicación. De conformidad con el párrafo 2 de la sección VI de los procedimientos y mecanismos, esos informes se pusieron también a disposición del Canadá y de Grecia. En los capítulos III B y III C del presente informe figura información sobre la labor del grupo de control del cumplimiento en relación con esas cuestiones de aplicación.

18. De conformidad con el párrafo 3 de la sección VI de los procedimientos y mecanismos y con el párrafo 49 del anexo de la decisión 22/CMP.1, la secretaría transmitió al Comité de Cumplimiento los informes anuales sobre la situación de los inventarios de gases de efecto invernadero de Alemania, Austria, Belarús, Bélgica, Bulgaria, el Canadá, la Comunidad Europea, Dinamarca, Eslovaquia, Eslovenia, España, Estonia, la Federación de Rusia, Finlandia, Francia, Grecia, Hungría, Irlanda, Islandia, Italia, el Japón, Letonia, Liechtenstein, Lituania, Luxemburgo, Mónaco, Noruega, Nueva Zelanda, los Países Bajos, Polonia, Portugal, el Reino Unido, la República Checa, Rumania, Suecia, Suiza y Ucrania. El Pleno observa que ha recibido 37 informes anuales sobre la situación de los inventarios de gases de efecto invernadero y que los informes anuales sobre la situación de Australia y Croacia se transmitirán al Comité a partir del próximo año.

19. El Pleno recuerda que, de conformidad con el párrafo 1 de la decisión 26/CMP.1, el examen inicial deberá finalizarse a más tardar un año después de la fecha de presentación del informe inicial. El Pleno expresa preocupación por el retraso en la finalización de algunos informes de examen, especialmente el examen del informe inicial de la Comunidad Europea, que se publicó el 15 de febrero de 2008, casi un año y dos meses después de la presentación el 18 de diciembre de 2006 del informe inicial de la Comunidad Europea, y el examen del informe inicial del Canadá, que se publicó el 11 de abril del 2008, casi un año y un mes después de la presentación el 15 de marzo de 2007 del informe inicial del Canadá.

20. En su quinta reunión, el Pleno examinó la información que le había proporcionado la secretaría sobre la situación de la presentación y el examen de los informes con arreglo al Protocolo de Kyoto (documento CC/5/2008/5) y observó con creciente preocupación que, al día de la fecha, casi tres años después del plazo establecido en la decisión 4/CP.8 en relación con la decisión 22/CMP.1, Luxemburgo no había presentado su cuarta comunicación nacional con la información suplementaria exigida en virtud del párrafo 2 del artículo 7 del Protocolo de Kyoto, a pesar de la preocupación expresada a ese respecto por la CP/RP<sup>6</sup>.

21. En su cuarta reunión, el grupo de control del cumplimiento señaló la importancia de asegurar la coherencia de los exámenes de las Partes realizados por los equipos de expertos en virtud del artículo 8 del Protocolo de Kyoto y decidió señalar esta cuestión a la atención del Pleno. A instancias del grupo de facilitación, la secretaría preparó un documento que contenía una descripción del proceso de examen previsto en el artículo 8 del Protocolo de Kyoto y un resumen de la información sobre los sistemas nacionales proporcionada en los exámenes de los informes iniciales (documento CC/5/2008/2) como aportación a los debates del Pleno sobre esa cuestión. Tras estudiar ese documento y la información adicional facilitada por la secretaría en su quinta reunión, el Pleno examinó cuestiones relacionadas con el proceso de examen previsto en el artículo 8.

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<sup>5</sup> FCCC/KP/CMP/2007/9, párr. 160.

<sup>6</sup> Decisión 5/CMP.3, "Cumplimiento previsto en el Protocolo de Kyoto".



