



Future Climate without Risk for Life!

Ukrainian NGO Working Group on Climate Change

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Position on International Emission Trading

Climate Change Working Group (hereinafter referred to as CCWG) is a network of 18 non-governmental and non-profitable environmental organizations all over Ukraine. Our aim is introduction of environmentally sound climate change mitigation policies in Ukraine, transparent use of Kyoto Protocol mechanisms, raising public awareness on climate change and mobilizing civil society for actions. You can find more about CCWG at www.climategroup.org.ua

I. Introduction. Prerequisites for Ukraine to participate in international emissions trading

International emissions trading mechanism and “green investment scheme”

In 1992 Ukraine signed a UN Framework Convention on climate change and in 2004 ratified Kyoto Protocol with obligation not to exceed 1990 baseline greenhouse gases volume or 921,79 mln of tons of CO₂ by 2012. According to the last inventory of greenhouse gas emissions in Ukraine the actual emissions in 2006 were 445.05 mln tons of CO₂e or 48% of the 1990 baseline level.

International emission trading is one of three flexible mechanisms under Kyoto Protocol. This mechanism is meant for a group of countries bound by quantitative commitment to reduce greenhouse gas emission (Annex 1 countries) during 2008-2012. If a country from Annex 1 list has gone beyond the amount stated in Kyoto Protocol and reached greater greenhouse gas reduction, it can sell its quota surplus to another country that has difficulties meeting its engagements. This mechanism was originally meant to allow Annex 1 countries to buy emission allowances on more beneficial terms to fulfil its greenhouse gas reduction obligations.

In fact, in most countries, e.g. Russia, Ukraine, Czech Republic, Poland, Romania, surplus of carbon credits is the result of economies slowing down and rebuilding after 1988 - 1990 rather than of purposeful state policy to reduce emissions of greenhouse gases. So even without Kyoto Protocol greenhouse gas emission level of these countries would be the same as it is now. These greenhouse gas emission quotes are also called ‘hot air’, since by purchasing them other countries are able to meet their obligations to comply with Kyoto Protocol, however this does not mean that greenhouse gas emissions in the world are reduced.

International environmental organizations object to “hot air” trading under Kyoto Protocol. It only prejudices Kyoto Protocol effectiveness aiming at greenhouse gas emission reductions and enables industrially developed countries to fulfil their international commitment without reducing emissions.

Public and governments of potential countries-buyers also do not approve spending state budgets on ‘hot air’. All potential AAUs buyers – EU countries and Japan – expect all money received for quotes to be spent only on greenhouse gas emission reduction projects or other environmental benefits of countries that sell these quotes. That means that funds generated from quota selling can not go into selling country’s budget or spent on general state programs.

In order to meet potential buyers' requests a selling country has to develop plans according to which all funds received from AAUs trading will be spent on greenhouse gas emission reductions and environmental projects only. This plan is called a "Green Investment Scheme" (GIS). GIS comprises prioritizing sectors for budgeting, developing projects selection criteria, financing forms corresponding to company ownership types (state, private, educational), effective draft on funds and greenhouse gas emission reduction.

Mandatory principles for Green Investment Scheme proper operation include transparency, effective usage of funds and short- or long-term greenhouse gas emission reductions.

Projects within the scope of green investment scheme are conventionally divided into "tough" and "soft" greening projects. "Tough" projects include projects on greenhouse gas emission reduction at plants, while "soft" projects include educational projects, research or development of legislation aimed at reducing greenhouse gas emissions.

Estimated amount of carbon credits balance for 2008-2012

According to the Ministry of Economy of Ukraine, predicted surplus of national greenhouse gas emission quota for the period of 2008-2012 is 2244 mln tons equivalent to carbon dioxide (annual average of 449 mln tons). Excluding mandatory provision national selling quota surplus will make up about 1350 mln of tons of CO₂ equivalent (annual average of 279 mln of tons). Depending on a fixed greenhouse gas emission unit price range at a carbon market¹ Ukraine will be able to receive annually from €0,28 to €2,8 billion from selling emission trading during 2008-2012.

As for the Ukrainian quote demand, Japan, Belgium, Finland, Ireland, Italy and Holland expressed their interest.² As predicted, jointly Japan and EU countries will need 1597 mln tons of CO₂ e³ to meet international engagements. On the other hand, countries with quota surplus can offer more than 4 mln tons of CO₂ e, that is almost three times exceeding demand. So, buyers will select countries and decide on conditions for buying carbon credits.

