

LIST OF QUESTIONS RELATED TO A COMPLIANCE SYSTEM

Note: These questions are submitted to be used in addition to the list of questions in Annex III of the Non-Paper by the Secretariat.

1. What should be the principles that guide the development of the procedures and mechanisms to implement Article 18 of the Kyoto Protocol?
2. What procedures and mechanisms under Article 18 entail binding consequences? What are the implications of "binding consequences" *vis-à-vis* other consequences of non-compliance, and the amendment of the Protocol?
3. Should procedures and mechanisms "entailing binding consequences" be adopted concerning non-compliance with respect to:
 - a) "Guidelines" for the national systems for estimating emissions of greenhouse gases and removals by sinks, which may be established pursuant to Article 5.1; or "guidelines" for the implementation of Article 6, as provided for in Article 6.2; or "guidelines" for the reporting of certain information in national communications, as provided for in Article 7.4?
 - b) "Modalities, rules and guidelines" adopted pursuant to Article 3.4, concerning how, and which, additional categories of sinks may be added to those contained in Article 3.3?
 - c) "Modalities and procedures" concerning the Clean Development Mechanisms, which may be adopted pursuant to Article 12.7?
 - d) "Principles, modalities, rules and guidelines" concerning emissions trading, which may be adopted pursuant to Article 17?
5. The expert review teams contemplated by Article 8 of the Kyoto Protocol review "information submitted under Article 7 by each Party included in Annex I." In this regard -
 - a) Should we integrate the requirements of Articles 8.3 and 8.5 with the procedures that may be developed to implement Articles 18, 16, and 19? If so, how?
 - b) Although the expert review teams may provide information relevant to whether an Annex I Party is at risk of non-compliance or may not be in compliance, do the teams have authority to make any determination (initial, provisional, or otherwise) that such Party is in non-compliance?
 - c) If the report of the review team (issued after the end of a commitment period of an Annex I Party) does not indicate non-compliance by the Annex I Party with its emissions limitation/reduction commitment under Article 3 of the Protocol, does that preclude any Party from being able to raise an issue of non-compliance?
 - d) Should a review team possess authority to initiate, by its own determination, a procedure adopted pursuant to Article 18 that could result in binding consequences to a Party?
 - e) Should a review team possess authority to initiate, by its own determination, a procedure that may be developed to implement Article 16?
6. Should the idea of "automatic" penalties be used? If so, in what cases?
7. Should financial penalties be used? If so, in what cases? Elaborate, including a description of how and for what purposes the proceeds of financial penalties should be used.