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6 February 2020

Dear Mr. Agabekov,

I am writing to you in my capacity of the chairperson of the enforcement branch of the Kyoto Protocol Compliance Committee.

Having received from Kazakhstan the plan submitted pursuant to Section XV of the annex to decision 27/CMP.1 (CC-2019-1-8/Kazakhstan/EB, the compliance plan), the branch wishes to welcome with appreciation the continued engagement by Kazakhstan on this matter and its efforts to-date to address the issues identified in the final decision of the branch.

Having assessed the compliance plan based on the criteria set out in paragraph 2 of the annex to decision 27/CMP.1 and rule 25bis of the rules of procedure of the Committee, the enforcement branch noted that the plan at this stage does not meet all of the requirements set out in the aforementioned decisions and rules of procedure.

The preliminary analysis considered by the branch is enclosed.

Considering the above, the branch agreed to defer the adoption of its decision on the assessment of the plan under rule 25bis of the rules of procedure beyond the indicative timeline set out in that rule.

The branch wishes to use this opportunity to request Kazakhstan to revise the compliance plan with a view to submitting the revised plan to the branch by 1 April 2020, following which the branch would adopt its decision under rule 25bis.

The revision of the plan should take into account the recommendations contained in the Report of the individual review of the annual submission of Kazakhstan submitted in 2017 (ARR), the Report on the review of the of the report to facilitate the calculation of the assigned amount for the second commitment period of the Kyoto Protocol of Kazakhstan (IRR), and the final decision of the enforcement branch with respect to compliance by Kazakhstan.

I would like to emphasize some of the recommendations on the revision of the plan that the branch considered. These include:

- (a) Addressing in Section II (causes of non-compliance) the specific causes for each of the issues identified in connection with the questions of implementation;
- (b) Addressing in detail (both in Section II and in Section III) the specific functions of the national system, including a range of fundamental elements, that in the course of the review by the ERT were found either missing or insufficient. The recommendations set out in paragraphs 17 and 21 of the enclosed analysis may provide some guidance as to the minimum that would be required for the plan to address the national system issues referred to in the final decision of the enforcement branch.
- (c) Including specific measures on how you plan to establish the registry, including what legislative or regulatory measures should be taken to initiate and complete the registry; what technical measures should be put in place, including allocation of responsible staff, IT and software support and any enabling budgetary allocations; whether and what additional capacity or skills might be required to undertake such measures; and what the timeframes for each step would be. It would be recommendable to develop a specific table addressing, at a minimum, the issues raised by the ERT in the IRR (table 3, ID# 18) and the specific timelines for each of the measures. This would include (1) identifying sources of financing for the development of the national registry, purchase of equipment and software; (2) preparing a detailed workplan for determining the configuration of the national registry, describing and analyzing the technologies that will be used to build it, with specific steps and timetables for their implementation; and (3) identifying specific steps taken and deadlines for their implementation, in accordance with this workplan, to ensure that the registry complies with the relevant provisions.
- (d) Addressing in Section II the analysis of causes as to why the LULUCF reporting information required under decision 2/CMP.8 was not included in the initial report and outlining in Section III how such causes would be addressed.
- (e) Identifying in Section III what specific measures are being undertaken to ensure that the 2020 annual submission and subsequent annual submissions contain the required SEF tables for meeting the mandatory reporting requirements.
- (f) Clarifying a realistic timeframe for the overall implementation of the plan and setting out timeframes for each measure set out in the plan of actions within the overall duration of the plan.
- (g) Proposing deadlines for periodic reports under paragraph 2 of Section XV of the annex to decision 27/CMP.1 for the whole duration of the plan.

The enclosed preliminary analysis includes further details on the issues that would need to be addressed in Sections II and III of the compliance plan. These are based on the recommendations already made in the reports and on the decisions I refer to above.

The branch would welcome a dialogue with Kazakhstan with a view to ensuring that the compliance plan helps address any challenges Kazakhstan may face in putting in place adequate measures and arrangements to address non-compliance and effectively responds to the national priorities and needs of the Party.

In this regard, we remain at your disposal should you have any questions or require any further information or advice from the branch.

Yours sincerely,

Milan Zvara
Chairperson, Enforcement Branch
Compliance Committee of the Kyoto Protocol

A handwritten signature in black ink, consisting of a stylized, cursive 'M' followed by a horizontal line extending to the right.

