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DRAFT RECOMMENDATION

on the proposal for a Council decision on the conclusion of the Doha Amendment to the Kyoto Protocol to the United Nations Framework Convention on Climate Change and the joint fulfilment of commitments thereunder

(COM(2013)0768 – C7- 0000 – 2013/0376(NLE))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Vladimir Urutchev

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a Council decision on the conclusion of the Doha Amendment to the Kyoto Protocol to the United Nations Framework Convention on Climate Change and the joint fulfilment of commitments thereunder
(COM(2013)0768 – C7-0000/2013 – 2013/0376(NLE))**

(Consent)

The European Parliament,

- having regard to the proposal for a Council decision (COM(2013)0768),
 - having regard to the Amendment to the Kyoto Protocol adopted at the eighth session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, held in Doha, Qatar in December 2012 (Doha Amendment to the Kyoto Protocol),
 - having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1), in conjunction with Article 218(6)(a),
 - having regard to the request for consent submitted by the Council in accordance with Article 352 of the Treaty on the Functioning of the European Union (C7-0000/2013),
 - having regard to Rule 81(1) of its Rules of Procedure,
 - having regard to the recommendation of the Committee on the Environment, Public Health and Food Safety and the opinion of the Committee on Foreign Affairs (A7-0000/2014),
1. Consents to the proposal for a Council decision;
 2. Instructs its President to forward its position to the Council and the Commission.

EXPLANATORY STATEMENT

on the proposal for a Council decision on the Conclusion of the Doha Amendment to the Kyoto Protocol to the United Nations Framework Convention on Climate Change and the joint fulfilment of commitments.

Introduction

The Kyoto Protocol to the United Nations Framework Convention on Climate Change was signed in 1997 setting an internationally binding emission reduction targets. The EU ratified the Protocol in 2002 and stated that it and its 15 Member States at the time would make use of this provision to fulfill the EU's emissions commitment jointly. The European Union and its Member States were thus jointly responsible under the Kyoto Protocol's compliance mechanism for fulfilling the commitment to reduce their collective GHG emissions in the first (2008-2012) period by 8% below 1990 levels.

In its conclusions of 9 March 2012, the Council agreed to propose a joint quantified emission reduction commitment of 20% for the second commitment period of the Kyoto Protocol for the Union.

This Council position was followed by its Member States during the Doha Climate Change Conference held in December 2012, where the 192 Parties to the Kyoto Protocol to the United Nations Framework Convention on Climate Change adopted an amendment to the Protocol.

The Doha amendment establishes a second commitment period under the Kyoto Protocol (KP CP2), starting on 1 January 2013 and ending on 31 December 2020, with legally binding emission reduction commitments according to which the European Union, its Member States and Iceland are committed to limit their average annual greenhouse gas (GHG) emissions in the years 2013 to 2020 to 80% of their base year emissions (mostly 1990).

Alongside with it, the Doha Amendment makes three more changes to the text of the Kyoto Protocol to be implemented in the second commitment period which concern the following: firstly, the inclusion of a new gas (nitrogen trifluoride); secondly, an ambition mechanism providing for a simplified procedure to allow a Party to adjust its commitment by increasing its ambition during a commitment period; and thirdly a provision which automatically adjusts a Party's target to prevent an increase in its emissions for the period 2013 to 2020 beyond its average emissions for the years 2008 to 2010.

The Doha Amendment is subject to acceptance by the Parties to the Kyoto Protocol and will enter into force only after the date of receipt by the Convention Depository of the acceptance instruments by at least three fourths of the Parties to the Kyoto Protocol.

Therefore it is necessary the ratification of the Doha Amendment by the EU, its Member States and Iceland to be carried out in a timely manner.

Objective

The proposal for a Council Decision provides the basis for the conclusion of the Doha Amendment by the European Union and sets out the terms of the joint fulfilment of the commitments by the European Union, its Member States and Iceland.

The proposal

- confirms that the European Union and its Member States will fulfil their commitments jointly, including with Iceland (Article 2)
- clarifies responsibilities for submitting reports to facilitate the calculation of assigned amounts by the Commission and the Member States (Article 3)
- contains provisions on the responsibilities for depositing the instrument of acceptance of the Doha Amendment with the United Nations (Article 4), and on the joint deposition of the instruments of acceptance (Article 5(1))
- requires Member States to take the necessary steps to complete their domestic ratification processes not later than 16 February 2015, as far as possible (Article 5(2)) and to inform the Commission of the probable date of completion of the relevant procedures by 15 September 2014 (Article 5(3)).