Status of Ukrainian legislation in the area of international carbon trading **Regulatory documents**

Ukraine does not have a unified law to govern international carbon trading activities. Government does not act consecutively in efforts to develop green investment scheme. Various legislative drafts under development are of low quality and contradicting. These drafts contain too many estimating terms leading to misuse in future. Some regulations are phrased in such a way that they can be interpreted ambiguously, so they need further explanation and definition.

Decision making and responsibilities

Legal proceedings, namely various responsible authorities and officials decision making procedures, monitoring and liability, public participation in international emission trade procedures, are still unresolved. There is no clearly defined competence of authorities in charge of coordination and implementation of the UN Framework Convention and Kyoto Protocol activities and quite often it is difficult to distinguish their definite functions and responsibilities. One branch of power (executive) is also characterized by concentration of legislative, executive and monitoring powers, which is intolerable, since it contradicts to restraining and counterweight principle which is the core principle of separation of powers, guaranteed by the main law of Ukraine.

¹ According to World Bank's report prepared upon request of Ukrainian Government in November 2006, cost of a fixed amount unit was around €1-10 for one tone of CO₂ e.

² World Bank, Ukraine. Options for Designing a Green Investment Scheme, November 2006, report #37949-ECA, p. 3

³ World Bank, Ukraine. Options for Designing a Green Investment Scheme, November 2006, report #37949-ECA, p. 4

Some legal acts are not adopted in a transparent way, failing to meet requirements as to stakeholder involvement to environmental papers drafting, which contradicts national and international legislature. During January - March the Cabinet of Ministers of Ukraine adopted at least 2 resolutions (of February 22, 2008 No. 221 On Adoption of consideration, approval and implementing Procedure for specific-purpose environmental green investment scheme under Kyoto Protocol of UN Framework Convention on Climate Change, and Resolution of January 30, 2008 No 27 On Adoption of Procedure for charging a minimum cost for fixed amount unit and greenhouse gas emission reduction unit), drafts of which were not published at National Agency of environmental investments site during public discussion period.

II. Green Investments Scheme Proposals of environmental organizations

1. Green investments Scheme mandatory development

Ukrainian environmental organizations oppose 'hot air' trading.

International carbon trade mechanism should go in line with Ukrainian government's obligations to use direct the money received to **greenhouse gas emission reduction projects only** and to ensure their transparent and effective utilization. It means developing Green Investments Scheme in Ukraine and determining main principles, criteria and procedures for projects selecting, priority sectors to obtain public finances, forms of financing and independent inspection of greenhouse gas emission reduction, ensuring monitoring efforts and responsible approach.

Non-government environmental organizations object to entering international carbon credit market without prior adoption of necessary statutory acts within the scope of Green Investments Scheme, which would facilitate its operation, and without prepared list of projects to be financed from credit transactions.

2. Comprehensive program described by one document

To ensure Green Investments Scheme transparent and effective operating it is necessary to specify all necessary regulations in a single document rather than various contradicting resolutions. Non-government organizations suggest to adopt the Law of Ukraine on "International emissions trading", governing carbon trading issues in Ukraine and meeting requirements stated in this document.

3. Priority sectors and sponsored projects selection criteria

3.1. Strategic goal of Ukrainian Green Investment Scheme.

Environmental organizations suggest to set "Reduction of fossil fuel use by means of energy saving efforts and development of renewable energy sources" as a Green Investment Scheme strategic target.

Both mankind and Ukraine face a critical need to reduce greenhouse gas emission and prevent dangerous consequences of climate change that pose threat to economic development of all countries and lives of hundreds millions of people already in this century. In accordance with decision of the Special Working Group determining obligations to reduce greenhouse gases, industrially developed countries must reduce greenhouse gas emissions during 2013-2020 by at least 25-40% in comparison with emissions level of 1990, while total global emissions must start to decrease in 2015. To reach this goal Ukraine will have to reduce fossil fuel quota and switch to renewable energy sources along with introduction of energy saving activities.

3.2. Ensuring greater public benefit for Ukrainian citizens.

Outstanding greenhouse gas quotas are public property of Ukrainian people and have to be used for projects ensuring greater public benefit for Ukrainian citizens. GIS projects public benefit priority should prevail over all other criteria.

So, preference should be given to those projects which can not be realized without additional state support and have no other sources of financing.

