

CONFERENCE OF THE PARTIES

Sixth session, part two

Bonn, 16-27 July 2001

Agenda item 7 (d)

**PREPARATIONS FOR THE FIRST SESSION OF THE CONFERENCE OF
THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO THE
KYOTO PROTOCOL (DECISION 8/CP.4)**

**PROCEDURES AND MECHANISMS RELATING TO COMPLIANCE
UNDER THE KYOTO PROTOCOL**

Report by the Co-Chairpersons of the negotiating group

Principles

1. The issues to be resolved are:

- Should the principles of the Convention be reflected in the text? If so, in the preamble or in a separate section?
- Should the principle of common but differentiated responsibilities and respective capabilities be reflected in the consequences of the facilitative branch? Should the differentiation in treatment of Parties be based on their commitments as reflected in the Annexes to the Convention?

Membership

2. The issues to be resolved are:

- Should the membership and size of the two branches of the Compliance Committee be different, given their different functions and mandates?
- Should the membership of the two branches of the Compliance Committee be based on equitable geographical representation, reflecting the current practice in the UNFCCC bureau, or on the commitments of groups of Parties, so that:
 - For the facilitative branch, should membership be based:
 - On equitable geographical representation reflecting the current practice in the UNFCCC Bureau; or
 - On equal representation of Parties included in Annex I and Parties not included in Annex I?

- For the enforcement branch, should membership be based:
 - On equitable geographical representation reflecting the current practice in the UNFCCC Bureau; or
 - On a majority of Parties included in Annex I; or
 - On the basis of only Parties included in Annex I?

Decision making

3. Should different voting rules apply to the two branches of the Compliance Committee, on the basis of consensus? Or on the basis of a majority of at least three-fourths of the members for both branches? Or on the basis of a super majority of Parties included in Annex I for the enforcement branch?

Appeal and role of the COP/MOP

4. The issues to be resolved are:
- Should there be provision for appeals?
 - Should there be direct legal or political oversight of the decisions of the enforcement branch? If so, should an appellate body be established? Or should appeals be made to the COP/MOP?
 - Should there be a role for the COP/MOP in considering the reports of the Expert Review Teams to be transmitted to the Compliance Committee?

Enforcement branch

5. The issues to be resolved are:

Should there be legally binding consequences?

What should be the consequence, or combination of consequences, for non-compliance with emission limitation or reduction targets under Article 3.1 of the Kyoto Protocol:

- Should there be deduction/restoration of tonnes at a rate of one-to-one (1:1) or a higher rate? At a flat or stepped rate?
- Should there be suspension of eligibility to make transfers? If so, under what Articles? Should this include arrangements under Article 4 of the Kyoto Protocol?
- Should there be a compliance action plan? If so, should it cover excess emissions from the first commitment period only or should it cover the emissions of the entire subsequent commitment period? Should all the elements of the compliance action plan be voluntary or mandatory or should some be optional? Should the compliance action plan be approved by the enforcement branch?

- Should a compliance fund be established? Should contributions to a compliance fund be required?

Should Articles 5 ,7, 3.14, 2.1 and 2.3 be considered by the enforcement branch? If so, what are the consequences? If not, how should they be dealt with?

Legal basis for adoption

6. What should the legal basis for adoption be:

- If there are binding consequences, through an amendment to the Protocol under Article 18 after the Protocol comes into force, or through another legal instrument prior to its entry into force?
- If there are no binding consequences, through a decision of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol?
