

PRELIMINARY FINDING ON QUESTION OF IMPLEMENTATION WITH RESPECT TO LIECHTENSTEIN

Party concerned: Liechtenstein

In accordance with the “Procedures and mechanisms relating to compliance under the Kyoto Protocol”, contained in the annex to decision 27/CMP.1 (the procedures and mechanisms)¹ and adopted under Article 18 of the Kyoto Protocol, and the “Rules of procedure of the Compliance Committee of the Kyoto Protocol” (the rules of procedure),² the enforcement branch adopts the following preliminary finding.

I. BACKGROUND

1. In accordance with paragraph 1 of section VI³, the Compliance Committee received a question of implementation indicated in the report of the expert review team (ERT) on the review of the report upon expiration of the additional period for fulfilling commitments for the second commitment period of the Kyoto Protocol of Liechtenstein submitted in 2023 and contained in document FCCC/KP/CMP/2023/TPR/LIE (hereinafter, “the review report”).

2. The bureau of the Compliance Committee allocated the question of implementation to the enforcement branch on 24 May 2024 under paragraph 1 of section VII, in accordance with paragraphs 4 to 6 of section V and paragraph 1 of rule 19 of the rules of procedure.

3. On 27 May 2024, 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 their allocation to the enforcement branch.

4. The question of implementation relates to compliance with Article 3, paragraph 1 bis, of the Doha Amendment (annex I to decision 1/CMP.8).⁴ In particular, on the basis of the assessment of the information submitted by Liechtenstein in its report upon expiration of the additional period for fulfilling commitments for the second commitment period of the Kyoto Protocol submitted on 24 October 2023,⁵ the report on the individual review of the annual submission of Liechtenstein submitted in 2022⁶ and paragraph 91 of the annex to decision 22/CMP.1 entitled “Guidelines for review under Article 8 of the Kyoto Protocol”, in conjunction with decision 4/CMP.11, the ERT concluded that the aggregate anthropogenic greenhouse gas (GHG) emissions of Liechtenstein in the second commitment period exceed the quantity of emission reduction units (ERUs), certified emission reductions (CERs), temporary certified emission reductions (tCERs), long-term certified emission reductions (lCERs), assigned amount units (AAUs) and removal units (RMUs) in the retirement account of Liechtenstein for the second commitment period.⁷

¹ All section references in this document refer to the “Procedures and mechanisms relating to compliance under the Kyoto Protocol” contained in the annex to decision 27/CMP.1.

² All references to the rules of procedure in this document refer to the rules contained in the annex to decision 4/CMP.2 as amended by decisions 4/CMP.4, 8/CMP.9 and 6/CMP.17.

³ Unless otherwise indicated, ‘sections’ referred to in this decision are those of the procedures and mechanisms mentioned in the introductory paragraph above.

⁴ See FCCC/KP/CMP/2023/TPR/LIE, paragraphs 8 and 9 and table 2.

⁵ Available at https://unfccc.int/sites/default/files/resource/20231024_True-up%20%20period%20report_Liechtenstein.pdf.

⁶ FCCC/ARR/2022/LIE. Available at https://unfccc.int/sites/default/files/resource/arr2022_LIE.pdf.

⁷ See FCCC/KP/CMP/2023/TPR/LIE, paragraph 6 and table 1.

5. The question of implementation is not related to the eligibility requirements referred to in paragraph 31, annex to decision 3/CMP.1, paragraph 21, annex to decision 9/CMP.1 or paragraph 2 of decision 11/CMP.1. Consequently, the expedited procedures as contained in paragraph 1 of section X do not apply to the consideration by the enforcement branch of the question. The procedures for the enforcement branch, as contained in section IX, apply instead.

6. In accordance with the relevant timelines set out in procedures and mechanisms and the rules of procedure, the question of implementation contained in the review report,⁸ and the notification on the decision to proceed,⁹ which included a reminder about the possibility to request a hearing and the deadline for making the written submission,¹⁰ were forwarded to the diplomatic agent of Liechtenstein with a copy to the national focal point of Liechtenstein.

7. No request for a hearing from Liechtenstein under paragraph 1(c) of section X was received by the enforcement branch.

8. Further, Liechtenstein did not make a written submission per paragraph 1 of section IX, and rule 17 of the rules of procedure.

9. At the 39th meeting of the enforcement branch, a representative of Liechtenstein was present and reiterated the Party's willingness and readiness to make the necessary retirements as soon as retirements are allowed again.¹¹

10. On 24 October 2024, the enforcement branch held its 40th meeting virtually to consider the question of implementation with respect to Liechtenstein.¹²

11. No competent intergovernmental or non-governmental organization submitted any information under paragraph 4 of section VIII.

II. INFORMATION SUBMITTED, PRESENTED AND CONSIDERED

12. In its deliberations, the enforcement branch considered the review report referred to in paragraph 1 above.

III. REASONS AND CONCLUSIONS

13. The enforcement branch notes that:

- (a) Liechtenstein did not retire any Kyoto Protocol units for the second commitment period for the purpose of demonstrating its compliance with its commitment under Article 3, paragraph 1 bis, of the Doha Amendment to the Kyoto Protocol;
- (b) Consequently, Liechtenstein's aggregate anthropogenic GHG emissions in the second commitment period exceed the quantity of Kyoto Protocol units in its retirement account for the same period. This is not in accordance with the requirements under decision 13/CMP.1, annex, paragraphs 13, 14, 17 and 34, in conjunction with decision 3/CMP.11;¹³

⁸ See FCCC/KP/CMP/2023/TPR/LIE, paragraphs 8 and 9 and table 2.