22. El Pleno expresa su agradecimiento a los equipos de expertos, apoyados por la secretaría, por la labor realizada para proporcionar, con recursos limitados, informes de examen de alta calidad. El Pleno acoge con satisfacción la observación del OSE en su 28º período de sesiones de que el mejoramiento de los procesos de presentación de informes y de examen es una cuestión de vital importancia<sup>7</sup>. Sin embargo, el Pleno expresa preocupación por los problemas de coherencia en el proceso de examen y por la escasez de recursos, en particular la falta de expertos disponibles. Las funciones de examen exigidas en el Protocolo de Kyoto, que son fundamentales para la labor del Comité, pueden verse gravemente afectadas por esos problemas, por lo que el Pleno seguirá examinando esas cuestiones en sus reuniones futuras.

### **B. Examen por el grupo de control del cumplimiento de una cuestión de aplicación relativa a Grecia**

23. El 31 de diciembre de 2007 el Comité de Cumplimiento recibió una cuestión de aplicación señalada en el examen del informe inicial de Grecia<sup>8</sup>. El 8 de enero de 2008, la Mesa del Comité de Cumplimiento asignó la cuestión de aplicación al grupo de control del cumplimiento. El 22 de enero de 2008, el grupo de control del cumplimiento decidió llevar adelante la cuestión de aplicación (véase el documento CC-2007-1-2/Greece/EB), que se refería al cumplimiento de las "Directrices para los sistemas nacionales previstos en el párrafo 1 del artículo 5 del Protocolo de Kyoto" (decisión 19/CMP.1) y de las "Directrices para la preparación de la información solicitada en el artículo 7 del Protocolo de Kyoto" (decisión 15/CMP.1).

24. El grupo de control del cumplimiento recibió una comunicación por escrito de Grecia, y los días 4 y 5 de marzo de 2008 celebró una audiencia a petición de la Parte. En su conclusión preliminar, de fecha 6 de marzo de 2008 (véase el documento CC-2007-1-6/Greece/EB), el grupo determinó que Grecia no cumplía las directrices mencionadas en el anterior párrafo 23. Tras recibir una nueva comunicación por escrito de Grecia, el 17 de abril de 2008 el grupo confirmó su conclusión preliminar en una decisión definitiva (documento CC-2007-1-8/Greece/EB).

25. El 16 de julio de 2008 Grecia presentó un plan con arreglo a la decisión definitiva del grupo de control del cumplimiento de conformidad con el párrafo 2 de la sección XV de los procedimientos y mecanismos. En su sexta reunión, celebrada los días 6 y 7 de octubre de 2008, el grupo de control del cumplimiento pidió a Grecia que presentara un plan revisado (véase el documento CC-2007-110/Greece/EB).

26. De conformidad con el párrafo 2 a) de la sección III de los procedimientos y mecanismos, las decisiones adoptadas por el grupo de control del cumplimiento relativas a Grecia figuran en el anexo III del presente informe.

### **C. Examen por el grupo de control del cumplimiento de una cuestión de aplicación relativa al Canadá**

27. El 14 de abril de 2008 el Comité de Cumplimiento recibió una cuestión de aplicación señalada en el examen del informe inicial del Canadá<sup>9</sup>. El 16 de abril de 2008, la Mesa del Comité de Cumplimiento asignó la cuestión de aplicación al grupo de control del cumplimiento. El 2 de mayo de 2008, el grupo de control del cumplimiento decidió llevar adelante la cuestión de aplicación (véase el documento

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<sup>7</sup> FCCC/SBI/2008/8, párr. 93.

<sup>8</sup> FCCC/IRR/2007/GRC.

<sup>9</sup> FCCC/IRR/2007/CAN.

CC-2008-1-2/Canada/EB), que se refería al cumplimiento de las "Directrices para la preparación de la información solicitada en el artículo 7 del Protocolo de Kyoto" (decisión 15/CMP.1) y de las modalidades de contabilidad de las cantidades atribuidas de conformidad con el párrafo 4 del artículo 7 del Protocolo de Kyoto (decisión 13/CMP.1), así como del anexo de la decisión 5/CMP.1 y de los requisitos de las normas técnicas para el intercambio de datos entre los sistemas de registro.