Enclosed: Initial analysis of the plan

Initial analysis of the plan submitted by Kazakhstan pursuant to the final decision of the enforcement branch of the Kyoto Protocol Compliance Committee (CC-2019-1-6/Kazakhstan/EB)

I. Introduction

1. On 27 December 2019, the secretariat received the hard copy of the plan under paragraph 1 of Section XV of [decision 27/CMP.1](#). The plan ([CC-2019-1-8/Kazakhstan/EB](#)) was submitted pursuant to paragraph 26 (b) of the preliminary finding on the questions of implementation with respect to Kazakhstan as confirmed by the final decision of the enforcement branch contained in document [CC-2019-1-6/Kazakhstan/EB](#).
2. The compliance plan was submitted by Kazakhstan to the secretariat in hard copy on 27 December 2019. On 13 January 2020, the secretariat requested Kazakhstan to provide it with the electronic copy of the plan so that it can be forwarded to the enforcement branch. Kazakhstan provided the secretariat with the electronic copy of the plan on 14 January 2020.
3. The submission of the plan is an overall welcome development. It should be noted with regret, however, that the plan was submitted with a 3 month delay.
4. The issues set out below informed the consideration by the enforcement branch of the adequacy of the plan to address non-compliance.

II. Mandate and relevant provisions

5. In accordance with **Section XV** of the annex to [decision 27/CMP.1](#), paragraph 2: the Party not in compliance under paragraph 1 of the annex to decision 27/CMP.1, shall, within three months after the determination of non-compliance, or such longer period that the enforcement branch considers appropriate, submit to the enforcement branch for review and assessment a plan that includes:
 - (a) An analysis of the causes of non-compliance of the Party;
 - (b) Measures that the Party intends to implement in order to remedy the non-compliance; and
 - (c) A timetable for implementing such measures within a time frame not exceeding twelve months which enables the assessment of progress in the implementation.
6. In accordance with Section XV of the annex to [decision 27/CMP.1](#), paragraph 3, the Party shall submit to the enforcement branch progress reports on the implementation of the plan on a regular basis.
7. In accordance with **Rule 25 bis** of the [Rules of procedure](#) of the Committee, a plan to be submitted by the Party concerned to the enforcement branch under paragraph 2 of section XV shall explicitly:
 - (a) Address, in separate sections, each of the elements specified in paragraph 2 or paragraph 6 of section XV;
 - (b) Respond to any specific issues raised in the part of the final decision of the enforcement branch applying the consequences.
8. In accordance with **Rule 25 bis**, the enforcement branch shall endeavour to conduct the review and assessment of the plan under paragraph 2 of section XV within four weeks from the date of receipt of the plan.
9. In its review and assessment, the enforcement branch shall assess whether the plan submitted:

- (a) Sets out and adequately addresses the elements and issues referred to in paragraph 1 of Rule 25;
- (b) If implemented, is expected to remedy the non-compliance or to meet the quantified emission limitation or reduction commitment of the Party concerned in the subsequent commitment period, as envisaged in paragraph 2 and paragraph 6 of section XV, respectively.

III. Assessment of and possible issues arising from the plan

A. Section II of the plan: Analysis of the causes of non-compliance and choice of a plan version to become in compliance

10. Section II does not appear to provide any information on the causes of non-compliance with regard to any of the elements set out in the final decision of the branch, such as an analysis of causes and reasons of, inter alia:

- (a) Why 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.1;
- (b) What specific steps and measures may be required to address the reasons for the failure to perform some functions of the national system;
- (c) How such steps and measures will specifically address issues raised in paragraph 5 (table 4) of the IRR, as described in IDs #15 and 16 of table 3 of the IRR.
- (d) Why the national registry was not established at the time of the submission of the report to facilitate the calculation of the assigned amount under the Kyoto Protocol of Kazakhstan;
- (e) What specific steps, and regulatory or institutional arrangements are required to establish the national registry in accordance with part II.A of annex to decision 13/CMP.1 in conjunction with decision 3/CMP.11;
- (f) What specific measures need to be taken to ensure that the information required by paragraph 1(m) of annex I to decision 2/CMP.8 is provided by Kazakhstan in a report to be submitted in the context of the compliance procedure or in an addendum or corrigendum to its initial report, including the description of the national registry in accordance with the provisions in part II.E of the annex to decision 15/CMP.1 in conjunction with decision 3/CMP.11;
- (g) What were the specific legislative, institutional, capacity or other impediments that led to the failure of Kazakhstan to provide in its annual GHG inventories the mandatory information 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;
- (h) What specific measures need to be taken to ensure that the information required by 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 is provided by Kazakhstan in its annual submission.
- (i) Provision of information on forest management reference levels in accordance with paragraph 1(i) of annex I to decision 2/CMP.8.

