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HOW THE KYOTO PROTOCOL CAN COME INTO FORCE WITHOUT THE USA

Greenpeace Briefing Paper

**Sixth Session (Part Two) of the Conference of the
Parties to the United Nations Framework Convention
on Climate Change**

**16-27 July, 2001
Bonn, Germany**



Greenpeace International

How the Kyoto Protocol can come into force without the USA

SUMMARY

To enter into force now, the Kyoto Protocol needs the ratification of enough industrialized countries so that their combined 1990 emissions of CO₂ is at least 55% of the total for industrialized countries in that year. With the rejection of the Protocol by the USA, which accounts for 36.1% of the 1990 CO₂ emissions of the industrialized countries, there are two main ways in which the Protocol can be ratified. Both routes involve the ratification of the European Union and all of its member states and the Russian Federation, as well most of group made up of the Central and East European Countries: Estonia, Latvia, Norway and Switzerland.

The principle route to entry into force requires Japan to ratify the Protocol. Under the scenario, with all of the above countries ratifying, the total emissions accounted for would be 58.25%. In this route, slow ratification by some of the Central and Eastern European countries would not fundamentally determine the timetable for entry into force of the Protocol.

The second route, in the case that Japan does not ratify, requires the ratification of Australia and Canada and all of the above countries, whose total emissions would account for 55.14% of the total 1990 CO₂ emissions.

There may be another way of the Protocol to enter into force, taking into account the emissions of Ukraine.

Under Article 25, Paragraph 2 of the Protocol, Ukraine's emissions are not counted as it had not submitted its first national communication at the time of the adoption of the Protocol in 1997. Hence an amendment to the Protocol may be needed if Ukraine's ratification were to count. If the Ukraine were to be counted, then required along with its ratification (and those of all European Union and all of its member states and the Russian Federation, the Central and East European Countries, Estonia, Latvia, Norway and Switzerland) would be that of Canada.

BACKGROUND

For the Kyoto Protocol to enter into force it needs both the:

- a) Ratification of Annex B countries (those with targets) whose combined emissions are 55% or more of the 1990 CO₂ emissions from industrial sources for it to enter into force.
- b) Ratification of 55 countries.

As at the 9th of May 2001, 34 countries have ratified the Kyoto Protocol, of which one, Romania is an Annex B Party accounting for 1% of 1990 CO₂ emissions of that group. This means that, in effect, the 55 country threshold has been met, as any feasible combination of countries making up the 55% of emissions and not including the USA, would take the total number over the 55 country threshold.

The CO₂ emissions from each Annex B country that would be used for the 55% threshold calculation were agreed at COP3 (which was Annexed to the report of that meeting) and are included at the end of this note. At the time of COP3, emissions data for Croatia, Lithuania, Slovenia and the Ukraine were not available, hence would have to be added to the agreed list of emissions for Annex B Parties in order to count toward entry into force. In this context it should be noted that Paragraph 2 of Article 25 states quite clearly that:

‘For the purposes of this Article, “the total carbon dioxide emissions for 1990 of the Parties included in Annex I” means the amount communicated on or before the date of adoption of this Protocol by the Parties included in Annex I in their first national communications submitted in accordance with Article 12 of the Convention .’

The clear implication is that an amendment to this paragraph of the Protocol would be needed if the emissions of those Annex B countries who had not reported by the time of COP3 were to be included in the calculation for the entry into force of the Protocol. Nevertheless, there are a range of legal viewpoints on the effects of including the CO₂ emissions reported by Croatia, Lithuania, Slovenia and the Ukraine in their first national communications. These are explored below.

ASSUMPTIONS

The graph below shows all the feasible scenarios for entry into force, assuming the USA does not ratify and

all of the EU, Switzerland, Central and East European countries and the Baltic States (see below) and the Russia Federation ratify.

