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SUBSIDIARY BODY FOR IMPLEMENTATION  
Twelfth session  
Bonn, 12-16 June 2000  
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**[PROCEDURES AND MECHANISMS RELATED  
TO COMPLIANCE UNDER THE KYOTO PROTOCOL]**

**[A COMPLIANCE SYSTEM FOR THE KYOTO PROTOCOL]**

**Text by the co-Chairmen of the Joint Working Group on Compliance**

**Section I. General provisions**

**Objective**

The objective of the [procedures and mechanisms related to compliance] [compliance system] is to facilitate, promote [and enforce] compliance [by each Party] with the [commitments] [obligations] under the Kyoto Protocol, in particular the [commitment] [obligation] under Article 3.1 of the Protocol, [and, as appropriate, the rules, guidelines and procedures thereunder.]

**Nature**

*Option 1*

The [procedures and mechanisms related to compliance] [compliance system] shall be credible, coherent, comprehensive, unified, effective, predictable, transparent and simple.

*Option 2*

*The nature of the [procedures and mechanisms related to compliance] [compliance system] should not be expressly provided for in the operative text, as its nature will be implicit from the content of the text. Alternatively, its nature could be reflected in the*

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*preamble or in a decision accompanying the adoption of the [procedures and mechanisms related to compliance] [compliance system].*

## **Principles**

### *Option 1*

The operation of the [procedures and mechanisms related to compliance] [compliance system] shall be guided by the [principles set out in Article 3 of the Convention] and in particular shall:

[1. Be proportionate, in that the procedures, mechanisms and consequences should take into account the cause, type, degree and frequency of non-compliance;]

[2. Adhere to the principle of common but differentiated responsibilities as defined in the Convention;]

[3. Treat all Parties that have undertaken the same [commitments] [obligations] in an equivalent manner;]

[4. Be based on principles of efficiency and due process that allow Parties, and in particular the Party concerned, an opportunity for a full, fair and timely resolution of compliance-related issues.]

### *Option 2*

*Principles governing the operation of the [procedures and mechanisms related to compliance] [compliance system] should not be expressly provided for in the text, as they could be implicit from the content of the text, or be reflected in the preamble or in a decision accompanying the adoption of the [procedures and mechanisms related to compliance] [compliance system]*

## **Scope of application**

The [procedures and mechanisms related to compliance] [compliance system] shall apply to all [commitments] [obligations] in [and under] the Protocol, [except where otherwise provided,] [and as appropriate, the rules, guidelines, and procedures thereunder, except that all compliance and non-compliance issues with respect to the clean development mechanism (CDM) shall be dealt with exclusively by the executive board of the CDM.]

## Section II. Establishment, structure and functions

### Establishment

#### *Option 1*

1. The [compliance body]<sup>1</sup> is hereby established [as a subsidiary body pursuant to Article 13.4(h) of the Protocol.]

[2. The [compliance body] may establish such sub-groups or panels as it deems necessary to carry out its functions.]

#### *Option 2*

1. The [compliance body] is hereby established [as a subsidiary body pursuant to Article 13.4(h) of the Protocol.]

2. The [compliance body] shall consist of two branches, to be designated as branch 1 and branch 2. [, dealing with facilitation and enforcement, respectively.]<sup>2</sup>

#### (a) Mandate of branch 1

Branch 1 shall provide [for] advice and [facilitate] assistance to individual Parties and otherwise decide questions of implementation whose treatment may potentially lead to outcomes of a non-mandatory nature, set out in paragraph . . . .

#### (b) Mandate of branch 2

Branch 2 shall decide on questions of implementation that warrant treatment of a more judicial nature and that can potentially lead to [pre-agreed] outcomes of a mandatory nature, as set out in paragraph... It shall address:

- (i) Cases involving a Party's [alleged] non-compliance with Article 3.1 of the Protocol;
- (ii) Cases involving a Party's [alleged] failure to meet the eligibility requirements for one or more of the mechanisms under Articles 6,12 and 17;
- (iii) Cases involving the application of adjustments under Article 5.2;
- (iv) Cases involving failure to achieve the emission level under Article 4.

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<sup>1</sup> The formal title of the compliance body, whether compliance institution, compliance authority, compliance committee, compliance system, or other, is yet to be decided.

<sup>2</sup> The formal titles of the branches are yet to be decided.

