

Information Note

to the Draft Government Decision on Approving the Establishing and Operation of the National System for Monitoring and Reporting Greenhouse Gas Emissions and Other Information Relevant to Climate Change

The rationale of issuing the document:

The Ministry of Environment has prepared the Draft Government Decision on Establishing and Operation of the National System for Monitoring and Reporting Greenhouse Gas Emissions and Other Information Relevant to Climate Change in order to create the legal framework to strengthen the institutional capacities and to ensure the monitoring of all anthropogenic emissions of greenhouse gas emissions by sources and removals by sinks in respect to gases which are not controlled by the 1987 Montreal Protocol, to assess progress in fulfilling the commitments on relevant emissions and to comply with reporting requirements under the United Nations Framework Convention on Climate Change (UNFCCC) ratified by Parliament Decision No. 404-XIII of March 16, 1995 (Official Gazette of the Republic of Moldova of April 27, 1995, No. 23), the Kyoto Protocol ratified by Law No. 29 of February 13, 2003 (Official Gazette of the Republic of Moldova No. 48 of March 18, 2003), the Paris Agreement signed by the Republic of Moldova on September 21, 2016 in New York and entered into force internationally on November 04, 2016, and decisions adopted based on them.

While improving the legislation of the Republic of Moldova in view of its harmonization with the European Union legislation, the optimal solution for fulfilling the provisions of the Association Agreement the Republic of Moldova - European Union, (specifically referring to Article 77, letter g) of Chapter 14, "Cooperation in Energy Sector", which provides for cooperation of parties in reducing emissions of greenhouse gases; art. 87, letter l) of Chapter 16, "The Environment", which provides for cooperation of parties in systems for monitoring and information in the environmental area, art 93, letters a)-f) of Chapter 17 "Climate policies" which provides for cooperation of parties in mitigation of climate change, adaptation to climate change, trade with certificates of carbon dioxide emissions, research, development, demonstration, implementation and dissemination of technologies with low carbon dioxide emissions that are environmentally safe and sustainable, as well as technologies for adaptation to climate change, mainstreaming climate issues in the sectorial policies and in activities for awareness building, education and training, Art. 95, letters a)-i) of Chapter 17 "Climate policies", which provides for cooperation of parties in development and implementation of a Climate Strategy and an Action Plan for long term mitigation of climate change effects and adaptation to them, of assessments in respect to climate change vulnerability and adaptation to climate change, of a national strategy for adaptation to climate change, of a low carbon development strategy, of some long term measures for reducing greenhouse gas emissions, of some measures aiming at preparing for trading with carbon dioxide emission certificates, of measures for technology transfer based on an assessment of technology needs, of some measures aimed at mainstreaming climate considerations in sectorial policies as well as measures on ozone depleting substances) and in view of partial transposition of the Regulation (EU) No. 525/2013 of the European Parliament and of the Council of May 21, 2013 on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information relevant to climate change at national and Union level and on repealing Decision No. 280/2004/EC (JO UE nr. L 165/18.06.2013), the adoption of a regulatory document establishing a mechanism for monitoring and reporting of greenhouse gas emissions and reporting at national and international levels of other information relevant to climate change would be appropriate.

The pressing need to develop the said Decision of the Government is seen in provisions of the Action Plan for implementing the Environmental Strategy for 2014-2023 approved by Decision of the Government No. 301 of April 04, 2014 (Official Gazette of the Republic of Moldova of May 06, 2014, No. 104-109), which provides for short-term priority actions in adaptation to and mitigation of climate change.

The content of the international norms largely coincides with the Regulation (EU) No. 525/2013. Given this fact, we can state that the harmonization process of the Moldovan legislation with the EU legislation in respect to implementation of a mechanism for monitoring and reporting greenhouse gas emissions, allows for concurrent improvement of the national legislation, taking into account the principles of the United Nations Framework Convention in Climate Change, the Kyoto Protocol, those of the Paris Agreement and the relevant decisions of signatory parties of the Convention.

