
WRITTEN SUBMISSION FROM CROATIA

2009 15:33 FAX +49 30 23628966

Kroatische Botschaft

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Embassy of the Republic of Croatia
Berlin

No. 181/09

VERBAL NOTE

The Embassy of the Republic of Croatia presents its compliments to the United Nations Framework Convention on Climate Change and has the honour to forward the letter of Mr. Nikola Ružinski, Ph.D., State Secretary in the Ministry of Environmental Protection, Physical Planning and Construction to the Climate Change Secretariat (UNFCCC) with attached written submission, pursuant to section X of the annex to decision 27/CMP.1, to facilitate the hearing to be held on 11-12 October 2009 in Bangkok, Thailand.

The original letter will be sent by post.

The Embassy of the Republic of Croatia avails itself of this opportunity to renew to United Nations Framework Convention on Climate Change the assurances of its highest consideration.



Berlin, 9 October 2009

**United Nations Framework
Convention on Climate Change
Bonn**



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Class: 018-04/09-02/8
Reg.No.: 531-13-1-2-09-10
Zagreb, 6 October 2009

CLIMATE CHANGE SECRETARIAT
(UNFCCC)
P.O. Box 260 124
D-53153 BONN
GERMANY

Subject: Written submission

In accordance with the notice of 8 September 2009 regarding consideration of the question of implementation relating to Croatia, we are delivering our written submission, pursuant to section X of the annex to decision 27/CMP.1, to facilitate the hearing to be held on 11-12 October 2009 in Bangkok, Thailand.

Yours sincerely,



**Background document
for the consideration of the application of Decision 7/CP.12 for Croatia**

General overview of Croatia

The Republic of Croatia gained independence in 1991 in the course of the dissolution of the former Yugoslavia. According to the 2001 census, the total population of Croatia is 4,437,460. Croatia has a natural negative growth rate of -2.9 per mil. The total land surface of the Croatia is 56,594 km². Its territorial waters and internal marine waters cover an area of 31,067 km².

By its geographical location Croatia belongs to the Central-European, Adriatic-Mediterranean and Pannonian-Danube basin group of countries. According to macro-geographic terms, Croatia's climate is differentiated between continental, mountainous and Mediterranean climates, which result in a high demand for heating in winter and for air conditioning in summer. The specific profile of the territory situated between Central and Southern Europe and between the large mountain ranges comprising the Alps and the Dinaric Alps generates a high demand for road transport, while its topography reduce the possibility of further development of rail transport.

Croatia is a country particularly vulnerable to climate change by virtue of its 5800 km long coastline with 1185 islands, as well as its fragile agriculture and forestry sectors that are socially and economically significant for the country. In addition, there is the potential impact on hydrology, water resources, mainland and coastal ecosystems. Consequently, Croatia has a cause to be concerned and motivated to actively engage in international efforts aimed at finding practical and effective solutions towards addressing climate change.

Croatia became a party to the United Nations Framework Convention on Climate Change (hereinafter referred to as the UNFCCC or the Convention) in 1996 (Official Gazette, International Treaties No. 2/96). As a country in the undergoing process of transition to a market economy, Croatia has, pursuant to Article 22, paragraph 3, of the Convention, assumed the commitments of countries encompassed in Annex I.

Croatia ratified the Kyoto Protocol (hereinafter referred to also as the Protocol) in April 2007 (Official Gazette, International Treaties No. 5/2007), which entered into force on 28 August 2007. Having ratified the Protocol, Croatia, as an Annex B Party to the Protocol, has undertaken the commitment to limit greenhouse gas emissions during the Protocol's commitment period 2008-2012, to 95% of registered emission levels during the base year 1990.

Following adoption by the Croatian Parliament of the Resolution on the Accession of the Republic of Croatia to the European Union in 2002, Croatia

was granted the status of 'EU candidate country' in 2004 and accession negotiations commenced in 2005.

Croatia's emissions and the Kyoto target

In 1990 emissions in Croatia amounted to 31.3 MtCO₂-eq. In the case of the Republic of Croatia, neither 1990 nor the years prior to 1990 were representative of the base year.