11. The implementation timeline of 25 September 2020 set out in the table in Section III is not consistent with the proposed timeline of 2022 indicated in the narrative part of Section II. It is not clear

what the projected overall timeframe of the plan would be: September 2020 or 2022. Overall, a longer timeline appears to be more feasible given the complexity of issues that need to be addressed to address non-compliance. Taking into account the time limit set out in Section XV, paragraph 2(c), of the annex to decision 20/CMP.1, the branch may consider the need for a more extended time frame.

12. Last but not least, the final paragraph in section II might require clarification as Kazakhstan appears to have relied on the 2006 IPCC Guidelines already for its 2015 inventory report. It would be helpful to clarify the statement and its relevance for the plan or the analysis of causes.

B. Section III of the plan: Planned measures to solve questions of implementation

Table, Element 2 – The functioning of the national system

13. The proposed measure in relation to the functioning of the national system appears to relate to clarification of general and specific functions. The plan indicates that the proposed measures are aimed at addressing issues related to quality assurance and quality control (QA/QC) procedures. The plan is not clear as to how specifically the changes in administrative functions would impact on the QA/QC. More importantly, the issues raised by the ERT in the IRR with respect to the functioning of the national system are not limited to the QA/QC process but include a range of very fundamental elements of the national system that were either missing or insufficient. There do not appear to be either causes for those problems identified in Section II or measures proposed in Section III of the plan on how to address such problems. Examples of such areas where problems were identified in the IRR, as noted in the preliminary finding and the final decision of the enforcement branch, are provided below.

Information flow and inter-agency cooperation

14. While a revision of the Order of the Ministry of Energy No. 214 could be helpful in addressing some of the identified problems, it is not likely to sufficiently address the overall functioning of the national system. A number of issues identified by the expert review team (ERT) in its report on the review of the report to facilitate the calculation of the assigned amount for the second commitment period of the Kyoto Protocol of Kazakhstan ([IRR](#)) (see paragraph 5 (table 4) and table 3, IDs # 15 on p.14) that led to the failure to perform some functions of the national system included: the lack of clearly established information flows and inter-agency cooperation, and problems with identification of mandates and responsibilities for both, information flows and the preparation and finalization of annual submissions under the Kyoto Protocol.

15. Among other issues, the ERT in the [IRR](#) (see paragraph 5 (table 4) and table 3, IDs # 15 on p.14) specifically noted that the lack of clearly defined institutional arrangements and mechanisms to ensure compliance with the allocated responsibilities for the inventory preparation in Kazakhstan may be the main reason for late NIR submissions in 2016 and 2017, and that the general functions for the national system, in accordance with decision 19/CMP.1 in conjunction with decisions 3/CMP.11 and 4/CMP.11, annex, section VI, paragraph 10(a) and (d), are not fully implemented by Kazakhstan.

16. The ERT noted that the indicated specific inventory planning functions need to be improved to allow Kazakhstan to ensure the quality of its national GHG inventory in accordance with relevant COP and CMP decisions (see IRR, Table 3, ID#15).

17. Regarding these issues, the ERT made specific recommendations in the IRR, which include:

- (a) Putting in place additional agreements and mechanisms to improve inter-agency cooperation and support that clearly define mandates for each inventory contributor and participant, regarding inventory roles and responsibilities, inventory funding and inventory resourcing;
- (b) Identifying roles and responsibilities for QA/QC and data verification for each inventory sector to ensure data quality and reliability; and

(c) Implementing arrangements for review, approval and sign-off processes to ensure timely annual submission of the NIR by the agreed submission due date.

18. Already at the time of the IRR review, in its response to the potential problem identified by the ERT, Kazakhstan noted that it had initiated the development of an action plan, which would include, among other things, the steps and the time frame for creating additional agreements to improve inter-agency cooperation and support, and that the plan will be presented in the next annual submission (table 3, IDs #15). The ERT assessed the information provided by Kazakhstan and found that it did not satisfactorily resolve the problem. The ERT noted that the response to most of the points raised by it, including the most important elements, lacked substantive information and detailed steps with clearly identified roles and responsibilities and relevant time frames to monitor the progress of implementation of the described activities and the action plan.

Technical competence of staff, building inventory capacity and ensuring business continuity

19. Furthermore, the ERT in the [IRR](#) (see table 3, issue # 16 of the IRR) noted that robust arrangements for technical competence of the staff involved in the inventory development process were not fully in place under Kazakhstan's national system and that building inventory capacity and its enhancement, and maintaining business continuity of the GHG inventory preparation and management were not included in the inventory planned improvements. The ERT also noted that the issues indicated above were preventing the national system from fully ensuring sufficient capacity for timely performance of its functions. During the review of Kazakhstan's initial report, the ERT identified actions on how such problems may be addressed. In its response to the problem identified by the ERT, Kazakhstan noted that appropriate conditions will be created for the development of skills and training of sector specialists. The ERT found that the response provided by Kazakhstan lacked substantive information on planned capacity-building actions and a description of planned actions, roles and responsibilities for those actions and the time frame for implementation of each action and, importantly, the action plan for inventory improvement, including enhancement of technical competence of the staff and building of the inventory capacity and maintaining business continuity, was not provided by Kazakhstan.