In order to address the concerns about the growing threat of global climate change resulting from increasing concentrations of greenhouse gases in the atmosphere, to honour the commitments undertaken by signing the United Nations Framework Convention on Climate Change, the Kyoto Protocol and the Paris Agreement - to stabilize concentrations of greenhouse gases in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system, to achieve this objective, the overall increase in mean annual temperatures at the surface should not exceed the pre-industrial levels by more than 2°C. The Republic of Moldova, through adoption of this Governmental Decision, creates a unique framework for monitoring, reporting and verification of anthropogenic emissions by sources and removals by sinks of greenhouse gas emissions which are not controlled by the Montreal Protocol.

In this context, the national monitoring, detailed reporting and periodic assessment of greenhouse gas emissions is of great significance, along with evaluation of the efforts of the Republic of Moldova to tackle climate change.

During the Conference of the Parties to the UNFCCC, Decisions 1/CP.15 and 1/CP.16 were adopted, which contributed significantly to the achieved progress in addressing the challenges of climate change in a balanced manner. Those decisions have introduced new monitoring and reporting requirements that apply with regard to the implementation of ambitious emission reduction strategies, and propose provision of financial support to developing countries. The Decision 1/CP.16 calls for Signatory Parties to the UNFCCC to develop strategies or plans for low carbon emission development. It is expected that such strategies or plans will contribute to transition to a society with low carbon emissions and ensure continued high growth and sustainable development, as well as achievement of cost-efficient progress in terms of reaching the long-term climate objective, taking proper consideration of the intermediate stages. In view of the above listed Decisions, this Regulation aims at facilitating transition to a low carbon society by implementation of the monitoring and reporting requirements.

Article 5 (1) of the Kyoto Protocol requires the Parties to establish and maintain a national system for estimating anthropogenic emissions by sources and removals by sinks of all greenhouse gas emissions not controlled by the Montreal Protocol, with a view to ensure the implementation of other provisions of the Kyoto Protocol.

Under the UNFCCC, the Signatory Parties have committed to develop, regularly update, publish and report to the Conference of the Parties the national inventories of anthropogenic emissions by sources and removal by sinks of all greenhouse gas emissions not controlled by the 1987 Montreal Protocol, on substances that deplete the ozone layer - to the Vienna Convention for the Protection of the Ozone Layer, using comparable methodologies agreed by the Conference of Parties. Parties have also committed to report periodically information on policies and measures in respect to climate change, as well as their projected effects on GHG emissions. The establishment of systems for monitoring and reporting of projections, combined with better guidance on reporting, will significantly contribute to achieving these objectives.

By this Decision of the Government, both Article 5 (1) of the Kyoto Protocol, and the Decision 1/CP.16, as well as relevant provisions and decisions taken under UNFCCC, calling for the establishment of national institutional arrangements for achieving these provisions, will be complied with.

It is necessary that the Republic of Moldova provides improved information in view of monitoring progress and undertaken actions on adaptation to climate change. Reporting of information on adaptation will enable the country to share the best international practices and to

assess funding needs for adapting to climate change and preparedness needed to address adaptation to climate change at national, sectorial and local levels, including by attracting external funding through the UNFCCC mechanisms as provided for developing countries (Global Environment Fund, Adaptation Fund, Green Climate Fund, etc.).

In addition, Decision 1/CP.16 also provides for a new technology mechanism to enhance international technology transfer. This Governmental Decision aims at ensuring reporting, based on the best available data, updated information on activities concerning transfer of technologies to mitigate GHG emissions and adapt to climate change by industrially developed countries.

A number of technical elements related to reporting of emissions by sources and removals by sinks in respect to greenhouse gas emissions, such as global warming potentials, the scope of reported greenhouse gas emissions and methodological guidance from the IPCC to be used to prepare national greenhouse gas inventories, are currently being discussed under the UNFCCC process. Revisions of those methodological elements in the context of the UNFCCC process and subsequent recalculations of the time series of greenhouse gas emissions may change the level and trends of GHG emissions. The Central Environmental Authority of the Republic of Moldova, through the Climate Change Office, will monitor such developments at international level and, if necessary, will propose revising this Governmental Decision to ensure consistency with the methodologies used in the context of the UNFCCC process.