Due to the unique energy system which existed in the former Yugoslavia, Croatia invested into thermal power plants located in other Social Federal Republics (Serbia and Bosnia and Herzegovina) of the former state, which was determined by the location of coalmines. Consequently, Croatia did not invest in electricity generation capacities based on fossil fuels on its own territory. Corresponding emissions from such electricity generation, which was ensured via long-term contracts, amounted to ca. 4.2 MtCO₂-eq.

In 1990, 27% of consumed electricity was generated in Croatia's own fossil-fuelled power plants (4 TWh). Thus, in 1990 Croatia's own generation of electricity was at a level to meet demands from 1974, which practically meant that ignoring flexibility for Croatia's specificity would *de facto* setback its economy by forty years.

Croatia's specific circumstances have been recognised within the Convention, during negotiations on the base year. Under Decision 7/CP.12, in determining its base year, Croatia was allowed an emission increase by 3.5 MtCO₂-eq, in comparison to its 1990 emission levels. This allowance is stipulated in the aforementioned Decision: '*Considering the specific circumstances of Croatia with regard to greenhouse gas emissions before and after 1990, and the structure of the electricity generation sector of the former Yugoslavia*'. This represents an increase of 11% and it is proportional to the flexibilities achieved by other countries undergoing the process of transition, who invoked Article 4, paragraph 6, of the Convention, and whose emission levels increased by 9-23% on choosing a different base year.

Due to an economic recovery, emissions have started to grow after 1995, and in the period 2002-2007 emissions levels grew at a rate of 2.9%, while GDP grew at an average rate of 4.7%. Significant variation in emission levels of a range up to ±6% is mostly due to the varying share of electricity generation from hydropower plants.

In 2006 emissions per capita amounted to 6.9 t CO₂-eq, which is among the lowest emission levels of Annex I countries, notably 38% below the average of Annex I countries, and 34% below the EU average (FCCC/TP/2008/10). Emissions in 2007 amounted to 32.4 MtCO₂-eq, which is 2% below the Kyoto target (33.1 MtCO₂-eq with recognition of the Decision on the base year), or 8.8% above the Kyoto target (29.8 MtCO₂-eq without recognition of the Decision).

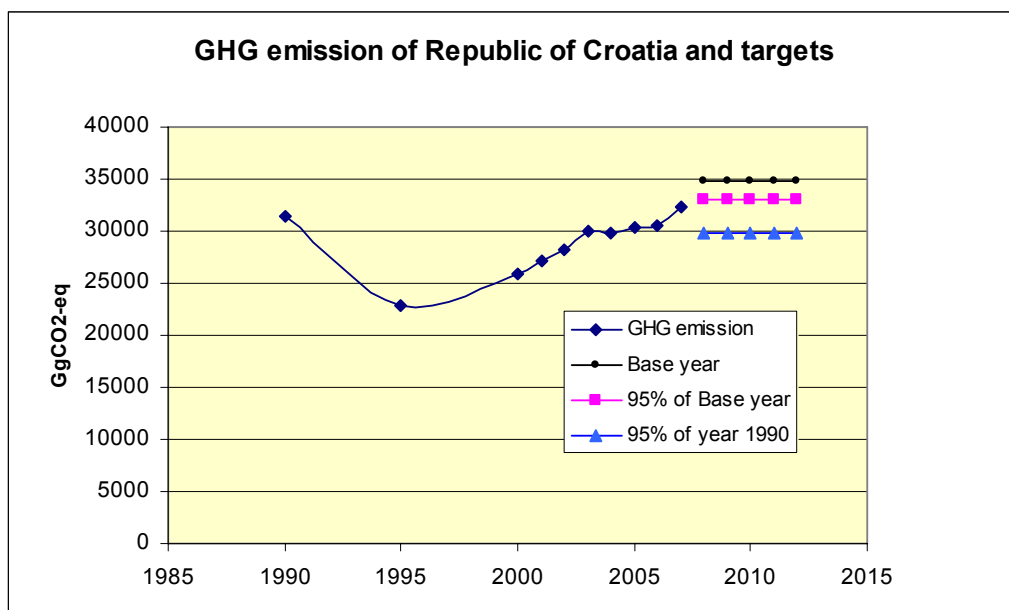


Table. 1: Greenhouse gas emissions in the Republic of Croatia, (NIR 2009)

