

DECISION UNDER PARAGRAPH 2 OF SECTION X

Party concerned: Croatia

In accordance with the “Procedures and mechanisms relating to compliance under the Kyoto Protocol”, 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 of the Kyoto Protocol” (the rules of procedure),¹ the enforcement branch adopts the following decision.

BACKGROUND

1. The final decision of the enforcement branch taken on 26 November 2009 (CC-2009-1-8/Croatia/EB) gave effect to the consequences contained in paragraph 23 of the preliminary finding of the branch, as confirmed by and annexed to the final decision. According to this paragraph, Croatia was declared to be in non-compliance; Croatia was required to develop a plan as referred to in paragraph 1 of section XV,² in accordance with paragraph 2 of section XV; and Croatia’s eligibility to participate in the mechanisms under Articles 6, 12 and 17 of the Kyoto Protocol was suspended in accordance with the relevant provisions under those Articles pending the resolution of the questions of implementation. In particular, the plan referred to above should address the calculation of the assigned amount and the commitment period reserve of Croatia in accordance with Article 3, paragraphs 7 and 8, of the Kyoto Protocol and the modalities for the accounting of assigned amounts contained in decision 13/CMP.1, and any other steps Croatia may wish to take to remedy the non-compliance. Pursuant to the final decision, the plan was due on 2 March 2010.

2. On 14 January 2010, Croatia lodged an appeal, in accordance with section XI, against the final decision of the enforcement branch to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (FCCC/KP/CMP/2010/2). The Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol was not able to complete its consideration of the appeal at its sixth session and decided to include it on the provisional agenda for its seventh session (FCCC/KP/CMP/2010/12, paragraph 67). On 4 August 2011, Croatia withdrew its appeal against the final decision of the enforcement branch (FCCC/KP/CMP/2011/2). At its seventh session, the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol took note of the withdrawal by Croatia of its appeal and terminated its consideration of the appeal (decision 12/CMP.7).

3. On 11 November 2011, Croatia submitted a letter with the subject “Submission of the plan for reinstatement of Croatia’s compliance related to the calculation of the assigned amount and the commitment period reserve” (CC-2009-1-10/Croatia/EB; hereinafter referred to as “Croatia’s plan”). As a measure to remedy its non-compliance, Croatia envisaged the submission of a letter by which it would withdraw its disagreement with the expert review team conclusions related to the calculation of its assigned amount and commitment period reserve. Croatia’s plan also included a request to the enforcement branch, pursuant to paragraph 2 of section X, to reinstate Croatia’s eligibility to participate in the mechanisms under Articles 6, 12 and 17 of the Kyoto Protocol. In accordance with paragraph 2 of rule 10 of the rules of procedure, Croatia’s plan was deemed received by the enforcement branch on 14 November 2011.

¹ 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 decision 4/CMP.4.

² All section references in this document refer to the “Procedures and mechanisms relating to compliance under the Kyoto Protocol”, contained in the annex to decision 27/CMP.1.

4. During the sixteenth meeting of the enforcement branch, held in Bonn from 14 to 18 November 2011, the enforcement branch reviewed and assessed Croatia's plan, in accordance with paragraph 2 of section XV, and considered the request to reinstate Croatia's eligibility, in accordance with paragraph 2 of section X. It was the assessment of the branch that, although Croatia's plan does not meet all requirements set out in paragraph 23 (b) of the preliminary finding, the measure reflected in Croatia's plan, if implemented in accordance with the decision on the review and assessment of the plan submitted by Croatia under paragraph 2 of section XV (CC-2009-1-11/Croatia/EB), is expected to remedy Croatia's non-compliance.

5. To implement the measure reflected in Croatia's plan, the branch suggested an exchange of letters consisting of:

- (a) A request by Croatia to the secretariat to record in the compilation and accounting database the assigned amount and the commitment period reserve, as calculated by the expert review team that reviewed the initial report of Croatia and referred to in paragraphs 130 and 132 of the report of the review of the initial report of Croatia (FCCC/IRR/2008/HRV),³ and
- (b) A confirmation by the secretariat to Croatia that the compilation and accounting database has been updated accordingly.

Pending the implementation of this measure, the enforcement branch decided to keep the request to reinstate Croatia's eligibility under consideration.

6. On 27 December 2011, Croatia submitted a document entitled "Submission of the revised plan for reinstatement of Croatia's compliance related to the calculation of the assigned amount and the commitment period reserve" (CC-2009-1-12/Croatia/EB; hereinafter referred to as the "revised plan"). In its revised plan, Croatia indicated that it is now prepared to accept the values of the assigned amount and the commitment period reserve, as calculated by the expert review team that reviewed its initial report, and that it had written to the secretariat to confirm its acceptance of these calculations. In this plan, Croatia reiterated its request for the reinstatement of its eligibility to participate in the mechanisms under Articles 6, 12 and 17 of the Kyoto Protocol.

7. Enclosed in the revised plan was a letter from Croatia to the secretariat requesting that the values related to the calculation of the assigned amount and the commitment period reserve, as calculated by the expert review team that reviewed Croatia's initial report, be recorded in the compilation and accounting database. On 30 December 2011, the secretariat sent a letter to Croatia confirming that the compilation and accounting database had been updated accordingly (CC-2009-1-13/Croatia).

8. During the eighteenth meeting of the enforcement branch, held in Bonn from 7 to 8 and 10 February 2012, the branch considered the request to reinstate Croatia's eligibility in accordance with paragraph 2 of section X. In its deliberations, the enforcement branch considered the revised plan and the letters referred to in paragraph 7 above.

REASONS AND CONCLUSIONS

9. The branch notes that Croatia's revised plan meets the requirements set out in paragraph 2 of section XV, paragraph 1 of rule 25 bis and paragraph 23 (b) of the branch's preliminary finding.

³ The assigned amount referred to in paragraph 130 is 148,778,503 tonnes carbon dioxide equivalent and the commitment period reserve referred to in paragraph 132 is 133,900,653 tonnes carbon dioxide equivalent.

10. The branch also notes that the measure, reflected in Croatia's plan and revised plan, has been implemented in accordance with the branch's decision referred to in paragraph 4 above, and has remedied the non-compliance.

11. The branch concludes that the information now available is sufficient to conclude that the questions of implementation put before the branch⁴ have now been resolved.

DECISION

12. In accordance with paragraph 2 of section X, the branch decides that there no longer continues to be a question of implementation with respect to Croatia's eligibility, and that Croatia is now fully eligible to participate in the mechanisms under Articles 6, 12 and 17 of the Kyoto Protocol.

Members and alternate members participating in the consideration and elaboration of the decision: Sandea JGS DE WET, Victor FODEKE, José Antonio GONZALEZ NORRIS, Balisi GOPOLANG, Rueanna HAYNES, Alexander KODJABASHEV, René LEFEBER, Sebastian MARINO, Sebastian OBERTHÜR, Oleg SHAMANOV.

Members participating in the adoption of the decision: Mirza Salman BABAR BEG (alternate member serving as member), Sandea JGS DE WET, Victor FODEKE, José Antonio GONZALEZ NORRIS (alternate member serving as member), Rueanna HAYNES, Alexander KODJABASHEV, René LEFEBER, Sebastian OBERTHÜR.

This decision was adopted by consensus on 8 February 2012, 9:53:32 Greenwich Mean Time.

⁴ See paragraphs 4 and 5 of the decision on preliminary examination (CC-2009-1-2/Croatia/EB).