

**RESUBMITTED COMMENTS FROM BULGARIA ON  
THE FINAL DECISION (CC-2010-1-8/Bulgaria/EB)**

**WRITTEN RESPONSE REGARDING FINAL DECISION  
CONCERNING BULGARIA**

*Formal resubmission of written comment of 20 July 2010*

3 August 2010

MR. FENG GAO  
Secretary to the Compliance Committee  
UNFCCC Secretariat  
Haus Carstanjen, Martin-Luther-King-Strasse 8  
D-53175 Bonn, Germany

**DEAR MR. FENG GAO,**

In accordance with rule 22, paragraph 2 of the "Rules of procedure of the Compliance Committee of the Kyoto Protocol" please find attached the written response by Bulgaria on the final decision concerning Bulgaria.

As Annex to the written response find attached the text of Bulgaria's intervention made at the meeting of the Enforcement Branch on 28 June 2010, which should be considered as a part of the written response.

Attachment:

1. Comments by Bulgaria on the final decision of the Enforcement Branch, adopted in Bonn, on 28 June 2010

**CHARGÉ D'AFFAIRES A.I.**



**COMMENTS BY BULGARIA ON THE FINAL DECISION  
CONCERNING BULGARIA  
ADOPTED BY THE ENFORCEMENT BRANCH  
ON 28 JUNE 2010**

In accordance with rule 22, paragraph 2 of the “Rules of procedure of the Compliance Committee of the Kyoto Protocol” Bulgaria herein provides written response on the final decision by the Enforcement Branch.

Bulgaria expresses its disappointment of the final decision which confirmed the preliminary finding of 12 May 2010 regarding Bulgaria.

Our disappointment comes from the fact that the fundamental actions taken by Bulgaria since the ERT in-country review to improve its national system were not taken into account by the Enforcement Branch in the course of its decision-making process.

The final decision, as the preliminary finding, is based mainly on the findings and conclusions made by the ERT during its visit to Bulgaria in September-October 2009. However, there have been substantial improvements to the national system since then, which were duly reported through the following communications by Bulgaria:

- on 16 November 2009 Bulgaria submitted a work plan with measures addressing improvement of the institutional arrangements, technical competence of staff and quality of the annual inventory submission;
- on 16 February 2010 Bulgaria submitted an update of the work plan with progress report of scheduled projects, training workshops and the accomplished institutional cooperation agreements;
- in its written submission of 5 May 2010 and in its presentation at the hearing on 10 May Bulgaria has provided detailed information and clearly demonstrated its institutional and legal arrangements and measures undertaken to strengthen the national inventory system;
- On 15 June 2010 Bulgaria presented a detailed sector-based improvement plan with specific priorities and deadlines to be met in order to achieve speedy solution of outstanding issues and the improvement of its national system.

Bulgaria believes that the expedited procedure, laid down in Section X of “Procedures and mechanisms relating to compliance under the Kyoto Protocol”, does not provide the country concerned with adequate opportunities to effectively prove the progress made and thereby avoid the serious economic and financial consequences stemming from the inevitable, in the current circumstances, confirmation of non-compliance. Such a procedure is hardly justifiable, especially when it is linked to application of mechanisms under Articles 6, 12 and 17 embodying basic principles and rights of Parties under the Kyoto Protocol. Therefore, we advocate that in the period between the preliminary finding and the final decision there should

be appropriate time and conditions set for the country concerned to make reasonable efforts and demonstrate progress sufficient to alter the final outcome.

We noted with due respect the efforts made by the Enforcement Branch to accommodate to certain extend our concerns regarding the text in section “Conclusions and reasons”, paragraph 14 of the preliminary finding. We take this as a positive sign of recognition by the Enforcement Branch of our willingness and efforts made to address the outstanding issues as early as possible. In this vein, we consider the respective part of the addition to the section “Conclusions and reasons” as reflecting a more balanced and equitable approach. However, our justified doubts are not sufficiently met since in the further submission of 15 June 2010 and the intervention made during the 28 June 2010 meeting we did not question the right of the Enforcement Branch to seek expert advice but only the level of objectivity and correctness of quotation of expert opinions as they were presented at the hearing on 10 May 2010.

Bulgaria reconfirms its intention to provide a 2010 resubmission (CRF tables and NIR) as well as an updated Improvement plan by 12 August 2010 to further demonstrate the substantial progress made by the country.

Following Section X, paragraph 2 of “Procedures and mechanisms of the Compliance Committee” Bulgaria confirms its intention to request an in-country review to be carried out in September-October 2010, following our resubmission. We express our hopes and expectations for a fair and equitable treatment and prompt resolution of the matter within a short period of time following the in-country review in September-October 2010.