Sector (CO ₂ -eq Gg)	1990	1995	2000	2005	2006	2007
Energy sector	22.172	16.402	18.837	22.155	22.434	23.803
Industrial Processes	4.186	2.565	3.206	3.672	3.855	4.073
Solvent Use	80	80	69	155	182	233
Agriculture	4.328	3.048	3.154	3.469	3.423	3.410
Waste	579	732	644	855	697	868
LULUCF	-4.185	-9.154	-5.281	-7.726	-7.490	-6.303
Total GHG without LULUCF	31.345	22.828	25.909	30.305	30.591	32.385
Base year	34.845					
95% of Base year	33.103					
95% of year 1990	29.778					

Croatia has fully completed the transfer of the *acquis communautaire* of the EU, which means that implemented climate change mitigation measures in Croatia are in align with those implemented by all EU Member States. The difference between the economic growth rate and the increase in emission levels continues to increase. Nevertheless, despite full efforts by Croatia to implement the aforementioned measures, emission levels in 2007 only came close to meeting the Kyoto target level. Consequently, in order to meet the Kyoto target pursuant to Decision 7/CP.12, additional measures will be required.

The target of 95% of the 1990 emission level (without the recognition of the Decision) is unrealistic, since it has been already exceeded. Moreover ,it is very likely that in the five-year Kyoto period, the target will be exceeded by the amount of 21-25 MtCO₂-eq, corresponding to 14-18% per year. By way of conclusion in so much a penalty of 30% emission increase should be applied pursuant to the Kyoto Protocol rules, this would mean that Croatia would have

to find a solution for ca. 30 MtCO₂-eq, which is almost 100% of its total annual emission levels.

In implementation of the provisions of the Convention and Kyoto Protocol the parties are guided by the principle of their common but differentiated responsibilities and their respective capabilities to implement measures, as well as the principle that economic development of each party is necessary for adoption and implementation of measures.

In compliance with these principles, when determining all the circumstances surrounding Croatia's implementation of its emission reduction commitments - the low level of greenhouse gas emissions, its economic capability for the implementation of measures, as well as, the necessity for economic development of Croatia - should all be taken into consideration.

For countries undergoing the process of transition to a market economy in particular, both the Convention and the Kyoto Protocol recognise a certain degree of flexibility, in order to strengthen their capacity to implement measures. Therefore, it is necessary to fully take into account the national circumstances of Croatia, which significantly impact its capability to fulfil the commitments under the Kyoto Protocol (already recognised and adopted by Decision 7/CP.12). Thereby, in the fulfilment of the commitments under the Kyoto Protocol, Croatia would be in an equal position to those countries in the undergoing process of transition to a market economy / and other Annex I countries.

Following the adoption of Decision 7/CP.12 the prerequisites were laid for ratification of the Kyoto Protocol by Croatia. Subsequently, the Croatian Parliament ratified the Kyoto Protocol, recognizing the applicability of Decision 7/CP.12 and its implementation for the Kyoto Protocol period.

Non-acceptance of Decision 7/CP.12 would constitute a crisis situation which in Croatia could give raise to an atmosphere of mistrust towards the Convention, with regard to consistency in the implementation of general principles, in particular of the principle of '*common but differentiated responsibilities*', as well as the principle of flexibility towards countries undergoing the process of transition to a market economy, as determined by Article 4, paragraph 6, of the Convention.

Legal feasibility

At the Conference of the Parties (COP 7) in Marrakesh, in 2001, Croatia submitted a request for consideration of its specific circumstances pursuant to Article 4, paragraph 6, of the Convention, relating to an emission increase in the 1990 base year.

Under Decision 10/CP.11 of the Conference of the Parties (COP 11) adopted in Montreal in 2005, Croatia was allowed a certain degree of flexibility

with regard to its historical emission level. Furthermore, the Decision stipulates that the Subsidiary Body for Implementation would consider *'the level of greenhouse gas emissions for the base year of Croatia and the exact nature of such flexibility and recommend a draft decision for adoption by the Conference of the Parties at a future session'*.

The base year for Croatia was established by Decision 7/CP.12 of the Conference of the Parties, at its Twelfth Session (COP 12) which was held in Nairobi in November 2006. The Decision is in accordance with Article 4, paragraph 6, of the Convention. In its preamble Decision 7/CP.12 refers to Decision 9/CP.2.

