

### **Informal information note by the secretariat:**

#### ***The compliance procedure with respect to Greece***

- 1) On 13 November 2008, after considering the most recent ERT report with respect to Greece, and the revised plan submitted by Greece on 27 October 2008, the branch decided that there no longer continues to be a question of implementation with respect to Greece's eligibility, and that Greece is now fully eligible to participate in the mechanisms under Articles 6, 12 and 17 of the Protocol.
- 2) Greece submitted its initial report to the secretariat on 29 December 2006. The Initial Review Report for Greece was published 28 December 2007. It contained a question of implementation in relation to the national system requirements of the Kyoto Protocol. Greece was given an official notification of the question of implementation on 14 April 2008.
  - a. The question was sent to the Committee by an international team of experts.
  - b. The question of implementation related to the national system of Greece. A national system includes the institutional, legal and procedural arrangements for estimating emissions and sinks covered by the Protocol, and for reporting and archiving this information.
- 3) Greece made a written submission on 26 February 2008. During its third meeting, the enforcement branch held a hearing on 4-5 March 2008, after which the branch adopted a preliminary finding of non-compliance on 6 March 2008. Greece made a further written submission on 8 April 2008.
- 4) On 16-17 April, the enforcement branch held its fourth meeting and adopted a final decision to confirm its preliminary finding. This is the first time that any country has been officially found in non-compliance with any Kyoto Protocol obligation.
- 5) Greece was found to be in non-compliance with national system requirements for countries with 2012 targets (Annex B Parties). The national system is required for a country to account for its emissions and demonstrate compliance. (This is not directly related to whether Greece is in compliance with its 2012 emissions target.)
- 6) The consequences applied by the branch are that Greece was forthwith:
  - a. Declared to be in non-compliance;
  - b. Required to submit a plan to address its non-compliance within three months;
  - c. Not eligible to participate in the market mechanisms (Article 17, Emissions Trading; Article 12, Clean Development Mechanism; and Article 6, Joint Implementation).
    - i. This means that Greece cannot sell and transfer credits (unless they are verified under a special track II Joint Implementation procedure), and cannot acquire any credits except those forwarded by a host developing country.
    - ii. The preliminary finding, and by extension the final decision, note that the branch received expert advice, that identified the need for an in-country review on the basis of an annual inventory report generated by the new national system in order for the enforcement branch to assess compliance.
- 7) In April 2008, Greece submitted an annual inventory report, and then on 16 July 2008 it submitted a plan pursuant to the final decision of the enforcement branch. At its sixth meeting, 6-7 October 2008, the enforcement branch requested Greece to submit a revised plan.
- 8) On 27 October, Greece submitted a revised plan pursuant to the request of the enforcement branch of 6-7 October, as well as a request for reinstatement.

#### ***What the Compliance Committee does and the rules it follows***

- 9) The Compliance Committee is an independent body set up to facilitate, promote and where necessary, enforce compliance with the rules of the Kyoto Protocol. The enforcement branch of the Committee is made up of legal experts from developed and developing countries.

- 10) The members and alternate members of the Compliance Committee take an oath, including a commitment to be impartial and conscientious as well as an undertaking on confidentiality, which would mean that they cannot comment on closed discussions of the branch. The branch is like a court in that it speaks through written decisions.
- 11) The rules relevant to recent and current cases include, for example, that a national system is required to produce a reliable accounting of greenhouse gas (GHG) activity so that a country can demonstrate compliance with its 2012 emissions target.
- 12) Cases come to the Committee in the form of ‘questions of implementation’ from a Kyoto country or an expert review team (of independent experts from different countries). The branch may and has sought expert advice. In its cases so far, it asked members of the expert review team to present its report and advice, and also asked other independent experts for their advice. The country concerned may also make written submissions and comments, and request a hearing where it can present its views.
- 13) In all cases of non-compliance, the enforcement branch of the Compliance Committee makes a public declaration of non-compliance and of the consequences applied.
- 14) Any country in non-compliance must submit a ‘compliance action plan,’ within 3 months, that is subject to review and assessment by the enforcement branch (the timing of the review and assessment is case specific, with no specific time frame).
- 15) Countries that are found not to meet the core eligibility criteria for the Kyoto mechanisms (Emissions Trading, Clean Development Mechanism and Joint Implementation) are suspended from trading in the official Kyoto carbon market set up by these mechanisms.
- 16) Non-compliance with emissions targets is not an issue that can come before the enforcement branch until after the end of the commitment period in 2012.
  - a. A country in non-compliance with its 2012 target has 100 days after the expert review of its final emissions inventory to make up any shortfall (i.e., to buy credits).
  - b. If such a country still misses its target, it must make up the difference, plus 30%, in the second commitment period after 2012. It is also suspended from selling emissions credits in the emissions trading mechanism; and within 3 months, it must submit a plan on the action it will take to meet second commitment period target.
- 17) There are no financial penalties under the Kyoto Protocol, nor is there any consequence which involves loss of credits (although there is a loss of access to the carbon market).
- 18) Any country found in non-compliance can appeal to the Parties (CMP) against a decision of the enforcement branch, but only for issues relating to its 2012 target.

### ***Further information***

All decisions of the Compliance Committee, and other key documents including a table on eligibility of countries, are available here: [http://unfccc.int/kyoto\\_protocol/compliance/items/2875.php](http://unfccc.int/kyoto_protocol/compliance/items/2875.php).

Enforcement branch documents are here near the bottom of this page: [http://unfccc.int/kyoto\\_protocol/compliance/enforcement\\_branch/items/3785.php](http://unfccc.int/kyoto_protocol/compliance/enforcement_branch/items/3785.php).

### ***Disclaimer***

This note should not be relied upon for any legal interpretation. It has been prepared with limited use of technical terms and references. This note was updated on 14 November 2008.

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