

DRAFT

EARLY WARNING SYSTEM PAPER SUBMITTED BY CANADA.

Canada's general position is that compliance with international agreements is extremely important. Canada supports multilateral rules-based approaches to international law and sees a compliance regime as a means to strengthen this approach.

In the Kyoto Legal Instrument, Canada would like to see an Early Warning System incorporated. Canada strongly believes that such system would be beneficial to all Parties in securing implementation of their global and respective obligations. Canada's firm belief in the contributions of such system is based on our expectations for the main obligations cover by the Instrument. In our view these obligations are likely to require a substantial number of actions by Parties having ratified the Instrument. Furthermore, these actions would have to take place within a set compliance period, that could range from a year to a number of years. Compliance under the Instrument is, obviously, not a question of a single actions to do or to prevent that the Parties are considering to undertake in the Instrument. In addition, unforeseen circumstances or events, like emergency situations requiring short-term higher reliance on carbon-dependent power generation, could have a significant impacts on a Party's ability to meet its obligations. A system should be available in order for such impacts to be quickly identified and thus ensuring that a Party is able to re-build its ability to stay in compliance. In conclusion, a Early Warning System would provide Parties with greater flexibility in working toward complete compliance with their obligations.

An Early Warning System could be defined as the characteristic of a compliance regime that allows parties to conduct review of implementation at an early stage, instead of waiting the end of the compliance period when it might be too late to do anything other than to take note non-compliance and possibly react such as through the use of penalties. Of course, this would not preclude the usual review of implementation at the end of the compliance period. However, the possible outcome resulting from a review of implementation conducted under the Early Warning System would have to be restricted to incentives and avoid penalties. It would not be appropriate to allow any penalties to be imposed on a Party until firm non-compliance is determined. On the other hand, the earlier the incentives are apply, the more likely they could prove to be helpful to Parties facing difficulty in their implementation. It thus provides opportunity to increase the contributions and roles of incentives under a compliance regime.

Canada interprets Article 8(3) of the Consolidated negotiating text by Chairman of AGBM (FCCC/AGBM/1997/7) as referring to an Early Warning System. This Article provides that the review process conducted by expert review teams "[...] shall assess all aspects of a Party's implementation of this Protocol, including the likelihood that a Party will achieve its commitments [...]" (our underline). Furthermore, this is reinforced by Article 8(4) which states that the report prepare by the expert review teams shall cover the assessment of the implementation of a Party's commitments and identify "[...] any potential problems in the fulfilment of commitments." However, Canada believes that further details should be included in the Kyoto Legal Instrument in order to provide Parties with access to the Early Warning System as soon as possible.