Croatia uses the base year established in accordance with Article 4, paragraph 6, of the Convention, when fulfilling its commitments under the Protocol pursuant to Article 3, paragraph 5, of the Protocol.

Article 3, paragraph 5, of the Protocol applies to Croatia on the basis of paragraph 6 of Decision 9/CP.2. Article 3, paragraph 5, of the Protocol, stipulates that a Party whose base year was established pursuant to Decision 9/CP.2, may use that base year for the fulfillment of its commitments under the Protocol. Similar to the cases of Bulgaria, Hungary, Poland and Romania (Decision 9/CP.2, paragraph 5), Croatia is also covered by paragraphs 6 and 7 of the same Decision. Namely, in invoking paragraph 6, the Subsidiary Body for Implementation is requested to consider any additional requests by a Party on the basis of Article 4, paragraph 6, of the Convention, and to take decisions as appropriate on its behalf, and to report thereon to the Conference of the Parties. Consequently, it can be argued that all countries which requested and were given a certain degree of flexibility in accordance with Article 4, paragraph 6, of the Convention, fall within the scope of Decision 9/CP.2 (Bulgaria, Hungary, Poland, Romania, Croatia and Slovenia).

This Decision recognises the specific circumstances of Croatia regarding greenhouse gas emissions prior to and after 1990, and allows for an increase in emissions by an additional 3.5 MtCO₂-eq in the base year for the purpose of establishing the level of emissions for the base year for implementation of its commitments under Article 4, Paragraph 2, of the Convention.

By quotation of the commitments under Article 4. paragraph 2, of the Convention, in Decision 7/CP.12, part of the Article 4.6 has been cited that provides:

'In the implementation of their commitments under paragraph 2 above, a certain degree of flexibility shall be allowed by the Conference of the Parties to the Parties included in Annex I undergoing the process of transition to a market economy, in order to enhance the ability of these Parties to address climate change, including with regard to the historical level of anthropogenic emissions of greenhouse gases not controlled by the Montreal Protocol chosen as a reference.'

Croatia is of the opinion that commitments pursuant to the Protocol should not be considered in isolation, given that the Protocol builds upon the provisions of the UNFCCC. Specifically, Article 4, paragraph 2(d), stipulates a review of the adequacy of commitments under Article 4(a) and (b), of the Convention.

The first review was undertaken at Conference of the Parties (COP 1), in 1995, in accordance with Article 4.2(d) which concluded in its decision ('Berlin Mandate'), that Article 4.2(a) and (b) were not adequate, and have subsequently been strengthened for Annex I countries within the framework of the Kyoto Protocol. Decisions pertaining to the Berlin Mandate and the adoption of the Kyoto Protocol refer to Article 4, paragraph 2, of the Convention, precisely the exact Article to which Decision 7/CP.12 also refers, when prescribing the level of emission for the base year for implementation of Croatia's commitments under the Convention. Therefore, on these grounds the aforementioned Decisions are equally valid.

Furthermore, this is not the first time that a Decision on the base year established pursuant to Article 4, paragraph 6, of the Convention has been adopted at a Conference of Parties to UNFCCC. As in Croatia's case, the same was done for Slovenia, which used the same base year for fulfilling its commitments under both the UNFCCC and the Kyoto Protocol, without having to confirm that Decision at the Conference of Parties to the Kyoto Protocol.

This situation did not pose a problem during the review process undertaken by the Expert team for assessing implementation of the Convention as submitted by Parties, nor was it raised as an issue in the Report on the review of the Initial Report of Slovenia.

The aforementioned Review Report only stated that Slovenia defined 1986 as its base year pursuant to the Kyoto Protocol, which as previously stated, was based on the Decision of the Conference of Parties to UNFCCC to establish a base year for the purpose of fulfilling commitments under the UNFCCC. Having regard to the above, the Republic of Croatia deems that it is not at fault for indicating the emission levels in 1990 as its base year, as prescribed by Decision 7/CP.12, for the fulfillment of its commitments under the Kyoto Protocol

Furthermore, in overlooking the decision allowing Croatia to add 3.5 MtCO₂-eq to its base year, Croatia would *de facto* be twice required to reduce its greenhouse gas emissions during the Kyoto Protocol commitment period 2008-2012: firstly, by a 5% emission reduction below 1990 base year levels, as established by the Kyoto Protocol; and secondly followed by an additional reduction by 3.5 MtCO₂-eq, which Decision 7/CP.12 granted Croatia towards fulfillment of its commitments under the UNFCCC

The Republic of Croatia is of the opinion that it is necessary to respect its national specificities. These have been well documented during the negotiation process on the Croatian request, and were further recognized by

the Parties to the UNFCCC, which culminated in the adoption of Decision 7/CP.12.