Legal basis

The legal basis for the current proposal for a Council Decision is Article 192(1), in conjunction with Article 218(6) (a) of the Treaty on the Functioning of the European Union (TFEU).

The European Parliament decides with consent.

Position of the rapporteur

The rapporteur welcomes the draft Commission proposal for a Council Decision on the Conclusion of the Doha Amendment to the Kyoto Protocol and the joint fulfilment of commitments thereunder. He believes that it provides all necessary bases for the conclusion of the Doha Amendment by the European Union, its Member states and Island.

The rapporteur would like to highlight the following main aspects:

Joint fulfilment agreement

The rapporteur reminds that based on the Climate and Energy Package adopted in 2009, in particular the EU's Emissions Trading System (EU ETS) and the Effort Sharing Decision, the EU and its Member States are already implementing a 20% emissions reduction by 2020 which in fact allowed them to agree to implement their commitments for the second period of the Kyoto Protocol. In this respect he wishes to underline that the proposal does not change Member States' targets or obligations under the 2009 'Climate and Energy Package' legislation.

The Kyoto Protocol requires Parties to a joint fulfilment agreement to set out and notify, together with their ratification instruments, the emission levels allocated to each member of that agreement (Article 4(1) of the Kyoto Protocol).

The emission levels allocated to each Member State (and Iceland) are set out in Table 1 to Annex I of the proposed Council Decision. These emission levels in tonnes of carbon dioxide equivalent (tCO₂eq) equal the sum of Annual Emission Allocations (AEAs) in the years 2013 – 2020 for each Member State, based on the Effort-Sharing Decision (ESD) (Decision 406/2009) and cover all the sources and sinks on the territory of that Member State as covered by the Kyoto Protocol, with the exception of sources included in the EU Emissions Trading System (EU ETS). The precise AEA numbers are set out in Commission Decision 2013/162 of 26 March 2013 and Commission Decision 2013/634 of 31 October 2013.

The EU emission level/assigned amount covers the emissions in the Member States and Iceland from sources included in the EU ETS that are also within the scope of the Kyoto Protocol.

The Commission Proposal does not set an absolute number for the EU assigned amount. Instead, it requires this to be calculated as the difference between the joint assigned amount of the EU, its Member States and Iceland, and the sum of the assigned amounts of the Member States and Iceland. This means that the risks associated with the uncertainty of the total size of the joint assigned amount rests with the EU assigned amount, not with the assigned amount of individual Member States. This risk follows from the fact that the joint assigned amount will only be determined in the report to facilitate the calculation of the joint assigned amount and is subject to potential adjustments following the review of this report by the UN Expert Review Teams.

This also means that in the event of failure to achieve the total combined level of emission reductions in the agreement, members of the agreement are responsible for the level of emissions allocated to that member under the joint fulfilment agreement (Article 4(6) of the Kyoto Protocol).

Nevertheless, the rapporteur considers that the EU ETS built-in compliance procedures, the Kyoto Protocol market-based mechanisms and the possibility for use of first commitment period surplus will help ensure that EU non-compliance is extremely unlikely.

Third countries participating in or linked with the EU ETS

Although Iceland is not an EU Member State, it does participate in the EU ETS and it intends to fulfil its commitment in KP CP2 jointly with the EU and its Member States. The rights and obligations applying to Member States in the joint fulfilment need to be made applicable to Iceland through EU legislation and the new agreement between the EU, all Member States and Iceland, which the Commission was given the mandate to negotiate.

The participation in the EU ETS of third countries that are not part of the joint fulfilment agreement (Liechtenstein, Norway) does not affect the joint fulfilment between the EU, its Member States and Iceland. Where a net clearance of KP units, consistent with transfers of EU Allowances between these countries and the EU is necessary, the relevant technical details would have to be laid down and applied.

For the Third countries linking with the EU ETS, not participating in the joint fulfilment (Switzerland and possibly others), any details concerning net clearance of KP units reflecting net trades in EU allowances between the EU and a third country will need to be set out in the linking agreement between the EU and that third country.

Reporting and accounting requirements

Under the Second commitment period of the Kyoto Protocol each Party is required to submit a report to facilitate the calculation of its assigned amount and to demonstrate its capacity to account for its emissions and assigned amount (the initial report). The detailed requirements for the initial reports are laid down in Decision 2/CMP.8.