20. The compliance plan submitted by Kazakhstan does not address in detail any of the specific issues identified in the IRR that resulted in the questions of implementation being raised with regard to the functioning of the national system. Neither the analysis of causes in Section II nor the measures set out in Section III address any of the issues identified in the IRR and how they have been or will be addressed.

21. It would be recommendable to develop a specific table addressing, at a minimum, the issues raised by the ERT in table 3, IDs #15 and 16 and to provide specific timelines for each proposed measure and, if possible, indicate who is responsible for its completion and implementation.

Table, Element 3 – National registry

22. A description of whether the national registry is available or absent is not sufficient to address the mandatory requirements for reporting under the Kyoto Protocol. For such requirements to be met, the registry has to be established, it has to meet all the mandatory design and security requirements specified in the relevant CMP decisions and it has to pass all necessary tests for its establishment. All the mandatory information that is required under the CMP decisions should be reported by Kazakhstan.

23. For the plan to sufficiently address these issues, it has to include specific measures on how the Party plans to go about establishing the registry, including what legislative or regulatory measures should be taken to initiate and complete the registry; what technical measures should be put in place, including allocation of responsible staff, IT and software support and the enabling budgetary allocations; whether and what additional capacity or skills might be required to undertake such measures; and what the timeframes for each step would be.

24. Unless Kazakhstan has already undertaken a number of measures to implement the registry, it might need to consider whether a 6-months timeline is sufficient to fully implement all of the above measures (e.g. budgetary allocations for staff and IT work are usually planned in the annual budget of various agencies and, once implemented, the recruitment and tender processes normally take time before the necessary IT and other support is contracted). Any regulatory changes to formally establish the registry will also require a longer timeline.

25. In addition, the question of implementation also concerned the inclusion of the necessary information on the registry in the initial report. This means that: (a) it would not be sufficient to only reflect on whether the registry is available or not, but its full description needs to be set out in the report; (b) since the initial report has already been submitted, there may be a need to elaborate an addendum or corrigendum to the report or else, a separate report in the context of the compliance procedure, to be issued once the registry is established. Some further consideration might need to be given to this matter, including how to procedurally meet this requirement of reflecting the information in the IRR.

26. In order to adequately address the issues of compliance with the national registry requirements, the plan would need to address the individual elements required for the establishment and effective functioning of the registry. Some measures have already been identified by the ERT in the IRR (table 3, ID # 18) and include: (1) identifying sources of financing for the development of the national registry, purchase of equipment and software; (2) preparing a detailed workplan for determining the configuration of the national registry, describing and analyzing the technologies that will be used to build it, with specific steps and timetables for their implementation; and (3) identifying specific steps taken and deadlines for their implementation, in accordance with this workplan, to ensure that the registry complies with the relevant provisions.

27. It would be recommendable to develop a specific table addressing, at a minimum, the issues raised by the ERT in the IRR (table 3, ID# 18) and to provide specific timelines for each proposed measure and, if possible, indicate who is responsible for its completion and implementation.

Table, Element 4 – LULUCF reporting

28. The question of implementation related to compliance with the mandatory reporting requirements for land use land use change and forestry (LULUCF) set out in 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](#) arose from the Report of the individual review of the annual submission of Kazakhstan submitted in 2017 ([2017 ARR](#)).

29. It is difficult to assess based on the compliance plan whether the proposed step of inclusion of this very complex information is sufficient in itself. The information also has to meet the requirements set out in the decisions. An analysis of the causes in Section II of the plan is needed on why the information was not included or was not adequate in the initial report and how such causes are planned to be addressed, need to be set out in the plan of actions.

Table, Element 5 – SEF tables

30. One of the questions of implementation arising from the [2017 ARR](#) (see table 5, ID # G.14, p.57) was related to the failure to submit standard electronic tables (SEF). Submission of the SEF tables is a technical activity. Given that such activity seems easy to implement following the recommendations of

the ERT set out in the [2017 ARR](#), it would be helpful for the branch to understand what caused the continued failure to submit SEF tables at the time of the 2019 annual submission of Kazakhstan.¹

31. It would be recommendable for the plan to identify what specific measures are being undertaken to ensure that the 2020 annual submission contains the required SEF tables for meeting the mandatory reporting requirements.

