

DECISION ON RESOLUTION OF THE QUESTION OF IMPLEMENTATION

Party concerned: Ukraine

In accordance with the “Procedures and mechanisms relating to compliance under the Kyoto Protocol”, contained in the annex to decision 27/CMP.1 (procedures and mechanisms),¹ and adopted under Article 18 of the Kyoto Protocol, and the “Rules of procedure of the Compliance Committee of the Kyoto Protocol” (rules of procedure),² the enforcement branch adopts the following decision.

I. BACKGROUND

1. The final decision of the enforcement branch taken on 7 September 2016 (CC-2016-1-6/Ukraine/EB) gave effect to the consequences contained in paragraph 27 and paragraph 32, subparagraphs (a) and (b) of the preliminary finding of the branch (CC-2016-1-4/Ukraine/EB), as confirmed by and annexed to the final decision. According to paragraph 32 (a), Ukraine was declared to be in non-compliance and according to paragraph 32 (b), Ukraine was required to develop a plan referred to in paragraph 1 of section XV, in accordance with the substantive requirements of paragraph 2 of section XV and paragraph 1 of rule 25 bis of the rules of procedure, submit it within three months to the branch in accordance with paragraph 2 of section XV, and report on the progress of its implementation in accordance with paragraph 3 of section XV.

2. On 5 December 2016, Ukraine submitted a document entitled “Plan submitted in accordance with paragraph 32 (b) of preliminary finding (CC-2016-1-4/Ukraine/EB), confirmed by the final decision of the Enforcement Branch concerning Ukraine (CC-2016-1-6/Ukraine/EB) and referred to in paragraph 1 of section XV, in accordance with the substantive requirements of paragraph 2 of section XV and paragraph 1 of rule 25 bis of the rules of procedure of the Compliance Committee of the Kyoto Protocol” (CC-2016-1-7/Ukraine/EB; hereinafter referred to as the “plan”). In accordance with paragraph 2 of rule 10 of the rules of procedure, the plan was deemed received by the branch on 6 December 2016.

3. In accordance with paragraph 2 of section XV and paragraph 3 of rule 25 bis of the rules of procedure, the branch reviewed and assessed the plan submitted by Ukraine. The review and assessment were conducted by electronic means as provided under paragraph 2 of rule 11 of the rules of procedure. On 21 December 2016, the branch adopted a decision on the review and assessment of the plan submitted under paragraph 2 of section XV (CC-2016-1-8/Ukraine/EB). In this decision, the branch concluded that the plan sets out and adequately addresses, in separate sections, each of the elements specified in paragraph 2 of section XV and, if implemented, is expected to remedy the non-compliance.

¹ All section references in this document refer to the procedures and mechanisms.

² All references to the rules of procedure in this document refer to the rules contained in the annex to decision 4/CMP.2 as amended by decision 4/CMP.4.

4. The enforcement branch noted that not all the measures described in the plan had yet been implemented and urged Ukraine to carry out all the measures contained in the plan and to report on the implementation on a quarterly basis.³

5. The enforcement branch also noted that full implementation by Ukraine of the measures set out in the plan will be required for the branch to consider whether the question of implementation has been resolved and that consideration by the branch of this matter might also be facilitated by the information contained in the report on the review of the 2016 annual submission of Ukraine.⁴

6. On 30 March 2017 and 30 June 2017, Ukraine submitted its first progress report (CC-2016-1-9/Ukraine/EB) and second progress report (CC-2016-1-10/Ukraine/EB), respectively. While the first progress report contained several pending actions to be implemented by Ukraine in accordance with the plan, the second progress report provides for the completion of all the outstanding actions with the exception of the resubmission of the report upon expiration of the additional period for fulfilling commitments under the first commitment period (submitted true-up report).

7. On 4 July 2017, Ukraine resubmitted its true-up report under the first commitment period (CC-2016-1-11/Ukraine/EB). The report covers the period of 1 January to 18 November 2015, as well as the period of 19 November 2015 to 4 July 2017.

8. The desk review of the resubmitted true-up period report of Ukraine took place from 24 to 28 July 2017 and was conducted by a team of nominated experts from the UNFCCC roster of experts. On 10 August 2017, the report on the individual review of the resubmitted report upon expiration of the additional period for fulfilling commitments for the first commitment period of the Kyoto Protocol by Ukraine (CC-2016-1-12/Ukraine/EB) was published. The report was deemed received by the enforcement branch on 15 August 2017.

