

# 中华人民共和国环境保护部

MINISTRY OF ENVIRONMENTAL PROTECTION

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## FACSIMILE SHEET

Date: November 1, 2011	No. of Pages: 2
To:	From: MEP
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**Subject: Submissions by China of the Views on Cooperative Procedures and Institutional Mechanisms to Promote Compliance with the Protocol and to Address Cases of Non-compliance**

Dear Mr. Ahmed Djoghlaif,

I am writing with reference to the Notification on the above-mentioned subject.

I would like, in the capacity of the National Focal Point to CBD and CPB, to provide the following views for your reference.

### **1. The Objectives, Nature and Principles of Compliance**

The objective of the compliance procedures is to promote compliance with the provisions of this Protocol and to address cases of non-compliance. Compliance mechanism shall be "cooperative", "non-confrontational", "non-judicial" to ensure fairness and justice. More attention should be paid to the special needs of developing country Parties, in particular the least developed and small island developing States among them, and Parties with economies in transition. Also the difficulties they facing in the implementation of the Protocol should be fully taken into consideration.

### **2. Institutional mechanisms**

To ensure the efficiency, a standing Compliance Committee (hereafter as "the Committee") of limited number of members should be established. The members qualified with legal or scientific background should be nominated by Parties of this protocol on the basis of geographic balance. And they should be elected by the Conference of the Parties serving as the Meeting of the Parties of the Protocol (hereafter as "the COP-MOP"). The term period of these members is four years. At the first meeting of the COP-MOP, half of the members are elected with the term period of two years, and the other half of the members with full term period of four years. Then at the second and the following meetings of the COP-MOP, new members will be elected with full term period of four years. Any member can not serve continuously for more than two

consecutive terms.

The Committee should meet once every two years, and the meeting should be held three months before the next meeting of the COP-MOP. The Committee should submit its report and recommendations to the COP-MOP for consideration. The Rules of Procedure of the Committee should be discussed by the members, and approved by the COP-MOP.

### **3. Functions of the Committee**

The functions shall include:

- (1) Identifying the facts and possible reasons of non-compliance.
- (2) Considering submissions regarding compliance and non-compliance.
- (3) Offer advice and/or facilitate assistance on matters relating to compliance, with a view to assist the Parties' compliance with the obligations under the Protocol, as appropriate.
- (4) Reviewing general issues of compliance by Parties with their obligations on the basis of information and materials provided by ABS Clearing House.
- (5) Make recommendations to the COP-MOP, as appropriate.
- (6) Carrying out any other functions as may be assigned by the COP-MOP.

### **4. Procedures**

The compliance procedures shall be triggered by a Party with respect to itself, or any Party/ Parties affected or may be affected. The Secretariat of CBD should forward the referral by the triggering Party to the Committee, and copy it to the concerning Party/ Parties. The Committee will discuss and decide whether to initiate investigation process, collect relevant information, identify reasons of non-compliance, put forward recommendations, and submit the report to the COP-MOP. The concerning Party/ Parties has/have the right to participate the above-mentioned discussions as observers. The Committee should communicate with the concerning Party/ Parties on the report before submitting it to the COP-MOP.

### **5. Measures to promote compliance and address cases of non-compliance**

The Committee should propose measures to promote compliance and address cases of non-compliance to the COP-MOP.

Thank you for your attention and cooperation.

Your sincerely,



Zhang Jieqing

Director, Division of International Organizations and Conventions  
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