

# Kyoto Compliance System

Anna Lilja Björnsdóttir  
Sonja Kujanpää

# Kyoto Protocol, art. 18

- *The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first session, **approve appropriate and effective procedures and mechanisms to determine and to address cases of non-compliance** with the provisions of this Protocol, including through the development of an indicative list of consequences, taking into account the cause, type, degree and frequency of non-compliance. **Any procedures and mechanisms under this Article entailing binding consequences shall be adopted by means of an amendment to this Protocol.***

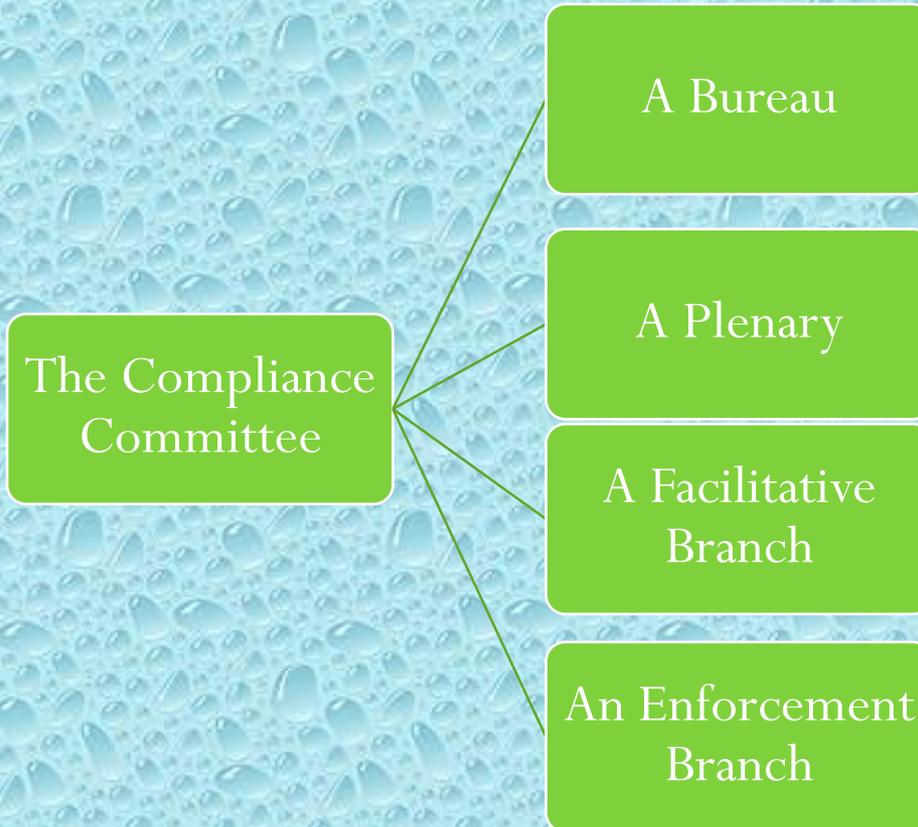
# Background:

- At CMP I (meeting of the parties to the Kyoto Protocol)
  - the procedures and mechanisms relating to compliance under the Kyoto Protocol were adopted
- At COP 7 (conference of the parties)
  - a decision on the compliance regime for the Kyoto Protocol was adopted
  - In decision 24/CP.7 of the Marrakesh Accords the procedures and mechanisms relating to compliance under the Kyoto Protocol were adopted

# The Marrakesh Accords

- The Kyoto compliance mechanism
  - Strengthens the Protocol's environmental integrity, supports the carbon market's credibility and ensures transparency of accounting by Parties.
  - Objective; to facilitate, promote and enforce compliance with the commitments under the Protocol
  - Among the most comprehensive and rigorous systems of compliance for multilateral environmental agreement.

# The Marrakesh Accords



# The Compliance Committee

- 20 members, 10 members/branch
  - one representative from each of the five official UN regions (Africa, Asia, Latin America and the Caribbean, Central and Eastern Europe, and Western Europe and Others), one from the small island developing States, and two each from Annex I and non-Annex I Parties
- Committee meeting as a whole does not address individual cases of non-compliance
  - reports on Committee's activities
  - proposals on administrative and budgetary matters
- no NGO-participation but they may submit relevant information

# The Facilitative Branch

- 10 members
- ”soft mechanism”
  - the main purpose is to assist and advice the parties to promote the compliance and prevent non-compliance
  - no legally binding determinations of non-compliance
  - cannot impose any sanctions
  - can clarify issues and give recommendations
  - can arrange technology transfer and capacity building
  - may provide “early warning” of potential non-compliance with emissions targets, methodological and reporting commitments relating to greenhouse gas inventories, and commitments on reporting supplementary information in a Party’s annual inventory

# The Enforcement Branch

- 10 members (must be lawyers!)
- main task is to assess whether a party complies with the emission targets and which consequences shall eventually apply
- a party is entitled to a public hearing
- decisions must be based on evidence and must be reasoned and made public
- decisions are "final", can be appealed to the COP only if due process has been denied

# The EB continues..

- if the emissions of a Party have exceeded its assigned amount...a quasi-judicial process will follow
  - declaration that party is in non-compliance
  - the party has to make up the difference PLUS an additional deduction of 30 % may follow (during the second commitment period)
    - a compliance plan shall be submitted
    - eligibility to participate in emission trading or the CDM may be suspended
- **NOTE: Assessment bound to the first observation period = issue can become to the branch only after 2012**