**ANNEX to document COMMENTS BY BULGARIA ON THE FINAL DECISION CONCERNING  
BULGARIA ADOPTED BY THE ENFORCEMENT BRANCH**

**INTERVENTION BY BULGARIA  
AT THE MEETING OF THE ENFORCEMENT BRANCH  
BONN, 28-29 JUNE 2010**

Mr. Chairman,  
Distinguished members of the Enforcement branch,

At the hearing on May 10-th, I made on behalf of Bulgaria a thorough presentation on the improvements of the Bulgarian national inventory system, in particular the institutional arrangements, roles and responsibilities of the national respective governmental bodies, the underlying legal framework, arrangements for technical competence of staff and measures taken for strengthening of the national system since the ERT review in 2009.

I take the floor today to provide our views on the preliminary finding adopted by the Enforcement branch on May 12-th, 2010 and to give you a brief outline and further clarifications, if needed, of the Improvement Plan, submitted by Bulgaria on 15 June 2010.

Allow me, first to comment on the preliminary finding. We express regrets that steps and actions taken by Bulgaria following the ERT in-country review were not adequately taken into account by the Enforcement branch in the course of its decision-making process. During the hearing we acknowledged we had been facing challenges with institutional arrangements and technical competence of staff due to the lack of human and financial resources. However, we clearly identified a number of actions being taken for the improvement of the national system in accordance with a plan for further eradication of the outstanding problems.

Although the Enforcement branch recognized the progress made as well as the willingness and commitment of Bulgaria to address the issues related to its national system, ultimately it preferred to base its decision on the findings and conclusions made by the ERT as a result of its visit to Bulgaria in September-October last year. Thus, substantive improvements to the system and the positive trend towards resolving the outstanding problems made since ERT's visit had been ignored.

Speaking about the regulations in the area of compliance, we are a bit frustrated that the so called "expedited procedure" does not provide the Party concerned with the possibility to effectively defend itself by proving the progress achieved after the latest in-country review. Actually, in the unreasonably short period between the adoption of the preliminary finding and the final decision, the country does not have much of a chance to reverse the preliminary finding. Scheduling an ERT visit is not possible and the opportunity of early resolution of the question of implementation seems precluded. And this is not acceptable since the economic and financial consequences born by the Party concerned are extremely heavy.

Apart from this principle position, we have reservations concerning the wording of the preliminary finding, in particular the text of section "Conclusions and reasons". In our view the text in p. 14 does not reflect in a sufficiently correct and comprehensive manner the expert opinions as they were expressed during the meeting on May 10th. Indeed, in the course of the

meeting all experts confirmed that there were unresolved problems with respect to the national inventory system of Bulgaria operating in accordance with the requirements of the guidelines for national systems. However, while one expert advised that: "significant improvements in the quality of Bulgaria's national submissions cannot be expected to become evident until the review of the 2011 annual submission, another expert was of the view that if Bulgaria deploys sufficient efforts it could rectify identified problems by early fall of 2010 and request an ERT's visit in September 2010.

Mr. Chairman,

We are concerned that generalization of the experts' views, as it currently stands in the text, distorts the opinions expressed in a way suggesting negative outlook on the prospects for an early resolution of the question of implementation pertaining to Bulgaria. Furthermore, making projections of the timeframe, in which Bulgaria will be able to provide evidence of the necessary improvements of its national system, goes beyond the mandate of this respected body, as this mandate is clearly outlined in Section V, paragraph 4 of the Annex to Decision 27.CMP.1. It may also raise issues of balance and equitable treatment since, again, not all experts' opinions were equally taken into account while considering the Bulgarian case.

**Therefore, we strongly encourage the Enforcement Branch to consider deleting the last sentence of p.14 or, at least, reformulating the text to reflect the factual narrative of the meeting.**

In addition to the positive steps mentioned above and in the wake of the experts' advice we undertook measures to further ensure the proper and coherent functioning of the Bulgarian national inventory system (BGNIS) by enhancing institutional arrangements and strengthening administrative capacity.

An **Improvement Plan** was prepared to address the requirement for further progress by Bulgaria. With this plan it is clearly stated how planned improvements are implemented or envisaged to be implemented in the BGNIS in order to fulfill the recommendations of Expert Review Team as set out in the annual review report FCCC/ARR/2009/BGR.