### Structure<sup>3</sup>

1. The [compliance body] [branch 1] [branch 2] shall consist of [no more than][...] [10] [12] [15] [21] [25] [30] members. It shall be composed of experts of recognized competence in relevant fields, such as the scientific, technical, socio-economic and legal fields. The [compliance body] may draw upon such other expertise as it deems necessary.
2. The members of the [compliance body] [branch 1] [branch 2] shall be [nominated by Parties and shall act in their personal capacity] [representatives of Parties]. The election of members shall be based on [equitable geographical representation] [one half to be elected from among Annex I Parties and one half to be elected from among non-Annex I Parties] [a larger proportional representation from among Annex I Parties] [within the group of Annex I and non-Annex I Parties representation shall be based on equitable geographic representation].
3. The members of the [compliance body] shall be elected by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (COP/MOP) for [2] [3] [4] years. The COP/MOP shall elect [...] members for a term of [two] years and [...] members for a term of [...] years. At two year intervals thereafter, the COP/MOP shall alternately elect [...] new members for a term of [...] years. Outgoing members may be re-elected for one consecutive term.

### Functions

The [procedures and mechanisms related to compliance] [shall be supplemental to the other compliance-related provisions of the Protocol.] The [compliance body] shall perform the following [general] functions:

1. Decide which questions [regarding implementation submitted to it] shall be pursued [in accordance with agreed criteria];
2. Provide [for] advice and [facilitate] assistance to the Party concerned regarding its implementation of the Protocol;
3. [Determine questions raised related to application of any adjustment under Article 5.2;]
4. [Address specific cases arising under Articles [4], 6, [12] and 17, including any questions in respect of Article 6.4;]

Or

[Address an allegation that a Party is failing to meet the eligibility requirements contained in and under Articles 6, [12] and 17;]

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<sup>3</sup> The composition of each branch will depend on the determination of options under section II, "Establishment".

5. Address cases of [alleged] non-compliance by [individual][Annex I] Parties;
6. Determine whether or not a Party is in compliance with Article 3.1;
7. Determine [and/or apply] appropriate outcomes or consequences [; and in the case of a mandatory outcome or consequence, to apply it as set forth in paragraph ... ]

### **Section III. Operation and procedure**

#### **Submission of questions to the [compliance body]**

1. Questions regarding the implementation of the Protocol may be submitted to the [compliance body] [branch1] , through the secretariat, with corroborating information by:
  - (a) Any Party with respect to its own implementation;
  - (b) Any Party with respect to another Party's implementation [...];
  - (c) The COP/MOP [, except that a Party may not participate in the decision with respect to a question directly concerning itself];
  - [(d) The executive board or other bodies established under Articles 6, 12 or 17.]
- [2. The secretariat shall receive the reports of the expert review teams under Article 8; and shall transmit any question regarding implementation identified in the report to the [compliance body].]

#### **Preliminary examination of questions**

- [1. The [compliance body] [chairperson of the [compliance body]] [chairpersons of branches 1 and 2] [screening panel] shall forward the questions submitted under paragraphs... to the relevant branch in accordance with the mandate of that branch.]
2. The [compliance body] [relevant branch] [screening panel] shall make a preliminary examination of questions submitted to it, other than those raised by a Party concerning itself, to ensure that the questions are supported by sufficient information, [in accordance with agreed criteria established by the [compliance body] [COP/MOP] ] and are otherwise not *de minimis* or ill-founded questions.

## Proceedings of the compliance body

### 1. Decision-making

#### *Option 1*

The members of [the compliance body] [branch 1] [branch 2] shall make every effort to reach agreement on its decisions by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the decision shall as a last resort be adopted by a [three-quarters majority] vote of the Parties present and voting at the meeting.

#### *Option 2*

The [compliance body] [branch 1] [branch 2] shall make its decision [by consensus] [by [...] majority of the members of the [compliance body][branch1][branch 2] present and voting] [by double majority of the members from Annex I Parties and the members from non-Annex I Parties] [according to the rules of the COP/MOP].

### 2. Participation of Parties

The Party concerned shall be entitled to nominate a person to represent it during the consideration of its case by [the compliance body] [branch 1] [branch 2]. The Party concerned shall be given the opportunity to comment on the draft conclusions and recommendations of [the compliance body] [branch 1] [branch 2] but shall not take part in the drafting and adoption of its decisions on that matter.

### 3. Avoidance of conflict of interest

No member of [the compliance body] [branch 1] [branch 2] who is a national of a Party that is involved in a matter before the [compliance body] shall take part in the drafting and adoption of any decision on that matter.

