

were also expressed about the principle of common but differentiated responsibility as an element in the design and implementation of a compliance system under the Kyoto Protocol.

8. The characteristics of a compliance system were discussed. The range of views expressed included that the system could be strong, coherent, unified, comprehensive, fair and equitable, efficient, credible and transparent; be based on reasonable certainty and due process; and respond to different types of obligations. It was also pointed out that domestic compliance systems could be an efficient means of preventing non-compliance from arising at the international level.

9. With regard to institutional issues in the design of a compliance procedure under the Kyoto Protocol, a number of elements were mentioned, including:

- (a) Coverage and application;
- (b) How this procedure would be triggered;
- (c) Whether an ad hoc or standing body should be established;
- (d) Function and mandate;
- (e) Composition and expertise.

10. Different views were expressed as to whether the procedure could operate through one body or more than one body. Concerns were raised about combining the function of facilitation and adjudication in a single body. It was mentioned, for example, that the multilateral consultative process under the Convention, modified if necessary, could be applied to the Kyoto Protocol. Questions were raised concerning the conclusions of the body or bodies that may be established under the procedure, for example, whether such conclusions would be final or whether appeals would be allowed, and the relationship between a body set up under this procedure and the other bodies of the Kyoto Protocol.

11. The consequences of non-compliance were also addressed. It was pointed out that incentives and sanctions could be imposed in a graduated manner, proportionate to the nature of the obligation and seriousness of the breach, taking into account the cause, type, degree and frequency of non-compliance. It was mentioned that financial penalties resulting from non-compliance could be made available to meet costs of adaption. Views were also expressed that a degree of automatic linkage between certain types of non-compliance and binding consequences may need to be established.

III. WORK PROGRAMME

(Agenda item 3)

Conclusions

12. The JWG, having considered a proposal by its Co-Chairs, adopted the following work programme:

- (a) The work of the JWG during the eleventh session of the subsidiary bodies will be organized according to the agenda contained in paragraph 3 of this document, on the