

DECISION UNDER PARAGRAPH 2 OF SECTION X CONCERNING THE REQUEST FOR REINSTATEMENT

Party concerned: Lithuania

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.

I. BACKGROUND

1. The final decision of the enforcement branch taken on 21 December 2011 (CC-2011-3-8/Lithuania/EB) gave effect to the consequences contained in paragraph 24 of the preliminary finding of the branch, as confirmed by and annexed to the final decision. According to subparagraph (a) of that paragraph, Lithuania was declared to be in non-compliance; according to subparagraph (b), Lithuania was required to develop a plan referred to in paragraph 1 of section XV,² in accordance with paragraphs 2 and 3 of section XV and paragraph 1 of rule 25 bis; and according to subparagraph (c), Lithuania’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 question of implementation.

2. On 26 March 2012, Lithuania submitted a document entitled “Plan under Section XV, paragraph 2 of the Procedures and mechanisms relating to compliance under the Kyoto Protocol and rule 25 bis of the Rules of procedure of the Compliance Committee of the Kyoto Protocol in response to the Final Decision concerning Lithuania of the Enforcement branch of the Compliance Committee (CC-2011-3-8/Lithuania/EB)” (CC-2011-3-9/Lithuania/EB; hereinafter referred to as the “plan”). Pursuant to paragraph 24 (b) (ii) of the preliminary finding, Lithuania’s plan included a first progress report on its implementation. In accordance with paragraph 2 of rule 10 of the rules of procedure, the plan and progress report were deemed received by the enforcement branch on 27 March 2012.

3. On 13 April 2012, the report of the individual review of the annual submission of Lithuania submitted in 2011, contained in FCCC/ARR/2011/LTU (2011 ARR), was published following an in-country review, conducted from 26 September to 1 October 2011. On 13 April 2012, the secretariat forwarded the 2011 ARR to the Compliance Committee, including the members and alternate members of the enforcement branch, in accordance with paragraph 3 of section VI.

4. On 20 April 2012, in response to a letter from the secretariat clarifying that the final decision of the enforcement branch allowed Lithuania up until 22 June 2012 for the submission of its plan, Lithuania submitted a request for the enforcement branch to proceed with the review and assessment of the plan contained in document CC-2011-3-9/Lithuania/EB (CC-2011-3-10/Lithuania/EB).

5. In accordance with paragraph 2 of section XV and paragraph 3 of rule 25 of the rules of procedure, the enforcement branch reviewed and assessed the plan submitted by Lithuania. On 2 May 2012, the branch adopted, by electronic means, a decision on the review and assessment of the plan

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.

submitted under paragraph 2 of section XV (CC-2011-3-11/Lithuania/EB) that concluded that the plan sets out and adequately addresses each of the elements specified in paragraph 2 of section XV and if implemented in accordance with this decision is expected to remedy the non-compliance. The branch noted that not all the measures described in the plan had yet been implemented and urged Lithuania to carry out all the measures contained in the plan.³

6. On 14 June 2012, Lithuania submitted the second progress report on the implementation of the plan and a request to reinstate its eligibility to participate in the mechanisms under Articles 6, 12 and 17 of the Kyoto Protocol, in accordance with paragraph 2 of section X (CC-2011-3-12/Lithuania/EB).

7. On 27 June 2012, the enforcement branch decided to invite three experts drawn from the UNFCCC roster of experts to provide advice to the branch (CC-2011-3-13/Lithuania/EB). These included one of the lead reviewers of the expert review team that reviewed Lithuania's 2011 annual submission (ERT), who was also the land use, land-use change and forestry (LULUCF) specialist; one of the experts who provided expert advice during the meeting at which the hearing was held and the preliminary finding was adopted; and one expert who was not part of any of the expert review teams which prepared the relevant reports.

8. During the twentieth meeting of the enforcement branch, held in Bonn from 9 to 14 July 2012, the branch considered the request to reinstate Lithuania's eligibility in accordance with paragraph 2 of section X. Lithuania was represented at this meeting in accordance with paragraph 2 of section VIII. The enforcement branch received advice from the three invited experts during the meeting. In its deliberations, the enforcement branch considered the 2011 ARR, the two progress reports on the implementation of the plan and the additional information presented by Lithuania at the twentieth meeting of the branch, and the expert advice received.

II. REASONS AND CONCLUSIONS

9. In the 2011 ARR, the ERT found that the national system performs its required functions generally in accordance with the requirements contained in the annex to decision 19/CMP.1. However, the ERT identified that the archiving and identification of lands subject to activities under Article 3, paragraphs 3 and 4, of the Kyoto Protocol (KP-LULUCF activities) are not fully in line with the requirements contained in the annex to decision 19/CMP.1.⁴ It also identified the following cross-cutting issues for improvement:⁵

- (a) The transparency of reporting, particularly with regard to information on institutional arrangements; quality assurance/quality control activities implemented; the justification for recalculations; explanations of trend variations; and the rationale for selecting country-specific emission factors, activity data and methods;
- (b) The use of the key category analysis in setting priorities for the development and improvement of the inventory, including methodological choice and quality assurance/quality control activities, in line with the Intergovernmental Panel on Climate Change (IPCC) Good Practice Guidance and Uncertainty Management in National Greenhouse Gas Inventories;
- (c) The consistency of the reporting in the National Inventory Report and the Common Reporting Format tables, and for the entire time series.

³ Paragraph 5, decision on the review and assessment of the plan submitted under paragraph 2 of section XV (CC-2011-3-11/Lithuania/EB).

⁴ Paragraphs 13 and 200, 2011 ARR.

