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SUBSIDIARY BODY FOR SCIENTIFIC AND TECHNOLOGICAL ADVICE

Tenth session

Bonn, 31 May - 11 June 1999

Item 10 of the provisional agenda

SUBSIDIARY BODY FOR IMPLEMENTATION

Tenth session

Bonn, 31 May - 11 June 1999

Item 6 of the provisional agenda

**Procedures and mechanisms relating to compliance under
the Kyoto Protocol**

Submissions from Parties

Note by the secretariat

Addendum

1. In addition to the submissions already received (see FCCC/SB/1999/MISC.4), a further submission* has been received from Germany (on behalf of the European Community, its member States and Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Poland, Romania, Slovakia and Slovenia).
2. In accordance with the procedure for miscellaneous documents, this submission is attached and is reproduced in the language in which it was received and without formal editing.

* In order to make this submission available on electronic systems, including the World Wide Web, this contribution has been reformatted. The secretariat has made every effort to ensure the correct reproduction of the text as submitted.

FCCC/SB/1999/MISC.4/Add.1

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**SUBMISSION BY GERMANY ON BEHALF OF THE EUROPEAN COMMUNITY,
ITS MEMBER STATES AND BULGARIA, THE CZECH REPUBLIC, ESTONIA,
HUNGARY, LATVIA, POLAND, ROMANIA, SLOVAKIA AND SLOVENIA ON**

MATTERS RELATING TO COMPLIANCE

In addition to the EU submission of 11 February 1999 Germany on behalf of the European Community, its Member States and Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Poland, Romania, Slovakia and Slovenia submits further views on matters related to compliance as requested in decision 8/CP.4. This submission is intended inter alia to serve as an input for the consultation on compliance scheduled for 31 May 1999 in Bonn.

The European Community, its Member States and Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Poland, Romania, Slovakia and Slovenia welcome the decisions taken at COP4 with respect to compliance. They consider it important that the participants of the joint working group on compliance under SBI and SBSTA should include both legal and technical experts.

In order to ensure a comprehensive system, close co-operation will be necessary inter alia between the groups elaborating principles, rules, modalities and guidelines for the Kyoto mechanisms and the groups elaborating guidelines for Articles 5, 7 and 8 of the Kyoto Protocol on the one hand, and on the other hand, the joint working group.

A. Comprehensive compliance system

1. According to Annex II to Decision 8/CP.4 the joint working group on compliance must ensure coherent approaches to developing a comprehensive compliance system. The European Community, its Member States and Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Poland, Romania, Slovakia and Slovenia reiterate their view that a comprehensive, coherent, unified, strong, efficient and effective compliance system is essential for the successful implementation and application of the Kyoto Protocol.
2. The compliance system should inter alia
 - apply to all the obligations under the Kyoto Protocol,
 - be operated through one supervisory body,
 - function, as far as possible, through a single set of procedures,
 - provide for a system of measures which should be applied in a graduated manner, should be proportionate to the nature of the obligations and the seriousness of the breach and should include in appropriate cases elements of automaticity.
3. The objective of the comprehensive compliance system should be to resolve questions regarding the implementation of the obligations under the Kyoto Protocol by means inter alia of:
 - providing advice to Parties in implementation of the Protocol
 - overcoming difficulties encountered in implementation of the Protocol

- preventing non-compliance from occurring
 - preventing disputes from arising
 - imposing consequences, including sanctions, where appropriate, if a Party fails to fulfill its obligations under the Protocol.
4. The compliance system developed for the Kyoto Protocol should apply, in particular, to:
- Policies and Measures (Article 2)
 - Quantified emission limitation and reduction commitments (Articles 3)
 - Reporting (Articles 5 and 7)
 - Review (Article 8)
 - The Kyoto Mechanisms:
 - Joint Implementation (Article 6)
 - Clean Development Mechanism (Article 12)
 - Emissions Trading (Article 17),including any obligations arising under the relevant principles, rules, modalities and guidelines developed for these mechanisms.

These provisions vary in their nature and character, a fact which needs to be borne in mind when elaborating the compliance system.

5. In developing the compliance system, close consideration should be given to the powers given to the Parties in particular in:
- Art. 16 (multilateral consultative process)
 - Art. 18 (procedures and mechanisms to determine and address cases of non-compliance)
 - Articles 6, 12 and 17 (the Kyoto mechanisms)
6. The compliance system should be able to deal with matters concerning compliance raised
- by a Party or a group of Parties in regard to its/their own implementation or with respect to the implementation of another Party or group of Parties,
or
 - by institutions or bodies established/serving under the Kyoto Protocol.

B. Reporting and review requirements for a comprehensive compliance system

1. The European Community, its Member States and Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Poland, Romania, Slovakia and Slovenia reaffirm the views expressed in the earlier EU submission of 11 February 1999 that at the heart of a strong, efficient and effective compliance system stands full and timely reporting by individual Parties. Timely and comprehensive reporting on the basis of Articles 5 and 7 of the Protocol is an essential element of a compliance system and is conducive to achieving such compliance. In this regard, review of national greenhouse gas inventories and national communications undertaken pursuant to Article 8 of the

Protocol should be treated as an integral part of a comprehensive compliance system. In this regard, the European Community, its Member States and Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Poland, Romania, Slovakia and Slovenia welcome document FCCC/SB/1999/2 containing a draft work programme on methodological issues related to Articles 5, 7 and 8. In addition, they recall the recent EU submissions on national greenhouse gas inventories (dated 30. 11. 1998 and 1. 3. 1999) and national communications (dated 1. 2. 1999) and their review (dated 1. 3. 1999) which contain elements for reporting and review in support of a strong compliance system.

2. To fulfil the needs of an effective compliance system and to be able to provide a strong factual basis for further decisions, it will be necessary to ensure that
 - the reporting requirements under the Kyoto Protocol lead to transparent, consistent, comparable, complete and sufficiently accurate reports by the individual Parties,
 - the data in the reports is verifiable,
 - all data should be submitted in a standardised format to assist interpretation, comprehension and verification,
 - the review process under the Kyoto Protocol provides a strong foundation for the compliance system.

C. Further Work

1. At its meeting in May/June 1999 in Bonn the joint working group should aim to develop a list of elements to be included in a comprehensive compliance system on the basis of which the secretariat could be invited to draft a first negotiating text.
2. The European Community, its Member States and Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Poland, Romania, Slovakia and Slovenia would favour a draft work programme on compliance to be produced by the secretariat for consideration by SBSTA/SBI 10.
3. The FCCC secretariat should organise a FCCC workshop on compliance before COP 5.
4. The joint working group should report, via SBI/SBSTA, to COP 5 on its progress and prepare a draft decision on further work on compliance for consideration and adoption at COP 5.
5. COP 5 should establish an ad hoc working group on compliance comprising legal and technical experts to take the exercise forward to its conclusion at COP 6.
6. The secretariat is requested to organise another workshop on compliance to be held before COP 6.