Table, Element 6 – Periodic reports

32. Paragraph 3 of Section XV of the annex to [decision 27/CMP.1](#) requires that a Party submit to the enforcement branch progress reports on the implementation of the plan on a regular basis.

33. The proposed one-off submission of a report does not meet this requirement.

34. It should also be noted that the timeframe indicated in element 6 of the table of Section III (25 September 2020) ends in September 2020. It is not clear whether this is the proposed time by which the implementation of the plan would be concluded. If so, it does not correspond to the timeline set out in Section II of the compliance plan (implementation of the plan by 2022). And if September 2020 is proposed only as the first progress report deadline, then the plan fails to indicate what measures would be implemented thereafter and in the lead-up to 2022.

35. It would be recommendable for the Party to identify a realistic timeline for the implementation of all proposed measures, taking into account any specific recommendations of the branch on such measures. In this context, the 2022 timeline set out in Section II of the plan appears to be more feasible and more likely to result in addressing the causes of non-compliance and resolving the identified problems. While noting the time limits set out in paragraph 2 (c) of the Annex to decision 27/CMP.1, there may be reasons for the branch to consider a longer implementation time frame, if this helps the Party address compliance issues.

36. Should a longer time-frame be agreed, the branch may consider requesting periodic reports. Further consultations with Kazakhstan on the frequency of such reporting may be required.

IV. Conclusions and recommendations

37. At this stage, it appears that the compliance plan submitted by Kazakhstan does not fully set out and adequately address the elements and issues referred to in paragraph 1 of Rule 25 of the [Rules of procedure](#). In particular, it does not respond in sufficient level of detail to the specific issues raised in the the final decision of the enforcement branch.

38. While the plan contains a section on causes of non-compliance, the narrative in the section does not identify any specific causes for any of the issues identified in connection with the questions of implementation and other specified issues.

39. There is a need to address in detail (both in the analysis of the causes and in the design of the proposed measures of the plan) the specific functions of the national system, including a range of very fundamental elements, that in the course of the review by the ERT were found either missing or insufficient. The recommendations set out in paragraphs 17 and 21 above may provide some guidance as

¹ The 2019 annual inventory submission of Kazakhstan does not contain SEF tables: <https://unfccc.int/process-and-meetings/transparency-and-reporting/reporting-and-review-under-the-convention/greenhouse-gas-inventories-annex-i-parties/national-inventory-submissions-2019#fn2>.

to the minimum that would be required for the plan to address the national system issues referred to in the final decision of the enforcement branch.

40. With regard to the national registry, the plan would need to include specific measures on how the Party plans to go about establishing the registry, including what legislative or regulatory measures should be taken to initiate and complete the registry; what technical measures should be put in place, including allocation of responsible staff, IT and software support and the enabling budgetary allocations; whether and what additional capacity or skills might be required to undertake such measures; and what the timeframes for each step would be. It would be recommendable to develop a specific table addressing, at a minimum, the issues raised by the ERT in the [IRR](#) (table 3, ID# 18) and the specific timelines for each of the measures. This would include (1) identifying sources of financing for the development of the national registry, purchase of equipment and software; (2) preparing a detailed workplan for determining the configuration of the national registry, describing and analyzing the technologies that will be used to build it, with specific steps and timetables for their implementation; and (3) identifying specific steps taken and deadlines for their implementation, in accordance with this workplan, to ensure that the registry complies with the relevant provisions.

41. With respect to the mandatory LULUCF reporting requirements set out in [decision 2/CMP.8](#), Section II of the plan needs to outline the specific causes as to why the information was not included or was not adequate in the initial report and Section III and the plan of actions would need to set out how such causes would be addressed.

42. With regard to the SEF tables, it would be recommendable for the plan to identify what specific measures are being undertaken to ensure that the 2020 annual submission contains the required SEF tables for meeting the mandatory reporting requirements.

43. The timelines for the overall implementation of the time set out in Sections II and III are not clear and would need to be clearly specified. Timeframes for the implementation of each measure would need to be developed for the whole duration of the plan.

44. Once the overall timeframe of the plan is clarified, deadlines for periodic reports required under paragraph 2 of Section XV of the annex to [decision 27/CMP.1](#) should be set out for the whole duration of the plan (e.g. every 4 months beginning with April 2020 (so that the 1st progress report could reflect any improvements carried out in preparation and finalization of the 2020 annual submission in April and the 2nd progress report would be submitted in time for the consideration by the branch at its meeting in September 2020)).