Similar to other Parties, Croatia made efforts to have its national specific circumstances of losing a large share in power plants situated outside the borders of Croatia under the process of the dissolution of the former Yugoslavia, recognized within the framework of appropriate implementation instruments under the UNFCCC and the Kyoto Protocol, namely: in determining the Kyoto Protocol target, establishing the 'single project' methodology, and establishing the quota for LULUCF and in invoking the principle of flexibility pursuant to Article 4, paragraph 6, of the Convention.

Croatia's emission reduction target by 5% was fixed on the understanding that Croatia similar to a number of other countries in the undergoing process of transition to a market economy would make use of the flexibility principle under Article 4, paragraph 6. Upon determining Croatia's registration for 'single project activity', Croatia was requested to address its specific circumstances through invoking Article 4, paragraph 6, of the Convention so that in effect the 'single project' methodology would only be applicable to Iceland.

Moreover, Croatia submitted an application for an increase of its quota for LULUCF, invoking footnote 5, by which a quota increase outside the prescribed methodology is foreseen, if by invoking such the issue of inability to fulfill commitments under the Kyoto Protocol is resolved. In Croatia's case, a quota was adopted in line with the methodology, once again on the understanding that its national specific circumstance would be resolved through Article 4, paragraph 6, of the Convention which was indeed the case.

During the negotiation process on Croatia's base year some open issues were encountered which Croatia deems have been resolved. The European Union expressed its concern that the case of Croatia would create a precedent – which, in Croatia's opinion, is unfounded, due to the uniqueness of its circumstances.

Since the second year of the Kyoto Protocol commitment period has nearly passed, Croatia believes that there is little danger of its case undermining the system. Moreover, at this point, it is important to stress that all unresolved bilateral issues with neighboring states have been resolved, which has been particularly stressed in the Decision 7/CP.12 *'Noting that this decision has no implications for historical emission levels of any other Party, in particular for Bosnia and Herzegovina, Serbia, and Montenegro'*.

Conclusion

In light of the aforementioned, Croatia states that Croatia's calculation of Assigned Amount Units (hereinafter referred to as AAU) to add 3.5 MtCO₂-eq to its base year, is in accordance with Articles 3, paragraphs 7 and 8, of the Kyoto Protocol.

Articles 3, paragraphs 7 and 8, of the Kyoto Protocol prescribe, amongst other things, the manner of calculating AAU for 1990 or the base year, as determined in accordance with Article 3, paragraph 5, of the Kyoto Protocol. In particular, Article 3, paragraph 5, of the Kyoto Protocol refers to decision 9/CP.2 in its entirety.

Given that Croatia, pursuant to paragraphs 6 and 7 of the Decision 9/CP.2 requested and was granted the degree of flexibility, Croatia thereby falls under the purview of Article 3, paragraph 5 of the Kyoto Protocol, and as such AAU has been calculated in compliance with Article 3, paragraphs 7 and 8, of the Kyoto Protocol.

Furthermore, according to the established practice to date, in identical (Slovenia) and similar (Iceland) cases, the right granted to an individual Party pursuant to a Conference of the Parties (COP) decision did not require confirmation by a Conference of the Parties serving as a meeting of the Parties (COP-MOP) decision.

Croatia therefore deems that the application of Decision 7/CP.12 is a just and legally founded solution. Croatia is of the opinion that there is no longer a risk of jeopardizing the integrity of the Kyoto Protocol by establishing a precedent, or by submitting new requests of a similar kind. This was the main reason behind reservations expressed to date by some states regarding Croatia's case.

Should no solution be found, a much deeper problem will arise, since Croatia will not be able to reduce emissions to the levels representing 95% of 1990 emissions, and the requested commitment would be relatively incomparable with commitments of other Annex I countries, especially those undergoing the process of transition to a market economy.

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