

DECISION ON PRELIMINARY EXAMINATION

Party concerned: Kazakhstan

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. Kazakhstan notified the Depositary on 23 March 2000 that, in accordance with Article 4, paragraph 2 (g), of the Convention, it intended to be bound by Article 4, paragraphs 2 (a) and (b), of the Convention. Upon the entry into force of the Kyoto Protocol for Kazakhstan on 17 September 2009, it became a Party included in Annex I for the purposes of the Protocol in accordance with Article 1, paragraph 7, of the Protocol.²
2. On 18 February 2019, the secretariat received questions of implementation indicated in the report of the expert review team (ERT) of the review of the report to facilitate the calculation of the assigned amount for the second commitment period of the Kyoto Protocol of Kazakhstan contained in document FCCC/IRR/2017/KAZ (hereinafter, IRR).
3. On the same day, the secretariat also received questions of implementation indicated in the ERT report of the individual review of the annual submission of Kazakhstan submitted in 2017 contained in document FCCC/ARR/2017/KAZ (hereinafter, 2017 ARR).
4. In accordance with paragraph 1 of section VI³ and paragraph 2 of rule 10 of the rules of procedure, the questions of implementation referred to in paragraphs 2 and 3 above were deemed received by the Compliance Committee on 19 February 2019.
5. The bureau of the Compliance Committee allocated the questions of implementation to the enforcement branch on 28 February 2019 under paragraph 1 of section VII, in accordance with paragraphs 4 to 6 of section V and paragraph 1 of rule 19 of the rules of procedure.
6. On 28 February 2019, 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 their allocation to the enforcement branch.
7. The questions of implementation contained in the IRR relate to compliance with the annex to decision 19/CMP.1⁴ in conjunction with decisions 3/CMP.11⁵ and 4/CMP.11⁶ and

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 decisions 4/CMP.4 and 8/CMP.9.

² See also FCCC/KP/CMP/2009/21, paragraph 91.

³ 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 Decision entitled “Guidelines for national systems for the estimation of anthropogenic greenhouse gas emissions by sources and removals by sinks under Article 5, paragraph 1, of the Kyoto Protocol”.

the annex to decision 13/CMP.1⁷ in conjunction with decision 3/CMP.11.⁸ In particular, the ERT concluded that the national system of Kazakhstan fails to perform some of the general and specific functions required in accordance with the annex to decision 19/CMP.1⁹ and that the national registry was not established at the time of the submission of the Kazakhstan report to facilitate the calculation of the assigned amount under the Kyoto Protocol or during the review.¹⁰ With regard to the availability of the national registry, the ERT also noted the mandatory requirement set out in paragraph 1(m) of Annex I to decision 2/CMP.8¹¹ that Parties included in Annex I that did not have a qualified emission limitation and reduction target in the first commitment period include the description of the registry, reported in accordance with the provisions of decision 15/CMP.1 in conjunction with decision 3/CMP.11 in their reports to facilitate the calculation of the assigned amount under the Kyoto Protocol.¹²

8. The questions of implementation contained in the 2017 ARR relate to compliance with the methodological and reporting requirements contained in the decision 2/CMP.8, decision 3/CMP.11 and decision 15/CMP.1.¹³ In particular, the ERT concluded that Kazakhstan failed to provide the information to be included in annual GHG inventories on land use, land use change and forestry (LULUCF) activities under Article 3, paragraphs 3 and 4, of the Kyoto Protocol required under paragraphs 2(b), 2(d), 2(e), 4(a), 4(b), 5(a), 5(b), 5(c) and 5(e) of annex II to decision 2/CMP.8.¹⁴ The ERT also concluded that Kazakhstan did not submit the standard electronic format (SEF) tables for the years 2013-2016 and other related information on accounting of Kyoto Protocol units required under paragraphs 12 to 18 of the annex to decision 15/CMP.1 in conjunction with decision 3/CMP.11 and in decision 3/CMP.11, in particular, paragraph 13.¹⁵

9. The questions of implementation with respect to the annex to decision 19/CMP.1 and the annex to decision 13/CMP.1, both in conjunction with decision 3/CMP.11 and 4/CMP.11, are related to the eligibility requirements referred to in paragraph 31(c) and (d), annex to decision 3/CMP.1, paragraph 21(c) and (d) annex to decision 9/CMP.1 and paragraph 2(c) and (d), annex to decision 11/CMP.1. The questions of implementation with respect to decision 2/CMP.8, the annex to decision 15/CMP.1 in conjunction with decision 3/CMP.11, and decision 3/CMP.11 are related to the eligibility requirement referred to in paragraph 31(e), annex to decision 3/CMP.1, paragraph 21(c), annex to decision 9/CMP.1 and paragraph 2(e), annex to decision 11/CMP.1. Consequently, the expedited procedures as contained in

⁵ Decision entitled “Implications of the implementation of decisions 2/CMP.7 to 4/CMP.7 and 1/CMP.8 on the previous decisions on methodological issues related to the Kyoto Protocol, including those relating to Articles 5, 7 and 8 of the Kyoto Protocol, part I: implications related to accounting and reporting and other related issues”.

