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Presentation of findings of the Gap analysis of Ukraine's greenhouse gas emissions monitoring and reporting legislation against the Regulation (EU) 525/2013 (MMR) and the Governance Regulation 2018/1999 (GR) and Recommendations for implementation thereof

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Topic of this presentation:

Part I. Findings of the Gap analysis of Ukraine's legislation vis-à-vis provisions of MMR and GR:

- Overview of key provisions of MMR and GR
- Description of relevant Ukrainian legislation on monitoring and reporting of GHG emissions, climate reporting and planning documents
- Identified gaps and inconsistencies

Part II. Recommendations for Ukraine to implement GR provisions, incorporating the MMR:

- Overview of core actions and recommendations for Ukraine to implement the provisions of GR that covers MMR provisions
- Explaining on the suggested timeframe for sound implementation of GR provisions, including MMR
- Short-term, mid-term priorities

Part I. GAP ANALYSIS OF UKRAINE'S LEGISLATION VIS-À-VIS PROVISIONS OF MMR AND GR:



Comprehensive and thorough revision of energy- and climate-related domestic legislation in Ukraine (in force and in draft)



Compliance check of identified Ukrainian domestic legislation against the EU legislation to identify legal gaps and pertaining inconsistencies



Review and analyse the provisions of EU legislation that are applicable to Ukraine



Shape Ukraine's legal framework in line with EU climate legislation and support the development and implementation of climate-related policies to contribute to Ukraine's low emission and climate resilient development, comply with its international climate-related commitments

KEY ELEMENTS OF CLIMATE MONITORING MECHANISM UNDER REGULATION EU 525/2013

ADOPTION OF LOW-CARBON DEVELOPMENT STRATEGIES

DEVELOPMENT OF NATIONAL INVENTORY SYSTEM

INTRODUCING LEGISLATION DEFINING NATIONAL SYSTEMS FOR POLICIES, MEASURES, AND PROJECTIONS

REPORTING ON OTHER INFORMATION RELEVANT FOR CLIMATE CHANGE

What is Monitoring Mechanism Regulation?



- ❑ Applied in the EU since July 2013
- ❑ MMR elements were introduced in EnC by Recommendation 2016/02/MC-EnC encouraging CPs to “prepare legal and institutional preconditions” to implement core elements of MMR (October 2016)
- ❑ Incorporates EU’s 2020 Climate and Energy Package
- ❑ Enhances the monitoring, reporting and review procedures to harmonize the MS implementation of domestic and international commitments
- ❑ EU-wide GHG inventory system
- ❑ Incorporates MS’ information on their planning and strategies for adaptation to climate change
- ❑ Ensures the timeliness, transparency, accuracy, comparability and completeness of data reported by the EU and MS



IMPORTANT: MMR is of recommendatory nature, not legally binding for CPs, incl. Ukraine

Introducing the Governance Regulation



CORE ELEMENTS OF GR INCLUDE:



- ❑ Applied in EU since December 2018
- ❑ Introduced in EnC by MC EnC Decision 2021/14/MC-EnC on November 30, 2021
- ❑ Incorporates and replaces the MMR
- ❑ GR is subject to transposition and implementation by **December 31, 2022**
- ❑ 5 EU dimensions: energy security, internal energy market, energy efficiency, decarbonization and research, innovation and competitiveness
- ❑ Sets common strong rules for planning, reporting and monitoring on energy and climate policies and targets
- ❑ Reporting on a biennial and annual basis
- ❑ NECPs and LTS, enhanced rules on PAMs and projections
- ❑ Implement strategies and measures to ensure that objectives of the energy union, in particular the EU's 2030 energy and climate targets, and the long-term EU GHG commitments are consistent with the Paris agreement
- ❑ Climate neutrality objective (July 2021)
- ❑ Ensure consistent reporting under the UNFCCC and the Paris agreement.



IMPORTANT:

GR (adapted version) has a legally binding force for CPs, incl. Ukraine



OVERVIEW OF RELEVANT LEGISLATION OF UKRAINE: PRIMARY LAWS

Law of Ukraine “On the basic principles (strategy) of the state of environmental policy of Ukraine until 2030” of 28 February 2019 envisages the development of sectoral strategies on preservation of the ozone layer and climate change prevention and adaptation and adoption of National Action Plan on environmental protection until the period of 2025 [respectively adopted on April 21, 2021].