28. El grupo de control del cumplimiento recibió una comunicación por escrito del Canadá, y el 14 de junio de 2008 celebró una audiencia a petición de la Parte. El 15 de junio de 2008, el grupo de control del cumplimiento decidió no seguir adelante (véase el documento CC-2008 1-6/Canada/EB).

29. De conformidad con el párrafo 2 a) de la sección III de los procedimientos y mecanismos, las decisiones adoptadas por el grupo de control del cumplimiento relativas al Canadá figuran en el anexo IV del presente documento.

30. El 11 de julio de 2008 el Canadá presentó una nueva comunicación por escrito (en el documento CC-2008-1-7/Canada/EB). A instancias del Presidente del grupo de control del cumplimiento se envió un mensaje al Canadá en el que se indicaba que, dado que la decisión de no seguir adelante había dado por terminados los procedimientos relativos a la cuestión de la aplicación, el Canadá tal vez deseara pedir que su comunicación contenida en el documento CC-2008 1-7/Canada/EB se adjuntara como anexo del informe anual del Comité de Cumplimiento a la CP/RP, de conformidad con el párrafo 2 del artículo 22 del reglamento<sup>10</sup>. Atendiendo a la correspondiente petición del Canadá, recibida por escrito en la secretaría el 31 de julio de 2008, el documento que contiene la nueva comunicación por escrito ha sido incluido como anexo V del presente informe.

#### **D. Balance realizado por el grupo de control del cumplimiento**

31. En su sexta reunión, el grupo de control del cumplimiento reflexionó sobre la labor realizada en 2008 y propuso las mejoras que podrían hacerse en su examen de las cuestiones de aplicación. Para la realización de ese balance se utilizó una nota de antecedentes preparada por la secretaría (documento CC/EB/6/2008/2).

32. El grupo determinó las esferas en las que era preciso enmendar el reglamento y convino en que se transmitieran al Pleno las disposiciones de trabajo y las enmiendas al reglamento del Comité de Cumplimiento que había propuesto. El grupo también convino en que los miembros y los miembros suplentes que actuaban como miembros podrían ofrecer una explicación de un voto en contra de cualquier decisión del grupo, que se incluiría en un anexo del informe sobre la reunión en que la decisión se hubiera adoptado o del informe de la reunión subsiguiente a una decisión adoptada por medios electrónicos.

33. En la quinta reunión del Pleno, el Presidente del grupo de control del cumplimiento informó oralmente sobre las lecciones extraídas y la experiencia obtenida del examen de las cuestiones de aplicación. La información se basó en el balance mencionado en el anterior párrafo 31.

34. El Pleno examinó las disposiciones de trabajo y las enmiendas propuestas por el grupo de control del cumplimiento y acordó presentar a la CP/RP las enmiendas propuestas al reglamento contenidas en el anexo I del presente informe para que las aprobara en su cuarto período de sesiones.

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<sup>10</sup> El párrafo 2 del artículo 22 dispone lo siguiente: "Las observaciones sobre una decisión definitiva que se presenten por escrito dentro de los 45 días siguientes a la recepción de esa decisión por la Parte interesada serán distribuidas por la secretaría a los miembros y miembros suplentes del grupo correspondiente y se incluirán en el informe anual del Comité a la Conferencia de las Partes en calidad de reunión de las Partes en el Protocolo de Kyoto".

35. El Pleno subrayó su intención de transmitir a la CP/RP toda enmienda al reglamento para su adopción tras un examen minucioso, teniendo en cuenta la experiencia adquirida al respecto.

#### **E. Taller del grupo de facilitación sobre la presentación de informes y el examen**

36. Atendiendo a una petición hecha por el grupo de facilitación en su cuarta reunión, el 7 de octubre de 2008 se celebró en Bonn un taller sobre la presentación de informes y el examen para analizar la función del régimen de cumplimiento en el marco del sistema del Protocolo de Kyoto, intercambiar conocimientos e información sobre la interacción entre los sistemas y las instituciones de presentación de informes, examen y cumplimiento y estudiar los aspectos clave de esos temas.

