

## **PRELIMINARY FINDING**

*Party concerned: Greece*

In accordance with the Procedures and mechanisms relating to compliance contained in the annex to decision 27/CMP.1 and adopted under Article 18 of the Kyoto Protocol and the Rules of procedure of the Compliance Committee,<sup>1</sup> the enforcement branch adopts the following preliminary finding:

### **BACKGROUND**

1. On 28 December 2007, the secretariat received a question of implementation indicated in the report of the expert review team regarding the review of the initial report of Greece and contained in document FCCC/IRR/2007/GRC. In accordance with paragraph 1 of section VI<sup>2</sup> and paragraph 2 of rule 10 of the Rules of procedure, the question of implementation was deemed received by the Compliance Committee on 31 December 2007.
2. The bureau of the Compliance Committee allocated the question of implementation to the enforcement branch on 7 January 2008 under paragraph 1 of section VII, in accordance with paragraph 4(b) and (c) of section V and paragraph 1 of rule 19 of the Rules of procedure.
3. On 8 January 2008, the secretariat notified the members and alternate members of the enforcement branch of the question of implementation, in accordance with paragraph 2 of rule 19 of the Rules of procedure, and of its allocation to the enforcement branch.
4. The enforcement branch decided in accordance with paragraph 2 of section VII to proceed with the question of implementation (CC-2007-1-2/Greece/EB). The question of implementation was identified as contained in paragraph 244 of document FCCC/IRR/2007/GRC.
5. The question of implementation relates to compliance with the guidelines for national systems under Article 5, paragraph 1, of the Kyoto Protocol (decision 19/CMP.1) and the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol (decision 15/CMP.1) (hereinafter referred to as “the guidelines”). In particular, it relates to the unresolved problem of the maintenance of the institutional and procedural arrangements, the arrangements for the technical competence of the staff, and the capacity for timely performance of the national system.<sup>3</sup>

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<sup>1</sup> All references to the Rules of procedure refer to the rules contained in the annex to decision 4/CMP.2.

<sup>2</sup> All section references in this document refer to the Procedures and mechanisms relating to compliance contained in the annex to decision 27/CMP.1.

<sup>3</sup> See paragraph 244 and section II.A of the report of the expert review team contained in document FCCC/IRR/2007/GRC.

6. The question furthermore relates to the eligibility requirement under Articles 6, 12 and 17 of the Kyoto Protocol to have in place a national system in accordance with Article 5, paragraph 1, of the Kyoto Protocol and the requirements in the guidelines decided thereunder.<sup>4</sup> Consequently, the expedited procedures as contained in section X apply.

7. On 8 February 2008, the enforcement branch agreed to invite four experts on national systems drawn from the UNFCCC roster of experts to provide advice to the branch. Two of these experts belonged to the expert review team that reviewed Greece's initial report (CC-2007-1-3/Greece/EB).

8. On 11 February 2008, the enforcement branch received a request for a hearing from Greece (CC-2007-1-4/Greece/EB), which also indicated that Greece intended to make a written submission under paragraph 1(b) of section X. On 26 February 2008, the enforcement branch received a written submission from Greece in accordance with paragraph 1 of section IX, paragraph 1(b) of section X, and rule 17 of the Rules of procedure (CC-2007-1-5/Greece/EB).

9. As requested by Greece on 11 February 2008, a hearing was held from 4 to 5 March 2008 in accordance with paragraph 2 of section IX and paragraph 1(c) of section X. The hearing formed part of the meeting of the enforcement branch that was held from 4 to 6 March 2008 to consider the adoption of a preliminary finding or a decision not to proceed. During the meeting, the enforcement branch received advice from the invited experts.

10. In its deliberations the enforcement branch considered the report of the expert review team related to Greece contained in document FCCC/IRR/2007/GRC, the comments of Greece on the report of the expert review team contained in document CC-2007-1-1/Greece/EB, the written submission of Greece contained in document CC-2007-1-5/Greece/EB, information presented by Greece during the hearing, advice from experts invited by the branch and other information and documentation presented during the hearing. No competent intergovernmental or non-governmental organization provided any information under paragraph 4 of section VIII.

## CONCLUSIONS AND REASONS

11. According to the information submitted and presented by Greece, the review of the initial report of Greece coincided with a transitional period of the national system of Greece. During the first half of 2007, the technical responsibility for the inventory preparation moved from a sub-contracted entity to the Ministry for the Environment, Physical Planning and Public Works (MINENV). By the beginning of 2008, part of this technical responsibility had been assigned, on a contract basis, to another entity. Throughout this timeframe, the Ministry retained overall responsibility for Greece's national system.