In addition, an assumption is made for one branch of the possible scenarios that the emissions of the Ukraine can count towards entry into force of the Protocol. Under Article 25, Paragraph 2 of the Protocol, Ukraine’s emissions are not counted, as it had not submitted its first national communication at the time of the adoption of the Protocol in 1997. Hence an amendment to the Protocol may be needed if Ukraine’s ratification were to count. If there is an amendment or some other decision that would enable the table of CO₂ emissions pertaining to the 55% CO₂ emissions threshold (Article 25) for entry into force of the Protocol to include the emissions of Ukraine, (and presumably Croatia, Lithuania and Slovenia) then there is the possibility of an extra pathway to entry into force. For the purposes of this exercise, it has been assumed that given this situation there is no amendment to the emissions of other countries, and that these remain based on first national communications. The first national communications of Ukraine, Croatia, Lithuania and Slovenia were not available at COP3 and hence not included in the agreed table. Their emissions are available, but to amend the list of emissions agreed at COP6 to include them may be difficult, if not impossible without an amendment to paragraph 2 of Article 25. For this exercise, the Ukraine CO₂ emissions for 1990 are those appearing in the summary table of the In Depth Report of the first Ukrainian National Communication for this category of CO₂ emissions.

RESULTS

The feasible scenarios all include ratification of the European Union, the Russian Federation, Switzerland, Central and Eastern countries, Estonia, Latvia, and Norway, which tally to 49.70% of the total emissions in the Table of 1990 CO2 emissions Annexed to the COP3 report.

If Japan ratifies this would bring the total to 58.25%, and the protocol would enter into force.

If Japan does **not** ratify then there appear to be two and only two other scenarios, only one of which appears to be practically feasible. This requires the ratification of Australia and Canada producing a total of 55.14%. Ratification by New Zealand would add marginally to this.

The second one involving the Ukraine is likely to require an amendment to Paragraph 2 of Article 25 of the Protocol or some other legal decision, which would explicitly permit the Ukraine's emissions to count. In this case the ratification of Canada would be required in addition to the Ukraine.