37. Como resultado de los debates mantenidos en el taller, en su sexta reunión el grupo acordó seguir examinando en su reunión siguiente la manera de desempeñar su función de prestar asesoramiento y apoyo "con el fin de promover el cumplimiento y permitir la pronta detección del posible incumplimiento", de conformidad con el párrafo 6 a) de la sección IV de los procedimientos y mecanismos. El grupo examinará también la forma de utilizar la abundante información proporcionada en los informes de los equipos de expertos transmitidos a los miembros y los miembros suplentes del Comité de Cumplimiento, de conformidad con el párrafo 3 de la sección VI de los procedimientos y mecanismos, en la medida en que la información revista interés para el mandato del grupo.

#### **IV. Participación de los miembros y de los miembros suplentes**

38. El Pleno señala de nuevo a la atención de la CP/RP las propuestas contenidas en el párrafo 27 del segundo informe anual del Comité de Cumplimiento a la CP/RP<sup>11</sup> relativas a los gastos de viaje y participación, y pide a la CP/RP que tome en consideración esas propuestas en su examen del proyecto de presupuesto para el bienio 2010-2011.

39. Como señaló el Pleno, la decisión 5/CMP.3 se pidió a la secretaría que, al preparar el presupuesto para el bienio 2010-2011, proporcionara información a las Partes sobre las consecuencias de la propuesta del Comité de Cumplimiento de hacer extensiva la financiación de los gastos de viaje y de participación en reuniones del Comité a todos sus miembros y miembros suplentes. El Pleno expresa la esperanza de que la CP/RP en su quinto período de sesiones adopte medidas basadas en esa información.

#### **V. Disponibilidad de recursos**

40. En el presupuesto básico de la Convención Marco para el bienio 2008-2009 se aprobó una asignación de 1.022.500 dólares de los EE.UU. para actividades relacionadas con el Comité de Cumplimiento. Además, deberán proporcionarse 1.034.685 dólares con cargo al Fondo Fiduciario para actividades suplementarias, lo que supone un incremento de 339.035 dólares con respecto a la estimación dada en el documento del presupuesto por programas para el bienio 2008-2009<sup>12</sup>. Entre los costos que no se tuvieron en cuenta, o que han aumentado con respecto a las proyecciones iniciales, figuran los relacionados con la transmisión web, las medidas de seguridad necesarias como consecuencia de las disposiciones de trabajo que permiten que los particulares asistan como observadores a las reuniones del Comité y los gastos de viaje y participación de expertos a quienes los grupos de facilitación o de control del cumplimiento piden asesoramiento.

41. Al final de 2007, el saldo de las contribuciones al Comité de Cumplimiento con cargo al Fondo Fiduciario para actividades suplementarias ascendía a 385.197 dólares, que se arrastraron al

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<sup>11</sup> FCCC/KP/CMP/2007/6.

<sup>12</sup> FCCC/SBI/2007/8/Add.2.

bienio 2008-2009. Al final del período objeto del informe, se habían recibido en 2008 contribuciones por valor de 168.872 dólares. El Comité expresa su agradecimiento a Bélgica, el Japón y el Reino Unido por sus generosas contribuciones. El Comité pide a la CP/RP que invite a las Partes a hacer contribuciones al Fondo Fiduciario para actividades suplementarias para el bienio 2008-2009 a fin de apoyar la labor del Comité de Cumplimiento.

## Anexo I

### Enmiendas propuestas al reglamento

De conformidad con el párrafo 2 d) de la sección III del anexo de la decisión 27/CMP.1, se transmite el siguiente texto para su adopción por la CP/RP como enmienda al reglamento del Comité de Cumplimiento del Protocolo de Kyoto, contenido en el anexo de la decisión 4/CMP.2.