### 4. Sources of information

(a) The [compliance body] may seek information from the following sources:

- (i) Reports by expert review teams under Article 8 of the Protocol;
- (ii) Information provided by Parties concerned;
- [(iii) Other experts and organizations;] and
- [(iv) Any other source that it considers to be appropriate.]

- (b) The [compliance body] shall ensure the confidentiality of any information that it has received in confidence.

5. Other procedural arrangements

Procedural arrangements related to [facilitation] [branch 1] and [enforcement] [branch 2] are contained in annexes I and II. An expedited procedure related to cases under Articles 6, 12, and 17 is contained in annex III.

6. The COP/MOP shall develop detailed rules for the operation of the [compliance body] [branch 1] [branch 2], including additional rules ensuring due process and rules related to other procedural matters, as well as proceedings for appeal set out in paragraph ... below.

## **Appeal**

### *Option 1*

1. An appeal procedure shall be available for [all] decisions involving outcomes or consequences of [a mandatory nature] [relating to non-compliance with Article 3.1].
2. The appeal procedure shall be carried out by [a [standing] [ad hoc] appellate body] [the COP/MOP]. [The COP/MOP may agree by consensus to override the decision on appeal] [The Party whose compliance or non-compliance is under consideration may not participate in the decision on appeal directly concerning that Party.]

### *Option 2*

*There should be no procedure for appeal.*

## **COP/MOP**

1. The [compliance body] shall report through the secretariat on its activities to each ordinary session of the COP/MOP;
2. The COP/MOP shall consider the reports of the [compliance body], [including any issues regarding implementation that may have implications for the work of the subsidiary bodies];
3. The COP/MOP shall accept [modify] [or reject] the reports of the [compliance body], [unless the COP/MOP decides by consensus not to do so.]
- [4. The COP/MOP shall provide general policy guidance [or background] to the [compliance body].]

### **True-up period**

1. [...] [one] month[s] shall be allowed after [the end of the commitment period] [the publication of the final report of the expert review of the inventory of the last Party to be reviewed for the last year of the commitment period], to be known as the true-up period.
2. During the true-up period, in order to fulfil its commitments under Article 3.1, any Party may:
  - (a) [Acquire [and transfer] parts of assigned amount from the commitment period in question];
  - (b) [Continue to utilize Articles 6, 12 and 17 (provided it has not been found ineligible to participate in any mechanism under those Articles)];
  - (c) [Make a voluntary payment into a climate change fund(s)].

### **Section IV. Outcomes and consequences**

1. The [compliance body] [branch 1 ] may, depending upon the particular case before it, decide upon one or more of the following outcomes and consequences:
  - (a) Provision [of] [for] advice and [facilitating] assistance to individual Parties regarding implementation of the Protocol;
  - (b) [Facilitating financial and technical assistance, including technology transfer and capacity-building, to non-Annex I Parties;]
  - (c) [Making recommendations];
  - (d) Publication of non-compliance or potential non-compliance; and
  - (e) Issuing of cautions.
2. [The [compliance body] [branch 2] shall apply adjustments, where necessary.]
3. The [compliance body] [branch 2], in the case where it has determined that a Party has failed to meet certain eligibility requirements related to the mechanisms under Articles 6, 12 and 17, shall suspend the Party's eligibility for the mechanisms in question, in accordance with the provisions in or under Articles 6, 12 and/or 17, as applicable.]

Or

[If a Party is found by the [compliance body] [branch 2] to be in breach of any of the eligibility requirements under Articles 6, 12 and 17, it may not:



- (a) Transfer or acquire parts of assigned amount;
- (b) [Transfer or] acquire emission reduction units;
- (c) Acquire certified emission reductions,

in accordance with the provisions of Article 3, until the [compliance body] is satisfied that the Party is in full compliance with the relevant requirements.]

4. If [the compliance body] [branch 2 ] determines that a Party, following the true-up period, has not complied with Article 3.1 of the Protocol, it shall [apply] [request the Party to choose] [one of ] the following consequences [, or a combination thereof] [,taking into account the cause, type, degree and frequency of such non-compliance]:

[(a). Notification of non-compliance

The [compliance body] [branch 2] shall notify all Parties to the Protocol of the details of the Party's non-compliance; and publish its determination, including the reasons for it on the UNFCCC web site.]