Law of Ukraine “On environmental impact assessment” of 23 May 2017 provides that information on climate factors, including climate change and GHG emissions, falls under the scope of environmental impact assessment reports, submitted by economic entities.

Law of Ukraine “On strategic environmental assessment” of March 2018 imposes an obligation to include climate impact assessment as part of planning documents (strategies, programs, and development plans) for activities that are subject to an environmental impact assessment.

Tax code of Ukraine starting from 2011 introduced a CO₂ emission tax for stationary sources (mainly power sector and processing industry such as metal and coke production, chemical and petrochemical, cement, food industries), which as of January 2022 has increased to a level of around 0.91 EUR/tCO₂ [30 UAH].

Draft primary legislation such as:

(i) Draft law on the strategy of low-carbon development of Ukraine until 2050, which is expected to include national priorities and principles of state climate policy and low-carbon development in Ukraine, fundamental rules on appropriate climate governance and monitoring and progress evaluation requirements towards the transition to low-carbon development; (ii) Draft law on state environmental monitoring system and (iii) Draft law on national pollutant release and transfer register.



OVERVIEW OF RELEVANT LEGISLATION OF UKRAINE: SECONDARY LEGISLATION

2030 Climate Change Concept (December 7, 2016) on improving state policy for gradual transition to low-carbon development and preventing climate change by reducing GHG emissions, increasing GHG absorption; development and implementation of a mid-term low-carbon development strategies for the period up to 2030 and adaptation policies to climate change in Ukraine until 2030.

2030 Climate Change Concept Action Plan (December 6, 2017) envisages the drafting of Comprehensive National Plan for Energy and Climate Change for 2021 – 2030; forecasts the creation of a mechanism for integrating state and regional development strategies on climate change adaptation measures; continuous improvement of the national GHG inventory system.

2035 Ukraine Energy Strategy (August 18, 2017) - strategic guidelines for meeting GHG emission targets set at 60% by 2030 compared to level of 1990, and at 50% by 2035 compared to 1990 levels.

National Economic Strategy until 2030 (March 3, 2021) - achieving “economic decarbonization” and “climate neutrality no later than 2060”, revision of EU-Ukraine AA.

Presidential decree on priority measures in the environmental sphere (March 23, 2021) – drafting primary laws and adoption of 2030 NECP by Fall 2021.

Strategy for Environmental Safety and Adaptation to Climate Change until 2030 (October 20, 2021) - regular projections and assessment of vulnerability to climate change of specific sectors, implementation of sectoral action plans for adaptation to climate change, amendments to the Law of Ukraine on environmental protection by 2022 to reflect climate change provisions

National Action Plan on environmental protection until the period of 2025 (April 21, 2021) - preparation and implementation by 2022 of pilot projects for the development and implementation of regional adaptation plans



CLIMATE-RELATED REPORTING AND PLANNING DOCUMENTS

July 30, 2021, the Government has adopted the **updated NDC** to the Paris Agreement with a GHG emission level target by 2030 not exceeding of 35% GHG emission level comparing to 1990 [previous commitment entailed in the 2015 INDC targeted the level of GHG emissions at only 40% comparing to 1990 levels]

In 2021, Ukraine has submitted its most recent **NIR**, being part of Ukraine's GHG Inventory, consisting of information on national GHG emissions and removals during the period of 1990-2019.

On July 2018 Ukraine has formally communicated its **2050 LEDS** to the UNFCCC with an indicative GHG emissions target to not exceed 31 - 34% of 1990 GHG emission level by 2050

In 2013, as an Annex I Party to UNFCCC, Ukraine submitted to the UNFCCC its **first BR with sixth NC** combined into a single document.