The unlikely scenario including the Ukraine requires Canada to ratify. If

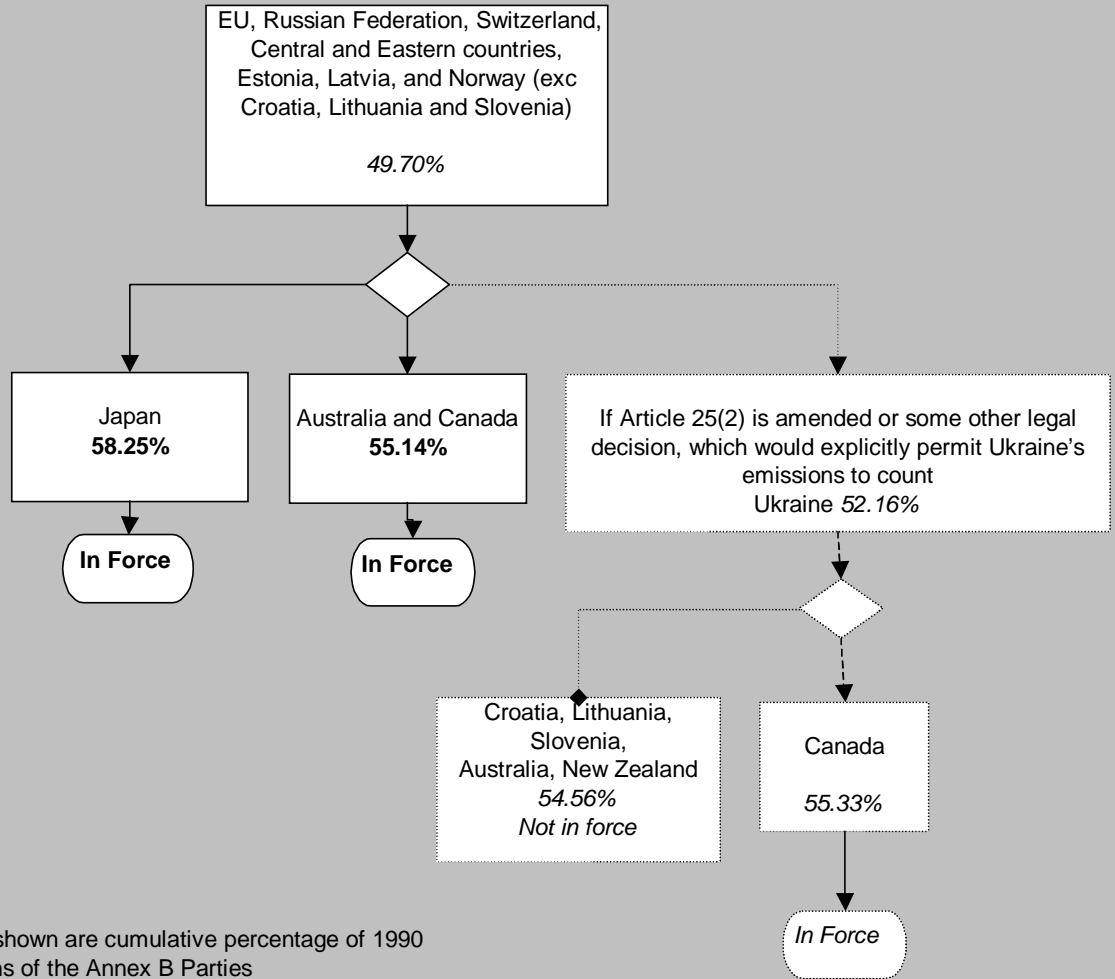
Canada does not ratify, there are no other feasible scenarios in this mode. Even if all the remaining parties listed in Annex B (Croatia, Lithuania, Slovenia, Australia, New Zealand) ratified (not of course including Japan or the USA) the total would be 54.56%. It should be noted that addition of the Ukraine dilutes the effect of other parties, as it raises the denominator in the entry into force calculation.

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July 2001

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Ratification Scenarios



Percentages shown are cumulative percentage of 1990 CO2 emissions of the Annex B Parties

Source: Bill Hare, Greenpeace International

Table: Total carbon dioxide emissions of Annex I Parties in 1990, for the purposes of Article 25 of the Kyoto Protocol ^a

Party	Emissions (Gg)	Percentage
Australia	288,965	2.1
Austria	59,200	0.4
Belgium	113,405	0.8
Bulgaria	82,990	0.6
Canada	457,441	3.3
Czech Republic	169,514	1.2
Denmark	52,100	0.4
Estonia	37,797	0.3
Finland	53,900	0.4
France	366,536	2.7
Germany	1,012,443	7.4
Greece	82,100	0.6
Hungary	71,673	0.5
Iceland	2,172	0.0
Ireland	30,719	0.2
Italy	428,941	3.1
Japan	1,173,360	8.5
Latvia	22,976	0.2
Liechtenstein	208	0.0
Luxembourg	11,343	0.1
Monaco	71	0.0
Netherlands	167,600	1.2
New Zealand	25,530	0.2
Norway	35,533	0.3
Poland	414,930	3.0
Portugal	42,148	0.3
Romania	171,103	1.2
Russian Federation	2,388,720	17.4
Slovakia	58,278	0.4
Spain	260,654	1.9
Sweden	61,256	0.4
Switzerland	43,600	0.3
United Kingdom of Great Britain and Northern Ireland	584,078	4.3
United States of America	4,957,022	36.1
Total	13,728,306	100.0

[a] Data based on the information from the 34 Annex I Parties that submitted their first national communications on or before 11 December 1997, as compiled by the secretariat in several documents (A/AC.237/81; FCCC/CP/1996/12/Add.2 and FCCC/SB/1997/6). Some of the communications included data on CO₂ emissions by sources and removals by sinks from land-use change and forestry, but since different ways of reporting were used these data are not included.