



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 17.10.2006
COM(2006) 602 final

Proposal for a

COUNCIL DECISION

establishing the position to be adopted on behalf of the European Community with regard to a proposal for amendment of the Kyoto Protocol to the United Nations Framework Convention on Climate Change

(presented by the Commission)

EXPLANATORY MEMORANDUM

The ultimate objective of the United Nations Framework Convention on Climate Change (UNFCCC) and of its Kyoto Protocol is to achieve, in accordance with the relevant provisions of the Convention, the stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.

The European Community ratified the Kyoto Protocol to the UNFCCC in 2002.¹ It is therefore a Party to this Agreement.

The second meeting of the Conference of the Parties to the UNFCCC serving as the Meeting of the Parties to the Kyoto Protocol (COP/MOP2) will take place in Nairobi, Kenya, from 6 to 17 November 2006.

According to Article 3 of the Kyoto Protocol, the Parties included in Annex I to the UNFCCC shall, individually or jointly, ensure that their aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A to the Kyoto Protocol do not exceed their assigned amounts, calculated pursuant to their quantified emission limitation and reduction commitments inscribed in Annex B with a view to reducing their overall emissions of such gases by at least 5 per cent below 1990 levels in the commitment period 2008 to 2012.

Belarus is included in Annex I to the UNFCCC but not in Annex B to the Kyoto Protocol. Belarus, by a letter dated 9 February 2006, proposed an amendment to Annex B to the Kyoto Protocol in order to be added to that Annex with a quantified emission limitation or reduction commitment of 95% of the base year. COP/MOP2 is invited to consider the proposed amendment and to take any action it deems necessary.

According to the Article 300.2 of the EC Treaty, a decision of the Council, acting by a qualified majority on a proposal from the Commission, is necessary, *inter alia*, for the purpose of establishing the positions to be adopted on behalf of the Community in a body set up by an agreement, when that body is called upon to adopt decisions having legal effects, with the exception of decisions supplementing or amending the institutional framework of the agreement. The European Parliament shall be immediately and fully informed of such Council decision.

A decision of COP/MOP2 on the amendment proposed by Belarus would be a decision with legal effects. Therefore, it is necessary for the Council to adopt a decision establishing the position of the Community on this issue.

Belarus has submitted two national communications and its national report on demonstrable progress to the UNFCCC Secretariat. The Community is giving technical support to Belarus in the framework of the TACIS programme to foster the implementation of the Kyoto Protocol in Belarus.

Belarus' general ambition to take on an emission reduction target under the KP is to be welcomed. However, the proposed amendment would, in its current form, not ensure the environmental integrity of the Kyoto Protocol, because it would allow Belarus a surplus of

¹ Council Decision 2002/358/CE, OJ L130, 15.5.2002, p.1.

emission quotas (Assigned Amount Units, AAUs) that would be significantly above that of other Economies in Transition and Annex I Parties of similar population size.

In view of the above, at COP/MOP2, the Community should not support the adoption of an amendment to Annex B of the Kyoto Protocol proposed by Belarus unless the environmental integrity of the Protocol is ensured.

It should be noted that, following the flawed presidential elections in Belarus 19 March 2006, the EU maintains a policy of restricted bilateral contact with Belarus. Community contacts with Belarus will have to be kept at technical and non-political level at the conference in Nairobi.

Proposal for a

COUNCIL DECISION

establishing the position to be adopted on behalf of the European Community with regard to a proposal for amendment of the Kyoto Protocol to the United Nations Framework Convention on Climate Change

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular article 175 paragraph 1, in conjunction with the second subparagraph of Article 300 (2),

Having regard to the proposal from the Commission²,

Whereas:

- (1) The European Community ratified the Kyoto Protocol to the United Nations Framework Convention on Climate Change (UNFCCC) in 2002.³ It is therefore a Party to this agreement.
- (2) The second meeting of the Conference of the Parties to the UNFCCC serving as the Meeting of the Parties to the Kyoto Protocol (COP/MOP2) will take place in Nairobi, Kenya, from 6 to 17 November 2006.
- (3) According to Article 3 of the Kyoto Protocol, the Parties included in Annex I to the UNFCCC shall, individually or jointly, ensure that their aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A to the Kyoto Protocol do not exceed their assigned amounts, calculated pursuant to their quantified emission limitation and reduction commitments inscribed in Annex B with a view to reducing their overall emissions of such gases by at least 5 per cent below 1990 levels in the commitment period 2008 to 2012.
- (4) Belarus is included in Annex I to the UNFCCC but not in Annex B to the Kyoto Protocol and has proposed an amendment to Annex B to the Kyoto Protocol in order to be added to that Annex with a quantified emission limitation or reduction commitment of 95% of the base year. This amendment will be considered at COP/MOP2.
- (5) The decision on the amendment proposed by Belarus concerns environmental protection and is going to have legal effects. Therefore, it is necessary for the Council to adopt a decision establishing the position of the Community on this issue at

² COM(2006) xxx final

³ Council Decision 2002/358/CE, OJ L130, 15.5.2002, p.1.

COP/MOP2 on the basis of Article 175 paragraph 1, in conjunction with the second sub-paragraph of Article 300(2).

- (6) Belarus has submitted two national communications and its national report on demonstrable progress to the UNFCCC Secretariat. The Community is giving technical support to Belarus in the framework of the TACIS programme to foster the implementation of the Kyoto Protocol in Belarus.
- (7) Belarus' general ambition to take on an emission reduction target under Annex B of the Kyoto Protocol is to be welcomed. However, the proposed amendment would, in its current form, not ensure the environmental integrity of the Kyoto Protocol, because it would allow Belarus a surplus of Assigned Amount Units that would be significantly above that of other Economies in Transition and Annex I Parties of similar population size.
- (8) At COP/MOP2, the Community and the Member States should cooperate closely to ensure that any compromise amendment to the amendment proposed by Belarus to Annex B is compatible with Community law and ensures the environmental integrity of the Kyoto Protocol.
- (9) An amendment to Annex B should not be supported by the Community unless it is compatible with Community law and ensures the environmental integrity of the Kyoto Protocol.
- (10) The European Parliament shall be immediately and fully informed of Council decisions taken under Article 300(2).

HAS DECIDED AS FOLLOWS:

Sole Article

1. At the second meeting of the Conference of the Parties to the United Nations Framework Convention on Climate Change serving as the Meeting of the Parties to the Kyoto Protocol, the Commission shall not support on behalf of the Community the adoption of the amendment to Annex B proposed by Belarus in its current form.
2. The Community and the Member States shall cooperate closely to ensure that any compromise amendment to the amendment proposed by Belarus to Annex B is compatible with Community law and ensures the environmental integrity of the Kyoto Protocol. Should that not be the case, the Commission shall not support on behalf of the Community the adoption of the compromise amendment.

Done at Brussels,

*For the Council
The President*