[(b). Recommendation of policies and measures

Recommend policies and measures [, taking into account Article 2.3 of the Protocol].]

[(c) Restoration of excess tonnes

Determine that [1.3] [1.x] times the number of excess tonnes shall be deducted from the Party's assigned amount for the commitment period following the period for which the non-compliance with Article 3.1 occurred.]

[(d) Compliance action plan

*Option 1*

The Party in question shall, within [three] months of the determination of the [compliance body] [branch 2], develop and commit itself to a compliance action plan approved by the [compliance body] [branch 2] which shall include, inter alia:

- (i) An analysis of the reasons for the Party's non-compliance;
- (ii) Policies and measures that the Party intends to implement in order to restore [1.x] times the excess emissions and an analysis of their expected impact on the Party's greenhouse gas emissions;
- (iii) A quantified assessment of the use of each of the mechanisms under Articles 6, 12 and 17 during the commitment;
- (iv) A declaration not to make transfers under Article 3, paragraph 11, for the duration of the implementation of the compliance action plan;

- (v) Detailed information on the economic dimension of the implementation of any action under (ii) or (iii) above;
- (vi) A timetable for implementing the measures within a time-frame not exceeding [three] years, including clear benchmarks for measuring annual progress in the implementation and period in which the compliance action plan is implemented;
- (vii) An assessment of the compatibility of the compliance action plan with the strategy developed by the Party to comply with its obligations during the commitment period in which the compliance action plan is implemented.]

Measures implemented under the compliance action plan shall not contribute to any Party's compliance with its quantified emission limitation or reduction commitments during the commitment periods in which the compliance action plan is implemented.

The Party concerned shall submit a progress report on the implementation of the compliance action plan to the [compliance body] [branch 2] annually no later than 15 April. On the basis of the progress report, the [compliance body] [branch 2] shall decide on further recommendations, measures or consequences, as appropriate.]

#### *Option 2*

The Party in question shall, [within a time period] after the determination of non-compliance, submit to [the compliance body] [branch 2] a compliance action plan setting forth one or more means by which it intends to restore the tonnes in question. The means may include, for example, use of one or more mechanisms under Articles 6, 12 and 17, particular measures, and non-allocation of tonnes under a domestic cap-and-trading system.

The Party concerned shall submit a progress report on the implementation of the compliance action plan to the [compliance body] [branch 2] annually no later than [...]. On the basis of the progress report, the [compliance body] [branch 2] shall determine whether the requisite tonnes have been restored.

In the case where the [the compliance body] [branch 2] determines that some or all of the requisite tonnes have not been restored, it shall deduct the remaining tonnes from the Party's assigned amount for the commitment period following the period for which the non-compliance with Article 3.1 occurred [; and use of a voluntary compliance fund].

#### *Option 1*

##### [(e) Loss of access to the mechanisms under Articles 6, 12 and 17

The Party may not make any transfer or acquisition under Article 3, above a level and for a period of time to be determined by the [compliance body] [branch 2].]

*Option 2*

[(e) Loss of eligibility to transfer tonnes

Until the Party has demonstrated to the [compliance body][branch 2] that it will have a surplus of assigned amount in the subsequent commitment period, its eligibility to transfer assigned amount under Article 17 shall be suspended.]]

[(f) Compliance fund

[A compliance fund is hereby established.]

[[Each] [Every] Party shall make payments into the compliance fund at a rate that equals [...] per excess tonne of carbon equivalent multiplied by a factor of [1.x].

The compliance fund shall be administered [nationally][or][internationally].

The fund shall disburse its income and any interest it earns to reduce anthropogenic emissions of greenhouse gases. The emissions reductions achieved shall not contribute to any Party's compliance with its quantified emission limitation or reduction commitments.]

[Financial penalty] ]

[(g) Suspension of rights and privileges

[(h) Application of Article 4.5 and 4.6

If one or more Parties operating under Article 4 are found not to be in compliance with Articles 5 and 7, each Party to an agreement under Article 4 shall be responsible for its own level of emissions set out in the agreement.

In accordance with Article 4.6 of the Protocol, any non-compliance consequences under this paragraph shall apply to both the regional economic integration organization and any Party that has exceeded its level of emissions as notified in accordance with Article 4.

If one or more Parties operating under Article 4 have been found to have exceeded their respective levels of emissions, the Parties operating under such agreement shall not be able to operate under an Article 4 agreement with respect to the commitment period following the period for which the non-compliance with Article 3.1 occurred; and Annex B commitments shall apply.

