

## **DECISION UNDER PARAGRAPH 2 OF SECTION X**

*Party concerned: Ukraine*

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),<sup>1</sup> the enforcement branch adopts the following decision.

### **BACKGROUND**

1. The final decision of the enforcement branch taken on 12 October 2011 (CC-2011-2-9/Ukraine/EB) gave effect to the consequences contained in paragraph 24 of the preliminary finding of the branch (CC-2011-2-6/Ukraine/EB), as confirmed by and annexed to the final decision. According to paragraph 24 (b) of the preliminary finding, Ukraine was to develop a plan referred to in paragraph 1 of section XV,<sup>2</sup> in accordance with the substantive requirements of paragraph 2 of section XV and paragraph 1 of rule 25 bis; submit it within three months to the enforcement branch in accordance with paragraph 2 of section XV; and report on the progress of its implementation in accordance with paragraph 3 of section XV.
2. On 7 December 2011, Ukraine submitted a document entitled “Plan submitted in accordance with paragraph 24 (b) of the preliminary finding (CC-2011-2-6/Ukraine/EB), confirmed by the final decision of the Enforcement Branch concerning Ukraine (CC-2011-2-9/Ukraine/EB) and in accordance with 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” (CC-2011-2-10/Ukraine/EB; hereinafter referred to as the “plan”). In accordance with paragraph 2 of rule 10 of the rules of procedure, Ukraine’s plan was deemed received by the enforcement branch on 8 December 2011.
3. During the seventeenth meeting of the enforcement branch, held from 20 to 21 December 2011, the branch reviewed and assessed Ukraine’s plan in accordance with paragraph 2 of section XV. The branch concluded, based on the information submitted and presented, that the plan met the requirements set out in paragraph 2 of section XV and paragraph 1 of rule 25 bis of the rules of procedure. The branch commended Ukraine for the plan and the progress already made. The branch noted that not all the measures described in the plan had yet been implemented and urged Ukraine to carry out all the measures contained in the plan.<sup>3</sup>
4. Following an in-country review (10 to 15 October 2011), the report of the individual review of the annual submission of Ukraine submitted in 2011, contained in document FCCC/ARR/2011/UKR, was published on 13 January 2012 (2011 ARR). On 18 January 2012, the secretariat forwarded the 2011 ARR to the Committee, including the members and alternate members of the enforcement branch, in accordance with paragraph 3 of section VI.

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<sup>1</sup> 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.

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

<sup>3</sup> Paragraph 4, decision on the review and assessment of the plan submitted under paragraph 2 of section XV (CC-2011-2-11/Ukraine/EB).

5. On 23 January 2012, Ukraine submitted a request to the enforcement branch, pursuant to paragraph 2 of section X, for the reinstatement of its eligibility to participate in the mechanisms under Articles 6, 12 and 17 of the Kyoto Protocol (CC-2011-2-12/Ukraine/EB).

6. On 7 February 2012, Ukraine submitted the “First progress report submitted in accordance with paragraph 5 of the Decision on the review and assessment of the plan submitted under paragraph 2 of section XV (CC-2011-2-11/Ukraine/EB) adopted by the Enforcement Branch concerning Ukraine and in accordance with section XV, paragraph 3 of the Procedures and mechanisms relating to compliance under the Kyoto Protocol” (CC-2011-2-13/Ukraine/EB; hereinafter referred to as the “first progress report”). During its eighteenth meeting held in Bonn from 7 to 8 and 10 February 2012, the branch commended Ukraine for the submission of the first progress report before the date indicated at its seventeenth meeting and for the significant progress already made, as reflected in the 2011 ARR. The branch noted that not all the measures described in Ukraine’s plan had yet been implemented and urged Ukraine to carry out all the measures contained in the plan. The branch welcomed Ukraine’s statement that it will submit further progress reports by 1 May 2012 and 1 November 2012.<sup>4</sup>

7. In accordance with paragraph 2 of section X, the branch began its consideration of Ukraine’s request for reinstatement during its eighteenth meeting. In its consideration of Ukraine’s request, the branch recognized that it needed further clarification on the preparation and contents of the 2011 ARR in order to be in a position to conclude its consideration of the request for reinstatement. It therefore decided to defer the adoption of a decision under paragraph 2 of section X pending the receipt of expert advice, including from one or more members of the expert review team (the ERT) that prepared the 2011 ARR (CC-2011-2-14/Ukraine/EB).