3.3. “Tough” and “soft” greenery financing

Climate Change Working Group seconds implementing “tough” greening projects for greenhouse gas reduction that can be controlled by means of monitoring procedures.

We do not support inclusion of “soft greening” projects into the Green Investments Scheme. First, these projects have risk of ineffective draft on funds and poor projects performance, which may lead to really bad results. Second, projects on awareness raising, capacity building, developing framework legislation etc. are the main responsibility of Ukraine in accordance with UN Framework Convention on climate change and Kyoto Protocol. These activities should be financed from the state budget irrespective of whether Green Investments Scheme exists or not.

Other environmental problems such as biodiversity conservation, pesticides recovery etc. should not be financed from Green Investments Scheme funds, since it should be prerogative of Environmental Protection Fund.

Climate Change Working Group also considers difficulties relating to forestation and afforestation projects implementation. Experience of forestry projects in clean development mechanism and joint implementation mechanism proves that it is difficult to apply monitoring procedures to these projects; there are certain risks of forests dying of vermin, fire or cutting down. From the point of view of biodiversity conservation, sustainable afforestation and having other ecologic functions of forest monoculture usage (commonly used) do not always bring positive results. In case of Ukraine the situation is getting complicated by non-transparency and monopoly of the State Forestry Committee, which prevents getting impartial information about actual situation in forestry.

Ukrainian vast areas of disturbed, degraded and abandoned lands do not mean that their complete reforestation is the best solution. For certain climate and soil conditions it can be alkaline treatment, developing tame pastures, hay, planting of melliferous and technical species etc.

Afforestation and forest conservation activities should be conducted within the scope of science-based and consistent government policy and also provided the effective implementation control, to urge floristries implement sustainable forest use principles.

3.4. Environmental organizations express strong opposition to finance:

- nuclear energy that fails to solve climate change issue;
- large hydro-electric engineering (over 10 megawatt) resulting in negative environmental consequences;
- fossil fuel extraction and transportation projects – coal, oil and gas, as the development of these sectors will contribute to increased fossil fuel usage and, in its turn, will lead to increase in greenhouse gas emission;
- projects relating to the transfer from current central heating to electrical one, which is the most ineffective type of energy use;
- implementing rather expensive carbon capture and storage technologies at coal-fired power plants, which will result in spending money that could be used, for example, for energy saving activities; in addition this technology can not guarantee eternal carbon conservation.

3.5. Green Investment Scheme should not compete with joint implementation mechanism.

Joint implementation mechanism is an effective tool to promote greenhouse gas emission reduction projects in a number of sectors of economy and should not be changed. Green Investment Scheme should not have less robust financial, environmental and technical additionality criteria, than those applied to joint implementation mechanism.

We suggest **not** providing finances for the following sectors of economy under Green Investment Scheme, which according to World Bank's experts are actively using joint implementation mechanisms:

- reducing methane emissions as a result of coordinating and treating slag in agricultural sector;
- production of nitric acid for the purposes of mineral fertilizers industry;
- reducing gas pipelines and coal mines emission volume;
- heat production and electricity generation sector, industrial power engineering;
- iron and steel industry;
- chemical industry;
- cement industry;
- oil-refining industry;

This list is not complete and the staff of Kyoto Protocol Support Department can add more items to it. **The main principle is that sectors, which actively participate in Joint Implementation should not be supported through Green Investment Scheme.**

3.6. Suggested list of priority sectors under GIS.

Category 1. Energy saving projects and introduction of renewable energy sources in private and public buildings:

- Setup of effective preferential crediting scheme for efforts aimed at installing energy saving and renewable energy sources in buildings and household for Ukrainian citizens. One of the forms of financing can be compensation of 25 to 50% of costs for thermal insulation of buildings, installation of water and electricity meters, solar collectors, solar batteries, wind turbines, biomass combustion boilers etc. There are several successful examples of implementing these programs in Slovenia, Czech Republic and Germany, and CCWG is willing to participate and help in development of similar program in Ukraine.
- Targeted financing of energy saving activities in public buildings (hospitals, schools, higher education establishments, libraries, etc.);

Category 2. Financing municipal programs of greenhouse gas emission reduction

- Upgrade of central heating systems and installation of co-generating plants;
- Energy saving efforts at community facilities;
- Developing urban and interurban public transportation;
- Implement separate garbage collection and promote recycling;
- City infrastructure development for cycle use etc.;

Category 3. Support of small-scale projects that according to joint implementation mechanism are not worth financing due to small greenhouse gas emission reduction however meeting additionality criteria. Focus on projects that can be reproduced in big quantity in Ukraine after going through the whole documentation and verification procedure.

