

***Box D. Policies and Measures, Compliance,  
Accounting, Reporting and Review***

**Policies and measures**

- ❖ Parties decide to continue exchange of information on Policies and Measures.
- ❖ Parties decide to invite submissions by Annex I Parties on ~~the meaning of~~ demonstrable progress and the need for guidelines for reporting on this progress (Article 3.2 of the Kyoto Protocol) for SBSTA 14, with a view to have a further consideration at CoP-7.

**Compliance: consequences of non-compliance with Article 3.1**

- ❖ Parties decide that consequences for non-compliance with Article 3.1 should be agreed in advance and should not be subject to the discretion of the enforcement branch.
- ❖ Parties recognize that subtraction of excess emissions from a party's assigned amount for the subsequent commitment period against an ~~incentive-penalty~~ rate guarantees environmental integrity, provided that the adoption and the entry into force of the emission commitments for subsequent commitment periods are timely.
- ❖ Parties note that ~~incentive-penalty~~ rates will be an essential element of the compliance system. Although they will partly serve as an interest rate for the delays in the achievement of emission commitments, they should also be an incentive to comply and they should, therefore, be set at a ~~relatively high~~-level that discourages delay.
- ❖ Parties decide that emission commitments for the second commitment period should be adopted before the beginning of the first commitment period.
- ❖ Parties decide that, if a Party has been determined as being in non compliance with its commitments under Article 3.1, the enforcement branch should apply the following consequences:
  - Subtraction of excess emissions from the assigned amount of the subsequent commitment period.
  - Penalty-Incentive rate should be set at ~~[1.5] 1.1~~ and be increased by 0.25 after the subsequent commitment period if the Party concerned is not in compliance at the end of the subsequent commitment period.
  - Parties concerned shall after determination of non compliance, develop and submit to the enforcement branch ~~for its approval~~ a compliance action plan setting out how they propose to meet their commitments in the subsequent commitment period.

**Compliance: differentiation between Parties (in particular Annex I and non-Annex I)**

- ❖ Parties decide that the mandate of the enforcement branch will be limited to obligations that are incumbent on Annex I Parties.
- ❖ There will be no eligibility requirements for non-Annex I Parties in respect of their participation in the CDM, recognizing that only Parties can participate in the CDM that have ratified the Kyoto Protocol and meet commitments under Article 12 of the Convention taking into account the availability of financial resources.
- ❖ There will be no differentiation between Annex I Parties and non-Annex I Parties in respect of the application of consequences by the facilitative branch.

**Compliance: relationship between the COP/MOP and the Compliance Committee**

- ❖ Parties decide that the role of the COP/MOP should be limited to giving general policy guidance to the Compliance Committee and that it should not intervene in individual cases.
- ❖ Parties decide that there is no need for an appeals procedure.

**Mandates enforcement branch and facilitative branch**

- ❖ Parties decide that the mandate of the enforcement branch covers quantitative emission commitments, eligibility requirements under Articles 6, 12 (only Annex I Parties) and 17.
- ❖ All other cases ~~of non-compliance~~ fall within the mandate of the facilitative branch, including Articles 2.3, 3.14, 5.1, 7.1, 7.2, 10 and 11, taking into account the character of commitments for Annex I and Non Annex I Parties.
- ❖ The facilitative branch shall be responsible for providing advice, facilitation to parties in implementing the Kyoto Protocol and promoting compliance of Parties with their commitments under the Protocol.

**Compliance: composition of the Compliance Committee**

- ❖ Parties decide to establish a Compliance Committee, which shall function through two branches namely a facilitative branch and an enforcement branch.

*Facilitative branch*

- ~~– Parties decide that the balance in the facilitative branch will be in accordance with current UNFCCC practices (equitable geographical representation of the five UN regional groups, taking into account interest groups as reflected by the current practice in the UNFCCC Bureau).~~
- ❖ ~~Equal numbers of members from each of the five UN regional groups, plus one representative from the group of small island developing States.~~
- ❖ The facilitative branch shall consist of 11 members, the majority nominated by Annex I Parties.
- ❖ Facilitative branch members shall make every effort to reach agreement on any proposed decision by consensus. Any decision shall, as a last resort, be adopted by a three-fourths majority vote of the members present and voting at the meeting, including a majority in Annex I and non-Annex I, plus a double majority (majority as a whole and in of Annex I and non-Annex I Parties).

*Enforcement branch*

- ~~– Parties decide that the balance in the enforcement branch will be primarily experts nominated by Annex I Parties in accordance with current UNFCCC practices (equitable geographical representation of the five UN regional groupings, taking into account the interest groups as reflected by the current practice in the UNFCCC Bureau).~~
- ~~– Equal numbers of members from each of the five UN regional groups, plus one representative from the group of small island developing States.~~
- ❖ The enforcement branch shall consist of ~~11~~ 5 members nominated by Annex I Parties.
- ❖ Enforcement branch members shall make every effort to reach agreement on any proposed decision by consensus. Any decision shall as a last resort be adopted by a:
  - Three-fourths majority vote of the members present and voting at the meeting
  - ~~– Double majority (majority as a whole and in annex I and non-annex I).~~
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**Compliance: Legal basis, the form of adoption of the final result on compliance**

- ❖ Parties decide that the adoption of the compliance system, including binding consequences, should be legally based on:
  - An agreement supplementing the Kyoto Protocol prior to its entry into force

(Delete this section or replace with “adopt by COP/MoP decision”.)