

## **DECISION ON EXPERT ADVICE**

*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)<sup>1</sup> 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),<sup>2</sup> the enforcement branch adopts the following decision.

### **I. BACKGROUND**

1. On 8 April 2016, the secretariat received questions of implementation indicated in the report of the expert review team (ERT) of the individual review of the report upon expiration of the additional period for fulfilling commitments (true-up period) for the first commitment period of the Kyoto Protocol of Ukraine contained in document FCCC/KP/CMP/2016/TPR/UKR (TPR). The centralized review of the reports upon expiration of the additional period for fulfilling commitments (true-up period reports) for all Parties included in Annex I with commitments inscribed in Annex B to the Kyoto Protocol (Annex B Parties) took place from 8 to 12 February 2016 in accordance with the “Guidelines for review under Article 8 of the Kyoto Protocol” (annex to decision 22/CMP.1). In replying to the draft version of the TPR, on 9 March 2016, Ukraine submitted, for the first time, its true-up period report and accompanying documents,<sup>3</sup> which were considered by the ERT in the final preparation of the TPR. In accordance with paragraph 1 of section VI<sup>4</sup> and paragraph 2 of rule 10 of the rules of procedure, the questions of implementation were deemed received by the Compliance Committee on 11 April 2016.

2. The bureau of the Compliance Committee allocated the questions of implementation to the enforcement branch on 18 April 2016 under paragraph 1 of section VII, in accordance with paragraphs 4 and 6 of section V and paragraph 1 of rule 19 of the rules of procedure.

3. On 19 April 2016, the secretariat notified the members and alternate members of the enforcement branch of the questions of implementation, in accordance with paragraph 2 of rule 19 of the rules of procedure, and of their allocation to the branch.

4. On 3 May 2016, the branch decided, in accordance with paragraph 2 of section VII and paragraph 1 (a) of section X, to proceed with the questions of implementation (CC-2016-1-2/Ukraine/EB).

5. The first question of implementation relates to compliance with the “Modalities for the accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol” (annex to decision 13/CMP.1) and the “Guidelines for the preparation of the information required under

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<sup>1</sup> All section references in this document refer to the procedures and mechanisms.

<sup>2</sup> 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 decisions 4/CMP.4 and 8/CMP.9.

<sup>3</sup> There were the standard electronic format tables for the period 1 January to 18 November 2015 (SEF tables for 2015), the list of serial numbers for the Kyoto Protocol units “which should have been transferred to the retirement account at the end of the true-up period” and the list of serial numbers for the emission reduction units (ERUs), certified emission reductions (CERs) and assigned amount units (AAUs) that Ukraine requested to be carried over to the second commitment period. See paragraph 4 of the TPR.

<sup>4</sup> All section references in this document refer to the procedures and mechanisms.

Article 7 of the Kyoto Protocol” (annex to decision 15/CMP.1).<sup>5</sup> In particular, the ERT noted that Ukraine had not submitted its true-up period report either by the deadline of 2 January 2016<sup>6</sup> or by the time of the centralized review of the true-up period reports for all Annex B Parties.<sup>7</sup> In addition, the ERT noted that the information submitted by Ukraine in its true-up period report and accompanying documents is not consistent with the information provided in the international transaction log (ITL).<sup>8</sup> The ERT also indicated that it was unable to assess the accuracy of certain information provided in Ukraine’s true-up period report because the national registry of Ukraine has been disconnected from the ITL since August 2015.<sup>9</sup>

6. The second question of implementation relates to compliance with Article 3, paragraph 1, of the Kyoto Protocol.<sup>10</sup> In particular, the ERT concluded that the aggregate anthropogenic greenhouse gas emissions of Ukraine for the first commitment period exceed the quantities of ERUs, CERs, temporary CERs, long-term CERs, AAUs and removal units in the retirement account of Ukraine for the first commitment period.<sup>11</sup>

7. In deciding to proceed with the questions of implementation, the branch decided to seek expert advice on the content and basis of the TPR and on issues related to any decision of the branch with regard to the indicated questions of implementation (CC-2016-1-2/Ukraine/EB, paragraph 10).

## II. REASONS AND CONCLUSIONS

8. At the core of the branch’s consideration of the questions of implementation described in paragraphs 5 and 6 above is the disconnection by Ukraine of its national registry from the ITL since August 2015. A fuller understanding of the circumstances surrounding its disconnection from the ITL and the relationship of this situation to the inability of the ERT to assess the accuracy of certain information provided in Ukraine’s true-up period report and the issue of Ukraine’s compliance with Article 3, paragraph 1, of the Kyoto Protocol requires the enforcement branch to seek assistance from experts. Advice from experts will facilitate the branch’s further understanding of the questions of implementation, as well as the assessment of any written submission to be made by this Party. These experts should include at least one of the lead reviewers of the ERT.