The proposed Ratification Decision provides for a joint initial report of the EU, its Member States and Iceland, to be prepared by the Commission, and individual Initial Reports of each Member State and Iceland. The joint initial report should contain the required information relating to the joint commitment, based on which the joint assigned amount is calculated, and set out the EU assigned amount.

All initial reports will be subject to a review by expert teams at international level but the assigned amounts of the Member States or Iceland would not be subject to adjustments in the review of their respective Initial Reports.

The proposed Ratification Decision is based on the assumption that the EU as well as its Member States continue to submit individual national greenhouse gas inventories as well as national communications in line with internationally agreed reporting requirements, implemented under EU law through Art.7 of the MMR Regulation.

As required, Member States should report which share of their national total emissions are covered by the EU ETS, to ensure that the compliance assessment only takes the respective Member State's or Iceland's emissions from non-ETS sectors into account. The EU would continue to report the complete greenhouse gas inventory for the EU and its Member States, in line with Kyoto Protocol rules.

The relevant international rules governing the accounting for emissions and progress towards achievement of commitments in the KP CP2 were agreed in substance, albeit not formally adopted, in Warsaw in November 2013. Their formal adoption should take place at the next climate conference in Lima in December 2014. In Warsaw, the European Union and all other Parties with a commitment in KP CP2, declared that they consider the substantively agreed part of these international rules to be closed and that they will transpose them into the domestic law.

The rapporteur considers important to underline that the formal submission of the ratification instruments of the EU, its Member States and Iceland to the UN should in any case take place after the Lima climate conference at the end of 2014, and therefore only after the scheduled formal adoption of the accounting rules. This would allow the EU to reconsider its ratification options should the current substantive agreement on the accounting rules be reopened in a way that this affects the joint fulfilment agreement.

Carry-over, share of proceeds and Kyoto Protocol market mechanisms

The proposal for Council Decision does not contain specific provisions for the technical implementation of the Kyoto Protocol through management of units in the registries system of the Union and its Member states during the second commitment period. In this regard the proposed Ratification Decision assumes that agreements reached in Doha in December 2012 on the carry-over of the amounts surpluses from the first commitment period, the issuance of emission reduction units (ERUs) under the market mechanisms and the international transfer of Allocated Amounts of Units (AAU) should be applied and used by Parties accordingly. It is also obvious that the necessary technical rules have to be developed and adopted in order to ensure consistency in the application of the Kyoto Protocol provisions on EU and Member States level.

The proposed ratification decision is also based on the assumption that each member of the joint fulfilment agreement is responsible for establishing and maintaining its own eligibility in relation to Kyoto transactions involving its national registry, in accordance with KP rules. For Member States that have not yet established their eligibility this means that they cannot participate in KP transactions in their KP registry until that eligibility is established. Transfers of international credits for compliance purposes in the EU ETS are undertaken in the EU KP registry and are thus covered by the eligibility of the EU.

Kyoto Protocol ambition mechanism

The Annex to the Proposal for the Council ratification Decision makes it clear that each member of the joint fulfilment agreement may increase its ambition level through cancelling KP units. It also requires any submission under Article 3 (1 ter) and (1 quater) of the KP to be made jointly.

Under the Commission Proposal, each Member State may unilaterally increase its ambition through the voluntary cancellation of KP units. Any formal increase in the EU target, as well as any resulting change in the joint fulfilment agreement will however need to be done jointly. The Commission Proposal does not set out the procedures for making such a formal change. These procedures will need to be decided upon in the context of any decision to increase the EU target.

Conclusion

The rapporteur considers that the ratification decision on the conclusion of the Doha Amendment to the Kyoto Protocol and the joint fulfilment of the commitments by the European Union will send a strong signal about the efforts and the leadership of the EU and its Member States to address climate change at international level.

That is why the rapporteur perceives the formal entry into force of the Doha Amendment among the priority objective for the European Union since the Kyoto Protocol has a crucial contribution in global efforts to tackle climate change.

He also invites the Council to take the necessary steps to finalise its position on Doha Amendment ratification as soon as possible so that the domestic ratification processes in the MS can take place no later than the Autumn 2014 and together with the EU, they can deposit their instrument of acceptance well before the Paris Climate Change Conference in 2015.

Given the above mentioned considerations, the Rapporteur suggests that the Committee responsible and the European Parliament give their consent to the draft Commission proposal for a Council Decision without unnecessary delays and not later than the end of the current parliamentary term.