Taking into consideration problems in agricultural sector CCWG suggests to pay more attention to promoting greenhouse gas emission reduction projects in this sector.

Small hydro-electric engineering project should incorporate scientific analysis of impact on status of rivers.

3.7. Different forms of financing for organizations with various types of ownership.

Green Investment Scheme should provide various ways of using funds from carbon trading depending on (1) form of organization: state, private, public; (2) various forms of financing: grants, preferential crediting etc; and (3) various distribution tools for such financing: state or private investment funds, banks etc. Depending on the priority sector selected and financing tools, various criteria ensuring the most efficient appropriation of financial resources should be elaborated. Hence, for private companies the most appropriate is partial covering of energy saving loans; while public utilities might need full coverage of entire scope of activities, e.g. energy efficiency in hospital buildings. So it is necessary to determine priority sectors and programs and then select from the most efficient forms of financing for the said sectors.

3.8. Opposition to implementation of complex trading systems via stock exchanges and auctions.

Environmental organizations oppose implementing complex trading systems via stock exchanges and auctions. These schemes can not guarantee greening and transparency of handling of public funds, which are the main criteria of Green Investment Scheme both on the part of buyers and sellers. Moreover, under these schemes the majority of funds will be accumulated on stock gamblers' accounts instead of being spent on project implementation aimed at reducing greenhouse gas emission.

3.9. Need for clear and holistic project selection procedure:

- availability of application forms and clear documentation requirements (similar to documentation on joint implementation mechanism);
- Monitoring forms and project reports;
- defining list of sectors not to be financed under Green Investments Scheme;
- defining list of sectors to be financed and relevant forms of financing with regard to type of organization;
- absence of double standards and evaluative terms while setting corresponding requirements and criteria;

4. Ensuring transparency in the GIS fund management

4.1. Central managing authority for Green Investment Scheme responsible for effective fund spending.

Regulatory legal act of Cabinet of Ministers should clearly define which executive authority is in charge of management of Green Investment Scheme, projects selection and administration. According to OECD⁴ expert summary (2006) one of the biggest problems of Ukrainian environmental protection fund's activity is the lack of central administrative authority. As a consequence projects are selected on the basis of political considerations and subject to discussion by the Cabinet of Ministers. This practice does not ensure selection of economically and environmentally efficient projects and should not be implemented under GIS.

Relevant qualification of employees should be ensured to empower them perform all necessary functions through constant training and professional development.

⁴ OECD, review of activities of Environmental Protection Fund of Ukraine, 2006.
<http://www.oecd.org/dataoecd/4/41/37723597.pdf>

4.2. Meeting Aarhus Convention requirements during Green Investment Scheme development.

International emission trading mechanism under Kyoto protocol falls within environmental protection issues that involve meeting all requirements regarding public access to environmental information and public participation in environmental decision making. Thus, Climate Change Working Group insists on strict compliance with Aarhus Convention requirements regarding public participation in legislation development and other decisions under GIS.

Transparency of Green Investment Scheme development procedure requires publishing all documents and draft decisions on Web sites of Ministry of Environment, and Environmental Investments Agency one month before project adoption in order to get comments from all stakeholders. All comments on documents received by Ministry of Environment and Environmental Investments Agency should also be published on corresponding websites to be examined by interested parties. All received comments should be answered by executive authorities stating whether comments or proposals have been accepted or rejected in accordance with the Law on "Public Appeal".

4.3. Open access to applications under Green Investments Scheme one month before planned decision making.

Coordinating authority should ensure public participation in selection process of projects to be financed under GIS. There should be established a full project information publishing system similar to the current procedure within the scope of Joint Implementation mechanism, according to which all technical documents of the project will be published on the site of Ministry of Environment. All comments regarding certain projects should also be published on the site of Ministry of Environment along with the answer of a corresponding executive authority about accepting or rejecting of the comments.

Publishing projects information will ensure transparency of Green Investments Scheme, enable interested parties to comment on projects nominated for getting finance and, if necessary, prevent financing projects not meeting Green Investments Scheme principles and criteria.

Open access to monitoring reports of projects financed from GIS fund.

5. Monitoring of projects in GIS

5.1. Need for the supervision committee for activities on International Emissions Trading.

Monitoring and supervision of carbon trading is one of the most important issues while appointing authority in charge of the scheme management. Monitoring procedure should be independent from CC trading management and from strategic policy makers to ensure objective assessment of this policy.