The Central Environmental Authority of the Republic of Moldova aims to support sustainable development and to help achieve significant and measurable improvement of the environment at national and global levels by providing timely, targeted, relevant and reliable data to policy-makers, public institutions and the public. The Climate Change Office will assist the Central Environmental Authority of the Republic of Moldova with monitoring and reporting work, especially in the context of the inventory system and its system of mitigation projections, policies and measures; in evaluating progress towards meeting the emissions reduction commitments; in assessing the impact of climate change, vulnerabilities and adaptation to climate change, as well as in communicating sound climate information to the public.

All requirements concerning the provision of information and data under this Governmental Decision should be subject of rules on data protection and commercial data confidentiality.

Information and data gathered under this Governmental Decision may also contribute to the climate change policy formulation and assessment.

The Central Environmental Authority of the Republic of Moldova should follow the implementation of the monitoring and reporting requirements under this Government Decision, as well as future developments registered under UNFCCC, Kyoto Protocol and the Paris Agreement in order to ensure consistency. In this respect, the Central Environmental Authority should submit, if appropriate, legislative proposals to the Parliament of the Republic of Moldova.

The legal aspect:

The analysis of national legislation allows highlighting a number of its elements which, to some extent, are specific to more efficient monitoring, reporting and verification of greenhouse gas emissions; however, these elements, as separate items, do not allow assessment of their application taking into account the provisions of the UNFCCC, the Kyoto Protocol, the Paris Agreement and the decisions adopted thereunder.

The current Law on Environmental Protection (No. 1515-XII of June 16, 1993) provides for a general obligation of the Central Environmental Authority regarding compliance with bilateral and international agreements, ensuring monitoring and public awareness building on the state of the environment, Art. 15.

We shall underline the pressing need to adopt a new version of the Law on Environmental Protection that would facilitate strengthening legal regulation in the area through special provisions in the following aspects: bases of the environmental information system; regulating climate change aspects and creation of the national system for inventory of

anthropogenic greenhouse gas emissions by sources and removals by sinks, respectively establishing reporting systems and requirements for collecting data on fluorinated greenhouse emissions in the relevant sectors.

Item 27 of the Action Plan for implementation of the Environmental Strategy for the years 2014-2023 approved by Government Decision No. 301 of April 24, 2014, provides for institutionalization of the protective functions of forests, soil, air and climate change in the system of environmental protection.

The need to develop a national inventory of GHG emissions is mentioned in the Action Plan for establishing an energy statistics system approved by Government Decision No. 141 of February 24, 2014, Chapter 2.1 letter h) and respectively, Chapter 1.2, Action 6.4, Work Package 8.

Activities on data collection and processing of primary and aggregated data, data storage, dissemination of statistical information, submission of statistical data to international bodies are generally regulated by Law No. 412 of December 09, 2004 on Official Statistics.

Objectives related to mitigating greenhouse gas emissions are stipulated in several national regulatory acts including the National Development Strategy "Moldova 2020", the Energy Strategy of the Republic of Moldova up to 2030, the Law on Energy Efficiency, the Law on Renewable Energy, the National Strategy for Waste Management for 2013-2027 and others.

The national law comprises no provisions governing the relations in assessment of projection and mitigation policies related to anthropogenic greenhouse gas emissions by sources and their removals by sinks.

Moreover, no specific provisions exist in the national law regarding the management of the national inventory of greenhouse gas emissions, the procedures for selection of estimation methods and emission factors needed to estimate greenhouse gases emissions, procedures for data processing, archiving and storage, procedures for reporting the National Inventory under the Kyoto Protocol, Regulation (EU) No. 525/2013 and the Paris Agreement.

The development of the draft Government Decision was also conditioned by the need to promote state policies in harmonizing national legislation with EU legislation and to implement international agreements to which the Republic of Moldova is party, including in environmental protection and by the need to promote policies aimed at ensuring the transition to a low carbon society and sustainable development and working out a mechanism for monitoring and reporting of greenhouse gas emissions.

Name and contents of the draft document:

The name of the regulatory act: Government Decision on Establishing and Operation of the National System for Monitoring and Reporting Greenhouse Gas Emissions and Other Information Relevant to Climate Change.