12. In relation to the first transition, advice received from the invited experts from the expert review team that reviewed Greece's initial report pointed to three issues of particular

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<sup>4</sup> See paragraph 31(c) of the annex to decision 3/CMP.1, Modalities and procedures for a clean development mechanism as defined in Article 12 of the Kyoto Protocol; paragraph 21(c) of the annex to decision 9/CMP.1, Guidelines for the implementation of Article 6 of the Kyoto Protocol; and paragraph 2(c) of the annex to decision 11/CMP.1, Modalities, rules and guidelines for emissions trading under Article 17 of the Kyoto Protocol.

concern that arose from the review that coincided with the transition in the national system of Greece:

- (a) A lack of clarity about the nature of the institutional and procedural arrangements for ensuring the continuity of the inventory preparation process (including the division of responsibilities between actors involved in the implementation of the national system);
- (b) A lack of information about the transfer of knowledge from the sub-contracted entity with technical responsibility for the inventory preparation to the new team; and
- (c) The lack of a possibility for the expert review team to meet with the staff assuming technical responsibility for inventory preparation to assess the arrangements for technical competence of this staff.

These same concerns that relate to the ability of Greece to maintain the necessary institutional and technical capacity arise in connection with the second transition.

13. During the hearing, Greece presented information on its new national system that contributed to the better understanding by the enforcement branch of the situation with respect to the question of implementation. Greece reported that it has made significant progress in the transition to its new national system, in particular with respect to clarifying institutional and procedural arrangements, dividing responsibilities between the actors involved in the implementation of its new national system, enhancing capacity and implementing other improvements. While the enforcement branch acknowledged the progress reported, questions remained regarding, in particular, the arrangements for the technical competence of the staff, the capacity for timely performance of the national system and the maintenance of the national system through transitions.

14. During the hearing, the enforcement branch took note of the fact that the 2005 national inventory for Greece, due on 15 April 2007, was submitted on 23 November 2007. It also 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 with the guidelines.

15. Based on the information submitted and presented, the enforcement branch concludes that the unresolved problem referred to in paragraph 5 above resulted in non-compliance with the guidelines at the time of finalisation of the report of the review of the initial report of Greece.

16. The information submitted and presented has not been sufficient for the enforcement branch to conclude that the question of implementation has now been fully resolved. Additional information is required that specifically addresses whether and how the national system is maintained through transitions. The enforcement branch agrees with the expert advice provided that a further in-country review of Greece's new national system, in conjunction with a review of an annual inventory report generated by this national system, is required for the enforcement branch to assess present compliance with the guidelines.

## FINDING AND CONSEQUENCES

17. The enforcement branch determines that Greece is not in compliance with the guidelines for national systems under Article 5, paragraph 1, of the Kyoto Protocol (decision 19/CMP.1) and the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol (decision 15/CMP.1). Hence, Greece does not yet meet the eligibility requirement under Articles 6, 12 and 17 of the Kyoto Protocol to have in place a national system in accordance with Article 5, paragraph 1, of the Kyoto Protocol and the requirements in the guidelines decided thereunder.

18. In accordance with section XV, the enforcement branch applies the following consequences:

- (a) Greece is declared to be in non-compliance.
- (b) Greece shall develop a plan referred to in paragraph 1 of section XV and submit it within three months to the enforcement branch in accordance with paragraph 2 of section XV. The plan should demonstrate measures to ensure the maintenance of the national system through transitions and include appropriate administrative arrangements to support an in-country review by the expert review team of the new national system of Greece, coordinated by the secretariat in conjunction with a review of an annual inventory report generated by this national system.
- (c) Greece is not eligible to participate in the mechanisms under Articles 6, 12 and 17 of the Protocol pending the resolution of the question of implementation.

19. These findings and consequences take effect upon confirmation by a final decision of the enforcement branch.

### *Members participating in the consideration of the preliminary finding:*

Johanna G. Susanna DE WET, Raúl ESTRADA OYUELA, René LEFEBER, Mary Jane MACE (alternate member serving as member), Stephan MICHEL, Bernard NAMANYA, Sebastian OBERTHÜR, Ilhomjon RAJABOV, Oleg SHAMANOV

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This decision was adopted by consensus in Bonn on 6 March 2008.