1. El siguiente texto debería insertarse a continuación del artículo 13:

#### "9 bis. CÁLCULO DE LOS PLAZOS

##### Artículo 13 bis

A efectos del cálculo de los plazos:

a) No se incluirá el día de celebración del acto o reunión a partir del cual comience a contar el plazo. Se incluirá el último día del plazo así calculado, a menos que sea sábado, domingo o día festivo oficial de la secretaría de la Convención, o festividad nacional oficial en el caso de un plazo aplicable a una Parte interesada, en cuyo supuesto se considerará que el plazo vencerá al final del siguiente día laborable;

b) Con sujeción a lo dispuesto en el anterior apartado a), cuando los plazos se expresen en semanas, meses o años el día de expiración será el mismo día de la semana, mes o año en que el plazo comenzó a correr o, en caso de que el mes no tenga esa fecha, el último día de ese mes."

2. A fin de incluir el nuevo artículo 25 bis propuesto más adelante, el artículo 18 debería revisarse para que diga lo siguiente:

"1. Toda comunicación u observación presentada con arreglo a los artículos 14, 15, 17 y 25 bis será firmada por el agente de la Parte y entregada a la secretaría en forma impresa y por medios electrónicos."

3. El siguiente texto debería insertarse como nuevo párrafo 3 del artículo 25:

"3. El derecho de la Parte interesada a designar a una o más personas para que la representen durante el examen de una cuestión de aplicación de conformidad con el párrafo 2 de la sección VIII se aplica a toda reunión convocada para:

- a) Examinar el restablecimiento de los derechos con arreglo a la sección X;
- b) Examinar y evaluar todo plan que se presente al grupo de control del cumplimiento de conformidad con el párrafo 2 o el párrafo 6 de la sección XV;
- c) Examinar todo informe sobre los progresos realizados en la ejecución del plan que se presente al grupo de control del cumplimiento de conformidad con el párrafo 3 o el párrafo 7 de la sección XV."

4. Se debería insertar el siguiente texto a continuación del artículo 25:

"Artículo 25 *bis*

1. El plan que la Parte interesada presente al grupo de control del cumplimiento de conformidad con el párrafo 2 o el párrafo 6 de la sección XV deberá, explícitamente:

- a) Abordar, en secciones aparte, cada uno de los elementos especificados en el párrafo 2 o en el párrafo 6 de la sección XV;
- b) Responder a cualquier cuestión concreta que se plantea en la parte de la decisión definitiva del grupo de control del cumplimiento referente a las medidas correctivas.

2. El grupo de control del cumplimiento se esforzará por realizar el examen y la evaluación del plan previsto en el párrafo 2 o el párrafo 6 de la sección XV en un plazo de cuatro semanas contadas a partir de la fecha de recepción del plan.

3. En su examen y evaluación, el grupo de control del cumplimiento evaluará si el plan presentado:

- a) Establece y aborda adecuadamente los elementos y las cuestiones mencionadas en el anterior párrafo 1;
- b) Una vez aplicado, remediará el incumplimiento o permitirá cumplir el compromiso cuantificado de limitación o reducción de las emisiones de la Parte interesada en el período de compromiso siguiente, como se prevé en el párrafo 2 y en el párrafo 6 de la sección XV, respectivamente."

5. El siguiente texto debería insertarse a continuación del nuevo artículo 25 *bis* propuesto:

"Artículo 25 *ter*

El grupo de control del cumplimiento podrá celebrar una audiencia a petición de la Parte interesada de conformidad con el párrafo 1 c) de la sección X, junto con la reunión para adoptar la conclusión preliminar o la decisión de no proceder. La audiencia y la reunión combinadas deberán programarse:

- a) Dentro de las dos semanas siguientes al plazo establecido para la presentación de la comunicación por escrito prevista en el párrafo 1 b) de la sección X; o
- b) Dentro de las dos semanas siguientes al plazo establecido para la solicitud de una audiencia conforme al párrafo 1 c) de la sección X, si la Parte interesada indica, antes de que expire el plazo establecido para la solicitud de la audiencia, que no tiene la intención de presentar la comunicación por escrito prevista en el párrafo 1 b) de la sección X."