Climate Change Working Group proposes to delegate supervision responsibilities to inter-ministerial commission on implementation of UNFCCC in Ukraine. This commission consists of deputy ministers, scientists, National Security and Defence Council representative, representatives of Verkhovna Rada and general public and is acting as a controlling authority in all UNFCCC issues in Ukraine.

5.2. Independent national or international financial and environmental audits.

Ensure conditions for monitoring and supervision of Green Investments Scheme implementation on the part of international financial and environmental auditors, including buyers.

Each project financed under Green Investment Scheme should undergo through independent international financial and environmental audits after its implementation to check efficient use of funds and reaching required level of emission reductions.

Projects monitoring and reporting functions can not fall within the responsibility of State Tax Inspectorate or Control and Revision Office only, since this control will be conducted to check conformity with legal procedures, thus there is risk that efficient use and attainment of required level of emission reduction will not be monitored.

Project monitoring reports should be published on the Web site of executive authority managing Green Investment Scheme.

5.3. Liability

Green Investment Scheme's coordinating authority should be responsible for international carbon trading and this should be envisioned by the current Ukrainian legislation. Officials making decisions under GIS should be personally accountable should they fail to comply with or violate national or international legislation governing GIS operation.

In case the Government fails to fulfil obligations it should accordingly reimburse the countries financing Green Investments Scheme project.

In case of appropriation of funds and failure to fulfil greenhouse gas emission reduction obligations, companies and organizations financed under Green Investment Scheme shall be liable for inefficient and no-purpose costs spending, violation of legislation, treaty obligations etc. In this case costs given on GIS projects implementation must be returned.

5.4. GIS Supervisory Board must obtain all information relating to international carbon trading.

This information includes: GIS bilateral agreement negotiating plans and contract terms, funds receipt and spending, projects selection and implementation, project reports. Executive authority that coordinates Green Investment Scheme activities must report to the Supervisory Board and answer submitted requests on a quarterly basis.

5.5. Ratification of international carbon units transfer agreements

During carbon trading contract negotiating between Ukraine and other states contract form should include its ratification by parliaments. This will prevent contracts from future influence by government changes and their abolishment will require adoption of necessary changes in parliament. In addition these contracts will have an advantage of high publicity level.

6. Need to develop a long-term greenhouse gas reduction policy

Climate change working group highlights that Ukraine's obligations under UN Framework Convention on Climate Change and Kyoto Protocol are not only participation in flexible mechanisms, but first of all introduction of greenhouse gas reduction policies in different sectors of economy.

Ukraine's obligations during first period of Kyoto Protocol do not stimulate for internal activity on greenhouse gas reduction. Scientifically, in order to prevent dangerous consequences of global climate change during the next period after 2012, industrially developed countries must jointly reduce emission by 25-40% from 1990 to 2020.

As the large-scale re-equipment projects in power engineering and industry sectors are then used for several decades. Therefore, political decisions made today will influence greenhouse gas

emission level during next decades. Appropriate policies should be developed and implemented now.

These policies may include:

- greenhouse gas emission tax introduction;
- stop providing state subsidies for fossil fuel sectors;
- introduction of national carbon trading scheme at large and medium enterprises;
- commitment of power engineering companies to generate a certain percentage of electricity and heat from renewable energy sources;
- commitment of petrol sellers to introduce a certain percentage of biofuel;
- setup of green tariffs for renewable energy sources;
- introduction of support policies for bioethanol production and promotion its use in Ukraine;
- introduction of more robust energy saving standards for new and reconstructed buildings;
- introduction of high taxes for private vehicles with high greenhouse gas emission rate (depending on engine capacity and catalyst) and discounts for registration of power efficient , hybrid vehicles and renewable fuel vehicles;
- introduction of information policy for enterprises regarding energy saving activities, “cleaner production” concept, opportunities for flexible mechanisms of Kyoto Protocol and other programs to support energy saving efforts in Ukraine.

These policies may have the following positive benefits:

- economic benefits as a result of energy saving activities;
- less air pollution and thus reduction of morbidity rate, birth rate increasing, and average life span increasing;
- reduction of dependence on imported energy sources (oil, gas);
- increase of employment rate as the development of alternative energy sources is more labour-intensive industry;

Implementation of environment protection policy and legislative reform will contribute to wider attraction of investments as compared to fundraising in GIS area.