9. In addition, in accordance with paragraph 3 of section VI, the following three reports were forwarded to the Compliance Committee:

- (a) Report on the individual review of the annual submission of Ukraine submitted in 2016 (2016 annual submission) (CC/ERT/ARR/2017/26, on 19 April 2017). The 2016 ARR resulted from a review, which was conducted from 5 to 10 September 2016 in Bonn, Germany, in accordance with the “Guidelines for review under Article 8 of the Kyoto Protocol” (annex to decision 22/CMP.1);
- (b) Status report of the annual inventory of Ukraine prepared by the secretariat pursuant to decision 22/CMP.1 in conjunction with decision 4/CMP.11 as part of the initial check of Ukraine’s annual inventory. The report reflects the content of the 2017 inventory submission by Ukraine; and
- (c) The final compilation and accounting report for Ukraine for the first commitment period of the Kyoto Protocol (CC/ERT/2017/CAR/UKR).

10. The enforcement branch further addressed the question of implementation with respect to Ukraine during its thirtieth meeting held in Bonn on 6 September 2017.⁵ Ukraine was

³ Decision on the review and assessment of the plan submitted under paragraph 2 of section XV (CC-2016-1-8/Ukraine/EB), paragraph 5.

⁴ Ibid., paragraph 7.

⁵ Item 4 of the agenda of the thirtieth meeting of the enforcement branch, as contained in document CC/EB/30/2017/1.

represented at this meeting in accordance with paragraph 2 of section VIII and made a statement.

II. INFORMATION SUBMITTED, PRESENTED AND CONSIDERED

11. In its deliberations, the enforcement branch considered the information contained in the plan referred to in paragraph 2 and the reports referred to in paragraphs 6-9 above and the information orally presented by Ukraine at the thirtieth meeting of the branch.

12. In the report on the individual review of the resubmitted report upon expiration of the additional period for fulfilling commitments (true-up period) for the first commitment period of the Kyoto Protocol, the ERT concluded that the information in the resubmitted true-up period report covers all elements required by the relevant CMP decisions and that the aggregate anthropogenic greenhouse gas emissions of Ukraine for the first commitment period do not exceed the quantities of Kyoto Protocol units in the retirement account of Ukraine for the first commitment period. The ERT also established the quantities of AAUs and ERUs that can be carried over to the second commitment period in accordance with the requirements set out in decision 13/CMP.1, annex, paragraph 15.⁶

13. No questions of implementation were identified by the ERT during the review of the resubmitted true-up period report of Ukraine.⁷

14. The enforcement branch also noted that no questions of implementation were raised in the 2016 ARR of Ukraine.

III. REASONS AND CONCLUSIONS

15. The branch concludes, on the basis of the information submitted, presented and considered, that the information now available is sufficient to determine that the question of implementation has been resolved.

16. The branch notes that the plan presented by Ukraine outlined the necessary compliance steps with respect to the question of implementation and notes that all the measures described in Ukraine's plan have been implemented.

IV. DECISION

17. In accordance with paragraph 2 of section X, the branch decides that there no longer continues to be a question of implementation with respect to Ukraine.

Members and alternate members participating in the consideration and elaboration of the decision: Eva ADAMOVA; Joseph AITARO; Victor A. FODEKE; José Antonio GONZALEZ NORRIS; Gerhard LOIBL; Marília Telma António MANJATE; Sébastien NGUYEN-BLOCH; Yaw Bediako OSAFO; Ahmad RAJABI; Orlando E. REY SANTOS; Milan ZVARA.

Members participating in the adoption of the decision: Eva ADAMOVA (alternate member serving as a member); Joseph AITARO; Gerhard LOIBL; Sébastien NGUYEN-BLOCH (alternate member serving as a member); Yaw Bediako OSAFO; Ahmad RAJABI; Orlando E. REY SANTOS; Milan ZVARA.

⁶ Report on the individual review of the resubmitted report upon expiration of the additional period for fulfilling commitments (true-up period) for the first commitment period of the Kyoto Protocol by Ukraine (CC-2016-1-12/Ukraine/EB), paragraphs 15-17.

⁷ Ibid., paragraph 18.

This decision was adopted by consensus in Bonn on 6 September 2017.
