

## **DECISION ON PRELIMINARY EXAMINATION**

*Party concerned: Croatia*

1. On 26 August 2009, the secretariat received two questions of implementation indicated in the report of the expert review team regarding the review of the initial report of Croatia and contained in document FCCC/IRR/2008/HRV. In accordance with paragraph 1 of section VI<sup>1</sup> and paragraph 2 of rule 10 of the Rules of procedure of the Compliance Committee,<sup>2</sup> the questions of implementation were deemed received by the Compliance Committee on 27 August 2009.
2. The bureau of the Compliance Committee allocated the questions of implementation to the enforcement branch on 28 August 2009 under paragraph 1 of section VII, in accordance with paragraphs 4(b) and (c) of section V and paragraph 1 of rule 19 of the Rules of procedure.
3. On 31 August 2009, 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 its allocation to the enforcement branch.
4. The first question of implementation relates to Croatia's calculation of its assigned amount and its compliance with Article 3, paragraphs 7 and 8, of the Kyoto Protocol and the modalities for the accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol (decision 13/CMP.1). In particular, the expert review team considered that the addition of 3.5 million tons carbon dioxide equivalent (CO<sub>2</sub> eq) by Croatia to its base year level following decision 7/CP.12 is not in accordance with Article 3, paragraphs 7 and 8, of the Kyoto Protocol and the modalities for the accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol.<sup>3</sup>
5. The second question of implementation relates to Croatia's calculation of its commitment period reserve and its compliance with the modalities for the accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol (decision 13/CMP.1). In particular, the expert review team considered that the calculation of Croatia's commitment period reserve, based on the calculation of its assigned amount following decision 7/CP.12, is not in accordance with paragraph 6 of the annex to decision 11/CMP.1 (which is required by paragraph 8(a) of the annex to decision 13/CMP.1).<sup>4</sup>
6. The first question of implementation referred to in paragraph 4 above is related to the eligibility requirements referred to in paragraph 31(b) of the annex to decision 3/CMP.1, paragraph 21(b) of the annex to decision 9/CMP.1 and paragraph 2(b) of the annex to decision 11/CMP.1. Consequently, the expedited procedures as contained in section X apply with regard to the first question of implementation.

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<sup>1</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>2</sup> Contained in the annex to decision 4/CMP.2, as amended by decision 4/CMP.4.

<sup>3</sup> See paragraph 157 and section II.C of the report of the expert review team contained in document FCCC/IRR/2008/HRV.

<sup>4</sup> See paragraph 158 and section II.D of the report of the expert review team contained in document FCCC/IRR/2008/HRV.

7. Both questions of implementation referred to in paragraphs 4 and 5 above relate to the same issue, namely whether Croatia's calculation of its assigned amount is in compliance with Article 3, paragraphs 7 and 8, of the Kyoto Protocol and the modalities for the accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol (decision 13/CMP.1). The resolution of the second question of implementation follows from the resolution of the first. Consequently, both questions of implementation are considered jointly in the expedited procedures referred to in paragraph 6 above.

8. Having conducted the preliminary examination in accordance with paragraph 2 of section VII and paragraph 1(a) of section X, the enforcement branch decides to proceed. The enforcement branch, in particular, notes that the questions of implementation raised in the report by the expert review team of the review of the initial report of the Party concerned as indicated in paragraphs 4 and 5 above are supported by sufficient information, are not de minimis or ill-founded, and are based on the requirements of the Kyoto Protocol.

9. In accordance with paragraph 5 of section VIII and rule 21 of the Rules of procedure, the enforcement branch agrees to seek expert advice on the content and basis of the report of the expert review team contained in document FCCC/IRR/2008/HRV and on issues related to any decision of the enforcement branch with regard to the indicated questions of implementation.

*Members and alternate members participating in the consideration and elaboration of the decision:* Mohammad ALAM, Johanna G. Susanna DE WET, Raúl ESTRADA-OYUELA, Patricia ITURREGUI BYRNE, Kirsten JACOBSEN, Tuomas KUOKKANEN, René LEFEBER, Mary Jane MACE, Stephan MICHEL, Bernard NAMANYA, Sebastian OBERTHÜR, Ilhomjon RAJABOV, Oleg SHAMANOV.

*Members participating in the adoption of the decision on preliminary examination:* Mohammad ALAM (alternate member serving as member), 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.

This decision was adopted by consensus on 7 September 2009.