⁵ Paragraph 203, 2011 ARR.

10. While no questions of implementation were identified by the ERT during the review,⁶ the ERT made a number of key recommendations,⁷ including:

- (a) To implement Lithuania's Greenhouse Gas Inventory Archive Improvement Plan and to ensure that the additional efforts are made to strengthen the archiving system in line with the requirements contained in the annex to decision 19/CMP.1;
- (b) To implement the action plan to improve reporting on the LULUCF sector and provide information on how the harmonisation of data was carried out to help identify activities under Article 3, paragraphs 3 and 4, of the Kyoto Protocol since 1990;
- (c) To improve the completeness of the inventory, particularly in the LULUCF sector.

11. In response to the questions raised in the decision on expert advice, referred to in paragraph 7 above, and at the twentieth meeting, expert advice received clarified a number of issues in relation to the 2011 ARR, including the following:

- (a) Lithuania was able to prepare and submit a national inventory and supplementary information in accordance with Article 5, paragraphs 1 and 2, and Article 7, paragraphs 1 and 4, of the Kyoto Protocol, including more information on anthropogenic greenhouse gas emissions and removals by sinks from KP-LULUCF activities, within the prescribed deadlines, which was assessed during the review;
- (b) In relation to LULUCF reporting:
 - i. Due to a lack of data, not all areas of land subject to KP-LULUCF activities are identifiable since 1990, as required by paragraph 20 of the annex to decision 16/CMP.1, which also calls for further progress in the definition of roles of different agencies involved in data collection;
 - ii. Available information was insufficient to demonstrate that there was no double counting of land subject to KP-LULUCF activities;
 - iii. Estimates were not prepared completely in line with the Revised 1996 IPCC Guidelines for National Greenhouse Gas Inventories and the IPCC Good Practice Guidance for Land Use, Land-Use Change and Forestry;
- (c) Unresolved problems also remained with respect to the collection of sufficient activity data and emission factors, the completeness of estimates of emissions of hydrofluorocarbons and Lithuania's archiving system;
- (d) While some serious issues remained at the time of the in-country review, these were being addressed as evident from the Greenhouse Gas Inventory Archive Improvement Plan and the action plan to improve reporting on the LULUCF sector;
- (e) Whereas not all the problems relating to the question of implementation raised in the 2010 ARR had been resolved by the time of the finalization of the 2011 ARR, significant improvements in addressing these problems had been made and no new questions of implementation were identified during the in-country review.

⁶ Paragraph 205, 2011 ARR.

⁷ Paragraph 204, 2011 ARR.

12. The experts also noted that on the basis of their preliminary reading of Lithuania's 2012 annual submission and the information presented by Lithuania in its second progress report on the implementation of its plan and at the meeting, it appears there have been significant further improvements since the review of the 2011 annual submission. However, they advised that an in-country review of Lithuania's 2012 annual submission is required for an in-depth assessment of the implementation of these measures.

13. In its second progress report on the implementation of the plan and in its presentation at the meeting, Lithuania provided information on further progress in this regard, including in connection with the 2012 annual submission. In the context of its presentation, Lithuania stated that the national system was fully operational by the end of June 2012.

14. The enforcement branch commends Lithuania for the progress in the implementation of measures to ensure that the national system performs all the general and specific functions described in the annex to decision 19/CMP.1, as reflected in the 2011 ARR. The branch notes, with appreciation, the continued willingness and commitment shown by Lithuania to resolve the question of implementation concerning its national system.

15. The enforcement branch concludes, based on the information submitted and presented, that the unresolved problems referred to in paragraphs 9 to 11 above continued to result in non-compliance with the annex to decision 19/CMP.1 at the time of the finalization of the 2011 ARR.

16. While Lithuania has submitted and presented information on positive steps it has undertaken before and after the finalization of the 2011 ARR to address the unresolved problems referred to in paragraphs 9 to 11 above, this information has not enabled the enforcement branch to conclude that the question of implementation has been resolved.

17. The enforcement branch concludes that another in-country review is required for the branch to assess compliance with the annex to decision 19/CMP.1.

18. The enforcement branch notes that the official report of the next in-country review will not be available in time for the branch to consider such report under the procedure referred to in paragraph 1 of section X and to decide, in the context of this procedure, whether the question of implementation has been resolved. Therefore, the branch considers it appropriate to enable Lithuania to request the branch not to initiate the expedited procedure referred to in paragraph 1 of section X in the light of its conclusion not to reinstate Lithuania's eligibility under paragraph 2 of section X.

III. DECISION

19. In accordance with paragraph 2 of section X, the branch decides that there continues to be a question of implementation with respect to Lithuania's eligibility under Articles 6, 12 and 17 of the Kyoto Protocol and, therefore, also decides:

- (a) Not to reinstate Lithuania's eligibility; and
- (b) To initiate the procedure referred to in paragraph 1 of section X, unless Lithuania requests the branch before 31 July 2012 not to initiate this procedure.

Members and alternate members participating in the consideration and elaboration of the decision:
Mohammad ALAM, Joseph AMOUGOU, Mirza Salman BABAR BEG, Sandea JGS DE WET,
Victor FODEKE, José Antonio GONZALEZ NORRIS, Alexander KODJABASHEV, René
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Members participating in the adoption of the decision: Mohammad ALAM (alternate member serving as member), Sandea JGS DE WET, Victor FODEKE, Antonio GONZALEZ NORRIS (alternate member serving as member), Alexander KODJABASHEV, René LEFEBER, Gerhard LOIBL, Ainun NISHAT, Sebastian OBERTHÜR.

This decision was adopted by consensus in Bonn on 14 July 2012.

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