If one or more Parties operating under Article 4 have been found to have exceeded their respective levels of emissions, another Party operating under that Article 4 agreement shall be able to carry over the assigned amount under Article 3.13 only to the extent that the difference between its emissions and its assigned amount under Article 3 is greater than the

amount by which by non-complying Parties under Article 4 have exceeded their respective levels of emissions.]

[(i) Compliance reserve]

## **Section V. Other provisions**

### **Secretariat**

The secretariat shall perform the following functions:

- (a) Channel information to the [compliance body];
- (b) Service the meetings of the [compliance body]; and
- (c) Act as the channel of communication with other Protocol bodies.

### **Relationship with Article 16 of the Kyoto Protocol**

*(To be developed)*

### **Relationship with Article 19 of the Protocol**

The [compliance body] shall operate without prejudice to Article 19 of the Protocol.

### **[Evolution ] [Modification] [Amendment]**

The [procedures and mechanisms related to compliance][compliance system] may be modified<sup>4</sup> by consensus of the Parties to the Protocol, taking into account any amendments to the Protocol, decisions of the COP/MOP and experience gained with the working of the process.

### **Adoption of procedures and mechanisms related to compliance<sup>5</sup>**

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<sup>4</sup> Depending upon the legal form in which the regime is adopted.

<sup>5</sup> Formal steps for the adoption of any procedures and mechanisms related to compliance would need to be decided.

## **Annex I**

### **Procedural arrangements related to [facilitation] [branch 1]**

1. Cases related to facilitation shall be dealt with by [the compliance body] [branch 1] in accordance with the procedures in this Annex.
2. Where a Party wishes to request advice or facilitation from [the compliance body] [branch 1] concerning implementation of its own obligations under the Protocol, it may contact that branch, indicating the nature of the issue and any relevant circumstances.
3. With respect to questions raised by reports of the expert review teams under Article 8, by a Party regarding another Party's implementation of its commitments under the Protocol, or by the forwarding by branch 2 of a question to branch 1 in accordance with paragraph..., the [compliance body] [branch 1] shall notify the Party in question and provide a copy of relevant documentation.
4. The Party may participate in the work of [the compliance body] [branch 1] and provide any information in writing.
5. [The compliance body] [Branch 1] may request information from relevant sources. Non-governmental organisations and others with relevant information may provide information to the branch. Information received by [the compliance body] [branch 1] shall be made available to the Party in question.
6. With respect to questions of implementation raised by a Party about its own implementation, the Party may request that the advice or facilitation be provided in confidence. [The compliance body] [Branch 1] shall honour that request, although the nature of the work performed shall be reported to the COP/MOP in the compliance body's annual report.
7. [The compliance body] [Branch 1] may specify outcomes set forth in section IV, paragraph.... In such circumstances it shall make public the nature of the implementation issues it reviewed, its conclusions, and the outcomes, if any, it has determined.

## **Annex II**

### **Procedural arrangements related to [enforcement][branch 2]**

#### *Option 1*

1. Cases related to enforcement shall be dealt with by [the compliance body] [branch 2] in accordance with the procedures in this Annex.
2. After preliminary examination of questions set out in section III, paragraph... , if [the compliance body] [branch 2] decides that these questions require further proceedings, it shall notify the Party in question through the secretariat and provide a statement of relevant issues.
3. [The compliance body] [branch 2] may request information, including clarification, from relevant sources (such as reports from expert review teams under Article 8). Such information shall be made available to the Party in question and to the public. Other Parties, non-governmental organisations and others with relevant information shall be given the opportunity to provide information which [the compliance body] [branch 2] shall make available to the Party in question and to the public. The Party shall be afforded the opportunity to respond in writing to any information considered by the branch.
4. Within [x] weeks from the issuance by [the compliance body] [branch 2] of the notification, the Party in question may provide a written submission in which it presents the facts and its arguments, including any rebuttals of information before the branch.
5. If so requested by the Party in question in its written submission, [the compliance body] [branch 2] shall hold a hearing. At the hearing, [the compliance body] [branch 2] shall ask the Party in question to present its views. The Party in question may present expert testimony at the hearing.
6. [The compliance body] [Branch 2] may at any time put questions to the Party in question and ask it for explanations either in the course of a hearing or in writing.
7. Within [x] weeks from the Party's written submission, or from the date of the hearing if one has been held, or within [x] weeks from the issuance of the notification if the Party has not provided a written response, [the compliance body] [branch 2] shall issue a preliminary finding containing its conclusions and reasons therefor.
8. Any findings of [the compliance body] [branch 2] shall be based on the record before it.
9. Within [x] weeks from the date of the issuance of the preliminary finding, the Party in question may provide a further written submission. Within [x] weeks from receiving this submission, or within [x] weeks from the issuance of the preliminary finding if the Party has not provided a further written submission, [the compliance body] [branch 2] shall issue its final decision.