⁹ Section VII, paragraph 4.

¹⁰ Section X, paragraph 1 (b) and (c).

¹¹ FCCC/KP/CMP/2024/2, paragraph 25, available at https://unfccc.int/sites/default/files/resource/cmp2024_02E.pdf

¹² Item 3 of the agenda of the fortieth meeting of the enforcement branch, contained in document CC/EB/40/2024/1.

¹³ FCCC/KP/CMP/2023/TPR/LIE, paragraph 6 and table 1.

- (c) Liechtenstein explained during the review of its report upon expiration of the additional period for fulfilling commitments for the second commitment period of the Kyoto Protocol, that due to changes in the national registry system, it missed the deadline for retirement;¹⁴
 - (d) While Liechtenstein did not retire sufficient Kyoto Protocol units for the second commitment period by the end of the additional period for fulfilling commitments for that period (9 September 2023), the total quantity of Kyoto Protocol units in its holding account on that date was higher than the aggregate anthropogenic GHG emissions of Liechtenstein in the second commitment period;¹⁵
 - (e) Liechtenstein has indicated its willingness and readiness to make the necessary retirements, during the review of its report upon expiration of the additional period for fulfilling commitments for the second commitment period of the Kyoto Protocol,¹⁶ and reiterated this willingness at the 39th meeting of the enforcement branch (see paragraph 9 above);
 - (f) The review report concluded that there is an unresolved problem of a mandatory nature in accordance with decision 22/CMP. 1, in conjunction with decision 4/CMP.11.¹⁷
14. Having considered the reasons contained in paragraph 13 above, the enforcement branch concludes that Liechtenstein is not in compliance with Article 3, paragraph 1 bis, of the Doha Amendment to the Kyoto Protocol.
15. For the enforcement branch to be able to conclude that Liechtenstein is in compliance with Article 3, paragraph 1 bis, of the Doha Amendment to the Kyoto Protocol, Liechtenstein would need to ensure that its national registry system is able to retire a sufficient amount of Kyoto Protocol units in accordance with the annex to decision 13/CMP.1, paragraphs 13, 14, 17 and 34, in conjunction with decision 3/CMP.11.

IV. FINDINGS

16. The enforcement branch determines that Liechtenstein is not in compliance with Article 3, paragraph 1 bis, of the Doha Amendment to the Kyoto Protocol, and the mandatory requirements set out in the “Modalities for the accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol” (annex to decision 13/CMP.1, in conjunction with decision 3/CMP.11) and the “Guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol” (annex to decision 15/CMP.1, in conjunction with decision 3/CMP.11).
17. These findings shall take effect upon confirmation by a final decision of the enforcement branch.

V. CONSEQUENCES

18. In accordance with section XV, the enforcement branch applies the following consequences:
- (a) Deduction from Liechtenstein’s assigned amount for the subsequent commitment period of a number of tonnes equal to 1.3 times the amount in tonnes of excess emissions;

¹⁴ See FCCC/KP/CMP/2023/TPR/LIE, paragraph 6.

¹⁵ FCCC/ARR/2022/LIE.

¹⁶ FCCC/KP/CMP/2023/TPR/LIE, paragraph 6.

¹⁷ FCCC/KP/CMP/2023/TPR/LIE, paragraph 8.

- (b) Liechtenstein shall develop a compliance action plan referred to in paragraph 5 of section XV, in accordance with the substantive requirements of paragraph 6 of section XV and paragraph 1 of rule 25 bis of the rules of procedure; submit it within three months to the enforcement branch in accordance with paragraph 6 of section XV; and report on the progress of its implementation in accordance with paragraph 7 of section XV. The compliance action plan shall include the action that Liechtenstein intends to implement in order to meet its commitment under Article 3, paragraph 1 bis of the Doha Amendment to the Kyoto Protocol, as referred to in paragraph 15 above;
- (c) Liechtenstein is not eligible to make transfers under Article 17 of the Protocol until the Party is reinstated in accordance with section X, paragraph 3 or 4.¹⁸

19. The consequences listed in section V, paragraph 18 (a) to (c) above, shall take effect upon confirmation by a final decision of the enforcement branch.

Members and alternate members participating in the consideration and elaboration of the decision: Ms. Paulette BYNOE, Ms. Loredana DALLORA, Mr. Federico GRULLON DE LA CRUZ, Ms. Rensie PANDA, Mr. Arne RIEDEL, and Mr. George WAMUKOYA.

Members participating in the adoption of the decision on preliminary findings: Ms. Paulette BYNOE, Ms. Loredana DALLORA (member ad interim), Mr. Ba MOUSSA (alternate member serving as member), Mr. Sebastian NGUYEN-BLOCH, Ms. Rensie PANDA (alternate member serving as member), Mr. Arne RIEDEL, Ms. Iryna RUDZKO, Mr. Mohammad SA'DAT ALAM, Mr. George WAMUKOYA (alternate member serving as member), Ms. Ratnasari WARGAHA-DIBRATA (member ad interim).

This decision was adopted by the requisite majority¹⁹ in Bonn on 31, October 2024.

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¹⁸ The enforcement branch notes that, if and when the Party is reinstated, the Party cannot make transfers under Article 17 of the Kyoto Protocol, in accordance with section XIII of decision 27/CMP.1.

¹⁹ See paragraph 9 of section II in the annex to decision 27/CMP.1