8. On 6 March 2012, the enforcement branch decided to invite two experts drawn from the UNFCCC roster of experts to provide advice to the branch (CC-2011-2-15/Ukraine/EB) in accordance with paragraph 5 of section VIII and rule 21. Both experts were from the ERT that reviewed Ukraine’s 2011 annual submission.

9. During the nineteenth meeting of the enforcement branch, held in Bonn from 8 to 9 March 2012, the branch continued its consideration of the request to reinstate Ukraine’s eligibility in accordance with paragraph 2 of section X. The enforcement branch received advice from the two invited experts during the meeting. It was only at that meeting, when additional information was received from the invited experts, that the branch was in a position to complete its consideration of the request for reinstatement. In its deliberations, the enforcement branch considered the 2011 ARR, the first progress report on the plan and the additional information presented by Ukraine at the eighteenth and nineteenth meetings of the branch.

## REASONS AND CONCLUSIONS

10. In the 2011 ARR, the ERT found that:

- (a) Ukraine has put in place the mandatory requirements for a national system under Article 5, paragraph 1, of the Kyoto Protocol<sup>5</sup> and Ukraine’s national system performs its required functions as set out in “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” (annex to decision 19/CMP.1; hereinafter referred to as the “guidelines for national systems”),<sup>6</sup> as was demonstrated by Ukraine during the week of the in-country review;<sup>7</sup>

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<sup>4</sup> Paragraph 4, decision to defer the adoption of a decision under paragraph 2 of section X (CC-2011-2-14/Ukraine/EB).

<sup>5</sup> Paragraph 22, 2011 ARR.

<sup>6</sup> Paragraphs 13, 22, 178 and 191, 2011 ARR.

<sup>7</sup> Paragraph 26, 2011 ARR.

- (b) Ukraine's 2011 annual submission has been prepared and reported in accordance with the UNFCCC reporting guidelines,<sup>8</sup> and is generally in line with the Revised 1996 Intergovernmental Panel on Climate Change (IPCC) Guidelines for National Greenhouse Gas Inventories,<sup>9</sup> the IPCC Good Practice Guidance and Uncertainty Management in National Greenhouse Gas Inventories<sup>10</sup> and the IPCC Good Practice Guidance for Land Use, Land-Use Change and Forestry;<sup>11, 12</sup> and Ukraine's 2011 annual submission covers all sectors and categories;<sup>13</sup>
- (c) The inventory for the LULUCF sector has been prepared in accordance with the IPCC good practice guidance for LULUCF<sup>14</sup> and significant improvements were implemented;<sup>15</sup>
- (d) The reporting of activities under Article 3, paragraph 3, of the Kyoto Protocol and elected activities under Article 3, paragraph 4, of the Kyoto Protocol (hereinafter referred to as "KP-LULUCF activities") has been prepared in accordance with the IPCC good practice guidance for LULUCF and the quality of KP-LULUCF reporting had been significantly improved.<sup>16</sup>

11. While no questions of implementation were identified by the ERT during the review,<sup>17</sup> the ERT made a number of recommendations, including relating to various aspects of the national system.<sup>18</sup>

12. In response to the questions raised in the decision on expert advice referred to in paragraph 8 above and at the nineteenth meeting, the invited experts clarified a number of issues in relation to the recommendations contained in the 2011 ARR, including the following.