Annex II

[ENGLISH ONLY]

**Documents of the Compliance Committee<sup>13</sup>**

**PLENARY**

<b>Title</b>	<b>Document No.</b>	<b>Date</b>
<b><u>5<sup>th</sup> meeting</u></b>		
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**

<b>Title</b>	<b>Document No.</b>	<b>Date</b>
Report on the election of chairperson and vice-chairperson of the enforcement branch 2008	CC/EB/2008/1	11 February 2008
<b><u>3<sup>rd</sup> meeting</u></b>		
Provisional agenda and annotations	CC/EB/3/2008/1	27 February 2008
Report on the meeting	CC/EB/3/2008/2	18 March 2008

<sup>13</sup> These documents are available on the UNFCCC website at <[http://unfccc.int/kyoto\\_protocol/compliance/items/2875.php](http://unfccc.int/kyoto_protocol/compliance/items/2875.php)>.

<b>Title</b>	<b>Document No.</b>	<b>Date</b>
<b><u>4<sup>th</sup> meeting</u></b>		
Provisional agenda and annotations	CC/EB/4/2008/1	9 April 2008
Report on the meeting	CC/EB/4/2008/2	19 May 2008
<b><u>5<sup>th</sup> meeting</u></b>		
Provisional agenda and annotations	CC/EB/5/2008/1	6 June 2008
Report on the meeting	CC/EB/5/2008/2	23 June 2008
<b><u>6<sup>th</sup> meeting</u></b>		
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**

<b>Title</b>	<b>Document No.</b>	<b>Date</b>
Report on the election of chairperson and vice-chairperson of the facilitative branch 2008	CC/FB/2008/1	11 March 2008
<b><u>6<sup>th</sup> meeting</u></b>		
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**

<b>Title</b>	<b>Document No.</b>	<b>Date</b>
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



<b>Title</b>	<b>Document No.</b>	<b>Date</b>
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
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**

<b>Title</b>	<b>Document No.</b>	<b>Date</b>
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

<b>Title</b>	<b>Document No.</b>	<b>Date</b>
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
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

<b>Title</b>	<b>Document No.</b>	<b>Date</b>
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
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**

<b>Title</b>	<b>Document No.</b>	<b>Date</b>
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

<b>Title</b>	<b>Document No.</b>	<b>Date</b>
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
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

<b>Title</b>	<b>Document No.</b>	<b>Date</b>
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
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**

<b>Title</b>	<b>Document No.</b>	<b>Date</b>
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**

<b>Title</b>	<b>Document No.</b>	<b>Date</b>
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

Title	Document No.	Date
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 1<sup>1</sup> and rule 10, paragraph 2, of the Rules of procedure of the Compliance Committee,<sup>2</sup> 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.<sup>3</sup>
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.

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

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

<sup>2</sup> Contained in the annex to decision 4/CMP.2.

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



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.

*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.<sup>1</sup>

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,

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

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

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)?

- 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,<sup>1</sup> 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 VI<sup>2</sup> 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.<sup>3</sup>
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

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

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

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

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

1, of the Kyoto Protocol and the requirements in the guidelines decided thereunder.<sup>4</sup> 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).

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:

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<sup>4</sup> 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.

- (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,<sup>1</sup> 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,<sup>2</sup> 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.

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

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

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



## 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.

### *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,<sup>1</sup> 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 VI<sup>2</sup> 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.<sup>3</sup>

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

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

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

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

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.<sup>4</sup> 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).

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.

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<sup>4</sup> 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.

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 XV<sup>1</sup> 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,

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

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

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

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 VI<sup>1</sup> and paragraph 2 of rule 10 of the Rules of procedure of the Compliance Committee,<sup>2</sup> 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.<sup>3</sup>
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.

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

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

<sup>2</sup> Contained in the annex to decision 4/CMP.2.

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



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 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.<sup>1</sup>
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

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

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

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 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,<sup>1</sup> 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 VI<sup>2</sup> 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.

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

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

<sup>2</sup> 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.

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.
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)<sup>3</sup> 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

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<sup>3</sup> [http://unfccc.int/essential\\_background/library/items/3599.php?rec=j&piref=6427#beg](http://unfccc.int/essential_background/library/items/3599.php?rec=j&piref=6427#beg)

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 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

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\* 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."

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