⁶ Decision entitled “Implications of the implementation of decisions 2/CMP.7 to 4/CMP.7 and 1/CMP.8 on the previous decisions on methodological issues related to the Kyoto Protocol, including those relating to Articles 5, 7 and 8 of the Kyoto Protocol, Part II; implications related to review and adjustments and other related issues”.

⁷ Decision entitled “Modalities for the accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol”.

⁸ See paragraph 5 of the IRR.

⁹ See, in particular, table 3, IDs #15 and 16, of the IRR.

¹⁰ See, in particular, table 3, ID #18, of the IRR.

¹¹ Decision entitled “Implications of the implementation of decisions 2/CMP.7 to 5/CMP.7 on the previous decisions on methodological issues related to the Kyoto Protocol, including those relating to Articles 5, 7 and 8 of the Kyoto Protocol”.

¹² *Ibid.*, ID #18.

¹³ Decision entitled “Guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol”.

¹⁴ See, in particular, table 5, ID #KL.1, of the ARR.

¹⁵ See, in particular, table 5, ID #G14, of the ARR.

paragraph 1 of section X apply to the consideration by the branch of these questions of implementation.

10. The ERT calculated and applied adjustments to inventories under Article 5, paragraph 2, of the Kyoto Protocol as described in Section VI of the 2017 ARR. Kazakhstan did not agree with the adjustment estimated for CO₂, CH₄ and N₂O emissions from category 1.A fuel combustion (coking coal) and formally communicated its disagreement with the adjustment in its communication included in Annex VI to the 2017 ARR. On 28 February 2019, the members and alternate members of the enforcement branch were informed in writing of this disagreement.

11. Since the 2017 ARR that includes the disagreement whether to apply an adjustment also indicated questions of implementation allocated to the enforcement branch, in accordance with paragraph 7 of rule 25 ter of the rules of procedure, the enforcement branch may extend any time frames provided for in Rule 25 ter of the rules of procedure to align both procedures.

DECISION

12. 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. In particular, the enforcement branch notes that the questions of implementation raised in the IRR and in the 2017 ARR are supported by sufficient information, are not de minimis or ill-founded, and are based on the requirements of the Kyoto Protocol.

13. The enforcement branch decides to consider the questions of implementation and the disagreement whether to apply an adjustment together, following the expedited procedures as contained in paragraph 1 of section X, taking into account the possibility of aligning both procedures set out in paragraph 7 of rule 25 of the rules of procedure.

14. In accordance with paragraph 5 of section VIII and rule 21 of the rules of procedure, the enforcement branch decides to seek expert advice on the content and basis of the IRR and the 2017 ARR and on issues related to any decision of the enforcement branch with regard to the indicated questions of implementation and the disagreement whether to apply an adjustment.

Members and alternate members participating in the consideration and elaboration of the decision:

Ms. Eva ADAMOVA, Mr. Joseph AITARO, Mr. Mohammad Sa'dat ALAM, Ms. Marília T. ANTONÍO MANJATE, Ms. Karoliina ANTTONEN, Mr. Zhihua CHEN, Mr. Gerhard LOIBL, Mr. Leonardo MASSAI, Mr. Ba MOUSSA, Mr. Sébastien NGUYEN-BLOCH, Mr. Yaw OSAFO, Mr. Orlando REY SANTOS, Ms. Iryna RUDZKO, Mr. Ahmad RAJABI and Mr. Milan ZVARA

Members participating in the adoption of the decision on preliminary examination:

Mr. Joseph AITARO, Mr. Mohammad Sa'dat ALAM, Ms. Karoliina ANTTONEN, Mr. Zhihua CHEN, Mr. Gerhard LOIBL, Mr. Yaw OSAFO, Mr. Orlando REY SANTOS, Mr. Ahmad RAJABI Ms. Iryna RUDZKO, and Mr. Milan ZVARA.

This decision was adopted unanimously on 14 March 2019.