

**Kazakhstan’s submission to the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol (CMP) and the Subsidiary Body for Scientific and Technological Advice (SBSTA) on clarification of Article 3, paragraph 7 ter (section G) of the Doha amendment to the Kyoto Protocol**

By proposing this item we would like a clarification on Article 3, paragraph 7 ter (section G) of the Doha amendment to the Kyoto Protocol. The text of the proposed agenda item is below:

Clarification of the text in section G (Article 3, paragraph 7 ter) of the Doha amendment to the Kyoto Protocol, in particular the information to be used to determine the “average annual emissions for the first three years of the preceding commitment period”.

Article 3, paragraph 7 ter (Section G) of the Doha amendment (adopted through decision I/CMP.8) reads: “Any positive difference between the assigned amount of the second commitment period for a Party included in Annex I and average annual emissions for the first three years of the preceding commitment period multiplied by eight shall be transferred to the cancellation account of that Party”.

In a letter to dated 29 January 2013 (Ref. No. 05-36/267-U), Kazakhstan made an inquiry to the UNFCCC Secretariat concerning the application of Section G of the Doha amendment particularly to Kazakhstan in the second commitment period. In the response letter from the Secretariat, it was noted that there is some ambiguity as to how the provisions of Article 3, paragraph 7 ter, is to be interpreted. It was recommended to Kazakhstan that guidance from the CMP would be the most appropriate source of definitive interpretation where text of the Protocol is ambiguous. Kazakhstan therefore wished to seek further clarification from the CMP on the text of Article 3, paragraph 7 ter.

for Kazakhstan the Kyoto Protocol entered into force in 2009, and the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol concluded that Kazakhstan be included as a Party under Annex I to the Convention for the purposes of the Kyoto Protocol (FCCC/KP/CMP/2009/21, para. 91), but not Annex B, hence Kazakhstan did not have quantified emission limitation or reduction commitment under Article 3 in the first commitment period.

Although, in the absence of Article 3 commitments, Kazakhstan was not under any obligation to produce or report information required under Article 7, paragraph 1, of the Protocol, it was requested by the Conference of the Parties to submit both its national communication and annual greenhouse gas inventories in accordance with Article 4, paragraph 2 (b), and Article 12 of the Convention, using the guidelines for the preparation of national communications by Parties included in Annex I (see FCCCICP/2006/5, paragraph 96, and FCCCICP/2008/17, paragraph 68). Such reporting

would produce data on greenhouse gas emissions of Kazakhstan.

Kazakhstan did not meet the Kyoto eligibility requirements as per decision 11/CMP.1 (see FCCC/KP/CMP/2005/8/Add.2) and as such did not receive any AAUs during the first commitment period of the Kyoto Protocol. In addition, Kazakhstan does currently not meet eligibility requirements.

In a letter dated 19 March 2013, the UNFCCC Secretariat expressed their view that there are two possible readings of the text of Article 3, paragraph 7 ter:

- The reference to “average annual emissions” could be read to refer to data reported under the Protocol (i.e. in accordance with Article 7, paragraph I, of the Protocol). Under such interpretation, the requirement of Article 3, paragraph 7 ter, would not extend to an Annex I Party that did not have an obligation under the Protocol to report such data in the first commitment period.

- The text could also be understood as referring to any data on average annual emissions of an Annex I Party, regardless of whether or not it was reported under Article 7, paragraph I, of the Protocol (particularly since the provision of Article 3, paragraph 7 ter, itself does not make an explicit reference to the source of such data). Under such interpretation, the requirements of Article 3, paragraph 7 ter, would apply to any Annex I Party whose information on annual greenhouse gas emissions is generally supposed to be available, even where such Party had no commitments under Article 3 of the Protocol both in the first and second commitment period.

Clarification is sought on the text of Article 3, paragraph 7 ter which can then be applied to all Parties covered by this paragraph.

We hope that our concerns are reflected in the following outcomes of SBSTA and resolved through the process of the further collaborative work.