- (a) In comparison with the 2010 annual submission of Ukraine, the 2011 annual submission has reflected a significant improvement in the LULUCF-related aspects of the national system. The recommendations relating to further improvements in the LULUCF sector of the inventory, reporting on KP-LULUCF activities and incorporation of the LULUCF sector into the national system were directed towards an ongoing need to improve the national system and did not suggest that the system was not performing its functions;
- (b) With regard to the recommendation to use the geographic information system (GIS) database in assessing land uses and land-use changes no later than in the 2014 annual submission,<sup>19</sup> it was pointed out that, in accordance with the IPCC good practice guidance for LULUCF, GIS-generated data would be required to enable accurate

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<sup>8</sup> Paragraph 184, 2011 ARR. "UNFCCC reporting guidelines" refers to the "Guidelines for the preparation of national communications by Parties included in Annex I to the Convention, Part I: UNFCCC reporting guidelines on annual inventories" contained in FCCC/SBSTA/2006/9.

<sup>9</sup> <<http://www.ipcc-nggip.iges.or.jp/public/gl/invs1.htm>>; hereinafter referred to as the "revised 1996 IPCC guidelines".

<sup>10</sup> <<http://www.ipcc-nggip.iges.or.jp/public/gp/english>>; hereinafter referred as the "IPCC good practice guidance".

<sup>11</sup> <<http://www.ipcc-nggip.iges.or.jp/public/gpglulucf/gpglulucf.htm>>; hereinafter referred to as the "IPCC good practice guidance for LULUCF".

<sup>12</sup> Paragraph 6, 2011 ARR.

<sup>13</sup> Paragraph 7, 2011 ARR.

<sup>14</sup> Paragraph 124, 2011 ARR.

<sup>15</sup> Paragraphs 124, 129 and 131, 2011 ARR.

<sup>16</sup> Paragraphs 161 and 188, 2011 ARR.

<sup>17</sup> Paragraph 197, 2011 ARR.

<sup>18</sup> Inter alia, paragraphs 194–196, 2011 ARR.

<sup>19</sup> Paragraph 125, 2011 ARR.

accounting of KP-LULUCF activities at the end of the commitment period.<sup>20</sup> In the meantime, it was sufficient to ensure consistency between different data sources and coherence of the reported data by other means. In this regard, unlike in the 2010 annual submission, alternative data sources were used in the 2011 annual submission to provide the required data;

- (c) With regard to the observation in the 2011 ARR that some areas of Ukraine's inventory are not completely in line with the revised 1996 IPCC guidelines, the IPCC good practice guidance and the IPCC good practice guidance for LULUCF,<sup>21</sup> it was pointed out that these shortcomings did not prevent the ERT from concluding that Ukraine's inventory is generally in line with these guidelines.

13. The experts also clarified that the measures presented in Ukraine's plan referred to in paragraph 2 above to be implemented in the 2012 and 2013 annual submissions of Ukraine were aimed at further improving consistency and transparency of data, but were not necessary for the national system to perform its functions in accordance with the guidelines for national systems.

14. The enforcement branch concludes, on the basis of the information submitted and presented, that the information now available is sufficient to conclude that the question of implementation put before the branch<sup>22</sup> has been resolved.

15. The branch notes that not all the measures described in Ukraine's plan have yet been implemented and that some of these measures will only be fully implemented in the 2013 annual submission, in particular the full availability of the GIS database for the assessment of land uses and land-use changes. The branch urges Ukraine to carry out all of the measures contained in its plan and to include a progress report on the implementation of the plan in its 2012 and 2013 annual submissions.

## DECISION

16. 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 Ukraine's eligibility, and that Ukraine 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:* Mirza Salman BABAR BEG, Victor FODEKE, Rueanna HAYNES, Alexander KODJABASHEV, René LEFEBER, Gerhard LOIBL, 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, Raúl ESTRADA-OYUELA, Victor FODEKE, Rueanna HAYNES, Alexander KODJABASHEV, René LEFEBER, Gerhard LOIBL, Sebastian OBERTHÜR.

This decision was adopted by consensus in Bonn on 9 March 2012, 15:32:22 Greenwich Mean Time.

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<sup>20</sup> Ukraine chose end of commitment period accounting in accordance with paragraph 8 (d) of the annex to decision 13/CMP.1.

<sup>21</sup> Paragraph 186, 2011 ARR.

<sup>22</sup> Paragraph 4, decision on preliminary examination (CC-2011-2-2/Ukraine/EB).