



Annex 2

**INFORMATION NOTE ON THE PARTICIPATION
OF BELARUS AND KAZAKHSTAN IN JI**



I. Introduction

1. Prompted by a query from the JI Action Group, the JISC requested the secretariat to prepare an information note on legal matters involving the participation of Belarus and Kazakhstan in JI for the JISC's consideration at its twentieth meeting.

II. Belarus

2. At its second session, by decision 10/CMP.2, 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 (CMP) adopted an amendment to Annex B to the Kyoto Protocol (Annex B) to include Belarus with a quantified emission limitation and reduction commitment of 92 percent for the first commitment period under Article 3 of the Protocol and invited Parties to the Protocol to ratify, accept or approve the amendment contained in the annex to the decision.

3. As of 21 January 2010, the Depositary had received 20 instruments of acceptance of the amendment by Parties. Pursuant to Article 20, paragraph 4, of the Protocol the entry into force of the amendment requires the deposit of instruments of acceptance by at least three fourths of the Parties to the Protocol. In effect, Belarus is not an Annex B Party to the Kyoto Protocol at this time.

4. In a letter dated 22 August 2007, Belarus submitted a proposal to allow it to participate in the first commitment period of the Kyoto Protocol before the entry into force of this amendment to Annex B. The proposal was added as item 20(b) to the CMP3 agenda and the UNFCCC secretariat's office of Legal Affairs (LA) prepared a legal opinion regarding the proposal.

5. The opinion prepared by LA (attached as Annex I) states that, although "in the final analysis, it is for Parties to interpret the legal instruments and the decisions they have adopted," Belarus would not be eligible to participate in JI before the amendment to Annex B to include Belarus entered into force because "one of the eligibility criteria for participation in the mechanisms ... is that the Party must have an assigned amount calculated and recorded in accordance with decision 13/CMP.1" and "only Annex B Parties could satisfy this requirement."

6. Accordingly, at CMP3, the Parties did not agree to the participation of Belarus in the mechanisms before the amendment to Annex B entered into force but agreed that the secretariat could organize a review of reports submitted by Belarus before the amendment entered into force in order to facilitate the timely initial eligibility of Belarus once the amendment entered into force.

7. **Conclusion:** To date, the Depositary has not received the number of instruments of acceptance required for the entry into force of the amendment to Annex B to include Belarus. Belarus thus remains ineligible to participate in JI until the amendment to Annex B to include Belarus enters into force.

III. Kazakhstan

8. By Kazakhstan's ratification of the Kyoto Protocol on 9 June 2009 and its entry into force for Kazakhstan on 17 September 2009, Kazakhstan became a Party included in Annex I for the purposes of the Kyoto Protocol in accordance with Article 1, paragraph 7, of the Protocol, while remaining a Party not included in Annex I for the purposes of the Convention.

9. On 18 September 2009, Kazakhstan submitted a proposal to CMP5 to "amend Annex B to the Kyoto Protocol to include the name of Kazakhstan with a quantified emission limitation and reduction commitment."



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10. Noting the requirement in Article 21 of the Kyoto Protocol that the text of any proposed amendment to an annex “be communicated to the Parties by the secretariat at least six months before the meeting at which it is proposed for adoption,” the CMP requested the secretariat to “communicate the text of the proposed amendment to Annex B by Kazakhstan to Parties and signatories to the Convention, as soon as possible” and agreed to place this item on the provisional agenda for CMP6.

11. **Conclusion:** Kazakhstan’s proposal to amend Annex B to include Kazakhstan will not be considered until CMP6. At CMP6, the CMP will decide whether to adopt an amendment to Annex B to include Kazakhstan. Until the adoption of such an amendment and its entry into force in accordance with relevant Protocol provisions, Kazakhstan will remain ineligible to participate in JI.