10. [If [the compliance body] [branch 2] decides that the Party in question is not in compliance with Article 3.1, the Party may appeal in accordance with the procedures set out in section III paragraph.... [Time limits and other provisions for appeal.]]

11. In the case where [the compliance body] [branch 2] has determined that a Party, following the true-up period, is not in compliance with Article 3.1, it shall apply the outcomes specified in section IV paragraph....

12. In addition to applying the outcomes set forth in section IV, paragraph..., branch 2 may, at its discretion, decide to forward the case to branch 1 for further consideration.

13. [The compliance body] [branch 2] may prepare rules of procedure that are consistent with the procedures contained herein. Such rules of procedure may be implemented once approved by the COP/MOP and with any modifications made by the COP/MOP.

#### *Option 2*

1. Determination of non-compliance with Article 3.1 and the imposition of any outcomes or consequences included in section IV, paragraph... shall be made in accordance with the enforcement procedure set out in this Annex.

2. Any Party may initiate the enforcement procedure with regard to the compliance of another Party with its commitments under Article 3.1 of the Protocol, by requesting, through the secretariat, the establishment of an enforcement panel. Any such request must be supported by corroborating information.

3. An enforcement panel shall be established by [the compliance body] at its first meeting following the receipt by the secretariat of a request from a Party, unless [the compliance body] decides by consensus not to establish a panel.

4. Where [the compliance body] concludes that it has sufficient corroborating information to demonstrate the non-compliance of a Party with its commitments under Article 3.1, it may establish an enforcement panel on its own initiative.

5. When [the compliance body] has established an enforcement panel on its own initiative, the matter shall be taken forward by the chairman of [the compliance body]. When the procedure has been initiated at the request of a Party the matter shall be taken forward by that Party.

6. Each enforcement panel shall be composed of three well-qualified experts, selected by the Executive Secretary of the secretariat from a roster nominated by the COP/MOP.

7. The panel shall make an assessment of the compliance of the Party concerned with its commitments under Article 3.1 and, if it determines that the Party concerned is in breach of these commitments, shall apply one of the consequences set out in

section IV, paragraph... taking into account the cause, type, degree and frequency of such breach.

8. Rules of procedure for the enforcement panel shall be elaborated by the COP/MOP prior to the commencement of the first commitment period.



### **Annex III**

#### **An expedited procedure with respect to questions under Articles 6, 12 and 17**

##### *Option 1*

1. The expedited procedure with respect to questions under Articles 6, 12 and 17 shall be dealt with by branch 2.
2. When considering and deciding upon cases related to eligibility requirements for the mechanisms under Articles 6,12 and 17, branch 2 shall conduct its proceedings in an expedited manner, while respecting due process. Specific time-frames for such proceedings shall be decided by the COP/MOP.
3. Branch 2, in the case where it has determined that a Party does not meet the eligibility requirements for one or more of the Kyoto mechanisms set forth in or under Articles 6, 12, and 17, shall apply the outcome set out in section IV, paragraph....
4. Branch 2, after determination of non-compliance with the eligibility requirements for one or more of the mechanisms set forth in or under Articles 6, 12, and 17, may decide to forward the case to branch 1 to assist the Party in question in meeting the relevant eligibility requirements.
5. Branch 2 shall reinstate a Party's eligibility upon its determination, either at the request of the Party in question or at the request of branch 1 where a case has been forwarded to it by branch 1, that the Party meets the relevant eligibility requirements.

##### *Option 2*

1. Prior to the start of the first commitment period, the [compliance body] shall, within eight weeks of the date of the completion of a review under Article 8, and based on the information submitted by the expert review teams and any other relevant information:
  - (a) Decide that the Party has fulfilled the eligibility criteria set out in ...; or
  - (b) Make a preliminary finding that the Party does not fulfil one or more of the criteria.

It shall forthwith inform the Party of its decision or preliminary finding and make it available to all the other Parties.