The contents of proposed regulatory act: The draft Government Decision on Establishing and Operation of the National System for Monitoring and Reporting Greenhouse Gas Emissions and Other Information Relevant to Climate Change of Annex 1 to this Decision consists of a Preamble, 5 chapters (72 items) and 3 annexes. It states:

- In Chapter I "*General Provisions*", the purpose, objectives and scope; definitions; tasks and competences of the Central Environmental Authority with reference to low carbon development strategies and national determined contributions.
- In Chapter II "*Mode of organization*", provisions on the organization and operation of the national inventory system, general and specific obligations of the competent authority in respect to the inventory; overall reporting requirements in respect to the national inventory of greenhouse gas emissions.
- In Chapter III "*Reporting on policies and measures, as well as projections of anthropogenic greenhouse gas emissions by sources and sequestration by sinks*", provisions on national policy systems, mitigation actions and projections, as well as reporting on mitigation policies, measures and projections.

- In Chapter IV "*Reporting on other information relevant to climate change*", provisions on reporting of information on assessing vulnerability to climate change, impacts of climate change and adaptation actions, as well as financial and technology support provided by developed countries, and provisions regarding the support received for preparation of updated biennial reports and national communications.
- In Chapter V "*Transitional and final provisions*", a statement on final provisions, including penalties and compliance with the Regulation provided in Annex I to this Government Decision.

As long as no specific measures are taken for collection and monitoring of data relevant for calculations of global trends and application of measures for reducing anthropogenic emissions, the concentration of greenhouse gas of anthropogenic origin will continue to grow in the atmosphere, thus contributing to enhancing the greenhouse effect and to additional warming of the atmosphere.

The *purpose* of this Government Decision is to create the legal framework for establishing and operation of the national system for monitoring and reporting of greenhouse gas emissions and other information relevant to climate change.

In the short-term: to bridge the existing regulatory gap in establishment of a timely, transparent, accurate, consistent and full monitoring and reporting of anthropogenic greenhouse gas emissions by sources and removals by sinks, in respect to greenhouse gases which are not controlled by the Montreal Protocol under the UNFCCC in order to reduce greenhouse gas emissions, as well as to project national greenhouse gas emissions beyond 2020.

In the long-term: to contribute to transparent and accurate monitoring of the actual and projected progress at national level regarding fulfilment of long-term commitments to limit emissions of anthropogenic greenhouse gas in the context of needed up to 80-95% reductions as compared to 1990 levels by 2050 as required according to IPCC.

The economic aspect:

Awareness is growing that stopping climate change requires a shift towards building a low-carbon society that would provide substantial opportunities and ensure continued economic growth and sustainable development.

The implementation of the Government Decision will contribute to balanced decision-making at the macroeconomic level, thus contributing to protection of the environment and public health; to minimizing the environmental impact of economic activities (such as in energy sector, industrial production, operation of transportation, fossil fuel burning in the institutional, commercial, residential sectors, in agriculture, forestry and fisheries, in industrial processes and products use, in agriculture, land use, land-use change and forestry and in waste sectors). There is no doubt that expenditure for combating negative consequences is much greater than expenditure for prevention of environmental pollution.

In this context, it is worth mentioning that over the period 1990-2013, the dynamics of total greenhouse gases with direct effect, expressed in CO₂ equivalent, has shown a downward trend in the Republic of Moldova. The emissions have reduced by about 70.4%, from 43.4 million tonnes CO₂ equivalent in 1990 to 12.8 million tonnes CO₂ equivalent in 2013.

The Energy Sector is the most important source of total national greenhouse gases emissions with direct greenhouse effect, its share having varied over the period 1990-2013 within the range of 79.6% to 65.5%. Other significant sources of greenhouse gases with direct greenhouse effect were registered in the sectors: Agriculture (11.6% in 1990 and 16.6% in 2013), Waste (4.3% in 1990 and 12.2 % in 2013) and Industrial Processes (4.2% in 1990 and 5.2% in 2013).

Over the period 1990-2013, the emissions from the Energy Sector have decreased by about 75.7%, those from Industrial Processes Sector - by about 63.5%, and those from Solvents and Other Products Use Sector – by 47.2%, from Agriculture Sector - by 58.0%, from LULUCF Sector - by 98.3% and those from Waste Sector – by 16.1%.