*Let me highlight the major improvements made in accordance with this plan:*

Institutional arrangements: Two new agreements have been signed between MoEW and the following data providers:

- Ministry of Economy, Energy and Tourism;
- Ministry of Internal Affairs.

The English version of the agreements is included in Annex 1 and Annex 2 of the Improvement plan.

Strengthening the legal basis: The BGNIS will be enshrined in law through a special Regulation of the Council of Ministers which will be adopted in September 2010. The new regulation will establish and maintain the institutional, legal and procedural arrangements necessary to perform the functions of BGNIS, defined in Decision 19/CMP.1 for national systems.

Enhancing expert capacity in ExEA:

- Extension of the staff, engaged in planning, preparation and management of the national GHG emissions inventory was realized in 2010. The Order issued by the Executive Director of ExEA regulates the name and responsibilities of experts from different departments within the ExEA, who are engaged to support preparation of the inventory. The results are shown on Figures 1-2 of the Improvement plan.
- Staff training through the project with the Federal Environment Agency of Austria (workshops in the period December 2009 to June 2010) is ongoing.

#### Collaboration with consultants and external auditors

- Establishment of relations with Branch Business Associations – letter sent to the Branch Association of the Cement Industry.
- Continued intensive cooperation for research (verification of EFs) with universities and private consultants

*Source categories improvements* are in process for all sectors.

**For the preparation of the final version of NIR for 2010 submission (sent on 27<sup>th</sup> May) Quality Assurance/Quality Control approaches have been applied.** Sector specific QA/QC procedures have been performed by the Sector experts at the MoEW.

In relation to the above mentioned improvements I will draw your attention **to the measures envisaged in the key sectors playing the most important role for the quality of the GHG emissions inventory.**

#### Energy sector

- Revising of the entire time series of the Activity data (AD) has been undertaken due to differences in IEA/EUROSTAT questionnaire (international reporting obligation) and national energy balance (national reporting obligation with different allocation/definition fuel). Outcome is consolidated "Energy Balance" for national and UNFCCC/ UNECE reporting obligation.
- Revising of the emission factor (EF). Investigation whether it would be possible to update country specific EF.
- A cross-check with ETS, EPRTR, IPPC data has just started.
- Providing carbon mass balance will be also realized.

Concluding on achieved Transparency we can state that in submission 2010 for CRF 1 information on methodology, activity data and emission factor for the entire time series is provided. In the next submission further improvements concerning transparency will be undertaken. This will be done by updating and revising EF and AD.

#### Transport

- Revising the AD based on International Energy Agency (IEA)/EUROSTAT questionnaire and compare to national statistics to make sure that these are in line.
- Revising the EF (gasoline, Diesel, LPG). Investigation whether it would be possible to update country specific emission factors for liquid fuels and gaseous fuels.
- The training on the model COPERT, which is a country support tool for reporting provided by the European Environment Agency (EEA) has been completed. The

model will be incorporated within the next submission. Thus a higher TIER method for estimation CO<sub>2</sub>, N<sub>2</sub>O and CH<sub>4</sub> as well as non-GHG will be realized.

Consumption of Halocarbons and SF<sub>6</sub> (CRF 2.F)

- A study on F-gases actual emissions is almost completed. The main findings and proposals for methodologies to be used are presented in NIR 2010, submitted to UNFCCC and EC on May, 27th. The final results of the study will be reported in the next submission of the inventory.

Speaking about our Improvement plan let me highlight that it is a product of our proactive approach and strong willingness to deal with the problems as soon as possible. I wish to remind you that, as EU member-state Bulgaria is committed to contribute to the implementation of its ambitious climate and energy package, which requires well established and sustainable national systems. This, as well as our first year of participation in the Emission Trading Scheme has further motivated the increased pace and the scale of the measures we have undertaken. Because our efforts are not just to overcome one particular compliance issue, but to remain a reliable partner in the global climate change agenda.

Having said that let me share with you what we are planning as further steps and actions for an early resolution of the question of implementation:

1. We will be ready to provide a 2010 resubmission (CRF tables and NIR) and an updated Improvement plan by August 12, 2010;
2. We will present a request for an in-country expert review of BGNIS to be carried out in September-October 2010. Thus we wish to make use of our right in accordance with para 1, subpara 2 of Section X of Procedures and Mechanisms of Compliance Committee as well as recommendations contained in the ERT report and independent experts' opinions expressed at the hearing.

And finally, Mr. Chairman, let me express our hopes that the Enforcement Branch would duly acknowledge the substantive steps taken by my country and would revise its preliminary finding accordingly.

*I thank you for your attention.*

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