2. During the first commitment period, the [compliance body] shall, based on the information submitted by the expert review teams review and any other relevant information, make decisions on the continuing observance of the following eligibility criteria for transfers and acquisitions under the provisions of Article 3.

3. The [compliance body] shall:
  - (a) within six weeks of the date on which the submission of the annual greenhouse gas inventory and the annual greenhouse gas inventory report of a Party becomes due, or on which the secretariat registers receipt of such a submission, whichever shall be the earlier, or
  - (b) within six weeks of being notified in writing by an expert review team of a problem under paragraph ....
  - (c) decide that the Party has fulfilled the eligibility criteria or make a preliminary finding that the Party is in breach of one or more of the criteria. It shall forthwith inform the Party of its decision or preliminary finding and make it available to all the other Parties.

4. If a Party in respect of which a preliminary finding has been made does not submit comments on the finding in writing to the [compliance body] within four weeks of the date on which it was informed of it, the [compliance body] shall forthwith confirm its preliminary finding and impose consequences in accordance with section IV paragraph ....

5. If a Party in respect of which a preliminary finding has been made submits comments on the finding in writing to the [compliance body] within four weeks of the date on which it was informed of it, the [compliance body] shall, within four weeks of the date on which it received the comments, consider them and any representations made in due time by any other Party and decide:

- (a) that the Party has fulfilled the eligibility criteria for each of the mechanisms in question; or
- (b) confirm, in whole or in part, its preliminary finding and apply outcomes in accordance with paragraph.....

It shall forthwith inform the Party of its decision or preliminary finding and make it available to all the other Parties.

### *Option 3*

#### 1. General

- (a) The [compliance body] [branch of the compliance body] shall consider questions with respect to the mechanisms under Articles 6, 12 and 17, and for this purpose shall elect a chairperson and a vice-chairperson. In addition, it shall determine the order by which a chairperson is to be chosen in the event of both the chairperson and the vice-chairperson not being available.
- (b) The [COP/MOP] [compliance body] [branch of the compliance body] shall agree upon a list of experts from which substitute members may be drawn when some of the members of the [compliance body] [branch of the

compliance body] are not available during the period of time to consider a case related to the mechanisms under Articles 6, 12 and 17. The experts in the list shall be divided into two groups; those from Annex I Parties and those from non-Annex I Parties. For each group, the [COP/MOP] [compliance body] [branch of the compliance body] shall agree upon an order by which experts are drawn when needed.

(c) All the communications in the expedited procedure shall be in English. As far as possible they should be in electronic form, or by fax.

## 2. Process and schedule

The expedited process shall be completed within 8 weeks. The approximate time allocated for each step shall be as follows:

(a) Screening: one week;

(b) Selection of members to consider the case: one week;

(c) Initial comments by Parties: one week;

(d) E-mail discussion: two weeks;

(e) Drafting of the conclusion with reasons by the chairperson: one week;

(f) Opportunity to make objections to the [compliance body] [branch of the compliance body] in respect of its conclusion: one week;

(g) Preparation for the [meeting] [discussion] [hearing] one week. The [meeting] [discussion] [hearing] shall be scheduled after receipt of comments, if the initial communications had failed to reach a conclusion.

## 3. Information to Parties

(a) The Party in question shall be informed of every step in the process;

(b) The Party shall have every opportunity to provide its views, and/or additional information, during the period of initial comments.

## 4. Conclusion

(a) The [compliance body] [branch of the compliance body] shall make every effort to reach agreement by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the decision shall, as a last resort, be adopted by a vote [by a double majority of the members of Annex I Parties and the members of the non-Annex I Parties].

(b) The chair shall send decisions, with reasons, to the Parties through the secretariat.

5. Appeal

The Party concerned may appeal the decision of the [compliance body] [branch of the compliance body] in accordance with the procedure set out in section III paragraph....

*Option 4*

1. The eligibility panel shall deal, in an expedited manner, with all questions relating to compliance of Annex I Parties with questions specific to mechanisms under Articles 6, 12 and 17. Disputes between the executive board (or other body established for the purposes of the other mechanisms) and a Party relating to the allocation of certified emission reductions (CERs), shall be referred to the eligibility panel for disposal.
2. The eligibility panel shall determine appropriate provisional measures to safeguard the functioning of the mechanisms under Articles 6, 12 and 17.
3. The eligibility panel shall determine the most suitable consequence or outcome to deal with a particular case.

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