The estimated impact of the approval of the Government Decision will be substantial, since it will introduce priorities for mitigating GHG emissions in the aforementioned sectors, as well as in sectorial, branch and territorial strategies, plans and programs.

The financial aspect:

The implementation of the Government Decision provisions that are associated with the collection of information, activity data and emission factors, as well as other data needed to estimate greenhouse gases emissions, as well as other information relevant to climate change, does not require additional expenditures from the State Budget. The basic competencies of public administration staff will be exercised by existing number of employees of the respective authorities, as established by the Government of the Republic of Moldova within the annual budgetary allocations.

Concurrently, in order to reach the goal of this Government Decision, the expectation exists to receive external financial support offered through the mechanisms of the Global Environment Facility (GEF). Thus, for the preparation of National Communications to the UNFCCC the GEF Trust Fund provides to developing countries an amount of US\$500,000 every 4 years, while for preparing the Biennial Update Reports, an amount of US\$352,000 is granted every 2 years.

Organizational aspect:

The Ministry of Environment, as the author of the Government Decision, recommends establishing an appropriate legal framework to create the national system for monitoring and reporting of greenhouse gas emissions and other information relevant to climate change and to ensure its operation.

The Climate Change Office organised within the framework of the Ministry of Environment of the Republic of Moldova, has full responsibility for activities related to the preparation of national communications, updated biennial reports, national inventory reports and national inventories of greenhouse gas emissions.

However, the implementation of the Government Decision will not be possible without a reorganization of the current institutional arrangements. The reorganized institutional mechanism should provide for well-defined competencies, rights and obligations, without overlap in the activities of the divisions within the central entity and regional ones.

The reorganization of the institutional arrangements and institutionalization of functions to combat climate change will be achieved through clear delineation of functions in the process of reform of the environmental protection system, which is to be implemented soon.

The preliminary analysis of the regulatory impact of the above-mentioned draft document was reviewed at the meeting of the Working Group set up under the "Low Emissions Capacity Building Programme – Republic of Moldova" project supported by the European Union, the Federal Ministry of Environment, Nature Conservation and Nuclear Safety of Germany and the Government of Australia and implemented by UNDP in partnership with the Ministry of Environment and its Climate Change Office over the April 2014 – December 2016.

According to Art. 37 letter f1) of Law No. 317 of July 18, 2003 on the Regulatory Acts of the Government and acts of other central public administration authorities and local authorities and Art. 13 of Law No. 235 of July 20, 2006 on principles for regulating entrepreneurship activity, the Information Note to the draft regulatory document should also include an Act on Analysis of the Regulatory Impact, if the draft legislation regulates entrepreneurial activity. The Regulatory Impact Analysis is a justification of the need for adopting the regulatory act and the analysis of its impact on business activity based on the cost – benefit analysis, including protection of rights and interests of entrepreneurs and those of the state. However, according to section 7 of the Methodology for analysing the regulatory impact and monitoring of the effectiveness of regulatory acts (Government Decision No. 1230 of October 24, 2006) only the regulatory legal acts on entrepreneurial activity are subject to regulatory impact analysis.

Accordingly, this Government Decision, being a document focused primarily on institutionalizing monitoring and reporting functions related to greenhouse gas emissions and other information relevant to climate change within the environmental protection system is not subject to Laws No. 317 of July 18, 2003 and No. 235 of July 20, 2006.

A response from the Centre for Legal Approximation was received in form of Statement No ... of ... saying that the draft Government Decision has passed the compatibility expert evaluation.

While preparing this draft Government Decision, the procedural rules applicable to ensure transparency of decision making provided by Law No. 239-XVI of November 13, 2008 on Transparency in Decision Making were observed. The draft Government Decision, along with the Information Note are publicly available on the official website of the Ministry of Environment (<http://mediu.gov.md/>) in the section 'Transparency in decision making' / 'Projects under discussion' and on the website of the Climate Change Office (<http://clima.md/>) in Section 'National framework' / 'National programs and strategies' / 'GHG emission inventory'.

Minister

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