9. The expert advice will be required during the meeting of the branch at which the branch will deliberate on, elaborate and adopt a preliminary finding or a decision not to proceed further. This meeting is scheduled to take place on 20 and 21 June 2016. Experts from whom advice is sought are invited to be available during this period.

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<sup>5</sup> See paragraph 11 of the TPR.

<sup>6</sup> Paragraph 3 of decision 3/CMP.10 (Date of the completion of the expert review process under Article 8 of the Kyoto Protocol for the first commitment period) provides that the report upon expiration of the additional period for fulfilling commitments for the first commitment period of the Kyoto Protocol shall be submitted no later than 45 days after the expiration of the additional period for fulfilling commitments for the first commitment period. In accordance with section XIII of the procedures and mechanisms, the additional period for fulfilling commitments for the first commitment period ended on the hundredth day set by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP) for the completion of the expert review process under Article 8 of the Kyoto Protocol for the last year of that commitment period. The CMP, through decision 3/CMP.10 (paragraph 1), decided that the expert review process under Article 8 of the Kyoto Protocol for the last year of the first commitment period was to be completed by 10 August 2015. Consequently, the additional period for fulfilling commitments for the first commitment period ended on 18 November 2015 and the true-up period reports were due on 2 January 2016.

<sup>7</sup> See paragraphs 4, 7 and 11 of the TPR.

<sup>8</sup> See paragraph 11 and tables 1 and 2 of the TPR.

<sup>9</sup> See paragraph 8 and table 2 of the TPR.

<sup>10</sup> See paragraph 12 of the TPR.

<sup>11</sup> See paragraphs 8–12 and tables 1–3 of the TPR.

10. In the context of the questions of implementation, the branch will in particular seek the opinion of and ask questions to the invited experts on the following issues:

- (a) The relationship between the disconnection by Ukraine of its national registry from the ITL and the ERT's ability to assess the accuracy of the information provided in Ukraine's true-up period report;
- (b) The relationship between this disconnection and the issue of Ukraine's compliance with Article 3, paragraph 1, of the Kyoto Protocol.

11. The branch may put more detailed questions to invited experts at the meeting referred to in paragraph 9 above.

### III. DECISION

12. In accordance with paragraph 5 of section VIII, rule 21 of the rules of procedure and the considerations in paragraph 8 above, the branch decides to seek expert advice during the meeting referred to in paragraph 9 above, from:

- (a) Ms. Helen Plume (New Zealand), one of the two lead reviewers of the ERT that reviewed Ukraine's true-up period report submission;
- (b) Mr. Dario Gomez (Argentina), the other lead reviewer of the ERT that reviewed Ukraine's true-up period report submission;
- (c) Mr. Pieter Baeten (Belgium), an expert on national registries who was not part of the ERT.<sup>12</sup>

13. The expert advice is to be received in accordance with the procedures and mechanisms and the rules of procedure.

*Members and alternate members participating in the consideration and elaboration of the decision:* Eva ADAMOVA, Joseph AITARO, Mohammad ALAM, Sébastien BLOCH, Zhihua CHEN, Victor FODEKE, Antonio GONZALEZ NORRIS, Tuomas KUOKKANEN, Gerhard LOIBL, Leonardo MASSAI, Mohamed NASR, Ahmad RAJABI, Orlando Ernesto REY SANTOS, Iryna RUDZKO, Jacob WERKSMAN, Milan ZVARA

*Members participating in the adoption of the decision:* Joseph AITARO, Mohammad ALAM, Zhihua CHEN, Tuomas KUOKKANEN, Gerhard LOIBL, Mohamed NASR, Ahmad RAJABI, Orlando REY SANTOS, Iryna RUDZKO, Milan ZVARA

This decision was adopted unanimously in Bonn on 30 May 2016.

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<sup>12</sup> The ERT that reviewed Ukraine's true-up period report submission did not include an expert on national registries. In its assessment, the ERT took note of the findings included in the true-up period assessment report of Ukraine for the first commitment period (available at [http://unfccc.int/files/kyoto\\_protocol/reporting/true-up\\_period\\_reports\\_under\\_the\\_kyoto\\_protocol/application/pdf/true-up\\_period\\_assessment\\_report\\_ua\\_final\\_1.pdf](http://unfccc.int/files/kyoto_protocol/reporting/true-up_period_reports_under_the_kyoto_protocol/application/pdf/true-up_period_assessment_report_ua_final_1.pdf)) prepared by external assessors (registry system administrators). See paragraph 5 of the TPR.