RULES ON THE NATIONAL INVENTORY SYSTEM FOR GHG EMISSION



- *CMU resolution dated 21 April 2006 No. 554* on operation of national inventory system for GHG emission covering all activities that can lead to anthropogenic GHG emissions and absorption, based on organizational measures conducted via planning, annual inventory of anthropogenic emissions and removals of GHG and collection of information submitted by state bodies, entities.

- *GHG Inventory Institution Regulation* prescribes that GHG II is involved in the establishment of the MRV system, including the implementation and evaluation of projects aimed at reducing GHG emissions and their absorption.

KEY FINDINGS ON COMPLIANCE WITH MMR: Overall partial transposition

1. ADOPTION OF LOW-CARBON DEVELOPMENT STRATEGIES (ART. 4)



2050 LEDS duly developed and submitted to UNFCCC for purposes of implementation of Ukraine's international commitments under UNFCCC and PA.



However, requires periodic revision and alignment with other climate reporting.

2. DEVELOPMENT OF NATIONAL INVENTORY SYSTEM FOR GHG EMISSION (ART. 5-11)



In line with Art. 5(1) and 7(1) of the MMR Ukraine has *CMU resolution dated 21 April 2006 No. 554* establishing and operation of the national inventory system for GHG emissions, as well as on preparation and submission of Ukraine's NIR, including competent authorities - MEPR and GHG Inventory Institution. As per Art. 5(2) and (3) of the MMR, Ukrainian GHG Inventory Institution in Ukraine is involved in the MRV system establishment.



No explicit list of GHG as referred to in Articles 5(1) and 7(1) of the MMR. Absence of explicitly defined obligations in a primary law to obtain necessary information for NIR compilation.

3. INTRODUCING LEGISLATION DEFINING NATIONAL SYSTEMS FOR POLICIES, MEASURES, AND PROJECTIONS (Art.12 -14)



Law on Principles of 2030 State Environmental Policy defines certain PAMs and projections in environment indirectly touching upon GHG reduction and limitations. Sets rules on assessment criteria and indicators of GHG emissions. *2030 Climate Change Concept and Strategy for Environmental Safety and Adaptation to Climate Change until 2030* strengthen institutional, legal and procedural arrangements on state PAMs and climate change adaptation. *Strategy* entails rules on climate change projections in various areas (e.g., forestry, energy).



Fragmented nature of PAMs and projections, overlapping with each other. Poor legal basis for institutional framework for PAMs and projections. Reporting information detailed requirements are not reflected [e.g., ex ante assessments and ex post assessments of the effects on GHG emissions].

4. REPORTING ON OTHER INFORMATION RELEVANT FOR CLIMATE CHANGE (Chapter 6)



Ukraine submitted to the UNFCCC in 2013 its first BR with sixth NC combined into a single document.



Ukraine failed to submit its seventh National Communication and the joint second and third Biennial Report in line with set up deadlines due to lack of financing.

KEY FINDINGS ON COMPLIANCE WITH GR: Overall partial transposition (1)

1. INTEGRATED NATIONAL ENERGY AND CLIMATE PLANS (ART. 4)



Development and adoption of NECP is listed among Ukraine's priority measures adopted at the level of state authorities' by-laws.



Although, draft NECP is still under development with the Ministry of Energy of Ukraine [ECS 2021 IR]. NECP shall cover 5 EU dimensions.

2. LONG-TERM STRATEGIES (Art. 15)



2050 LEADS covers 30-years perspective and contains a strategic vision and preconditions of transition towards low carbon development, policies, and measures for de-carbonization, reflects certain elements of Article 15(4). Sets up an indicative GHG emissions target to not exceed 31 - 34% of 1990 GHG emission level by 2050, i.e., reduction by 69-66 % of GHG emissions.



Nevertheless, Ukrainian 2050 LEADS is missing GR's obligatory elements (defined in Annex IV to GR). As per adapted version by the EnC MC Decision 2021/14/MC-EnC, Ukraine's long-term strategy shall be consistent with EnC's climate neutrality objective.

3. BIENNIAL PROGRESS REPORTS AND THEIR FOLLOW UP (Section 1 CHAPTER 4)



Integrated national energy and climate progress reports (Art.17) are to be submitted to the ECS.

4. ANNUAL REPORTING (Section 2 CHAPTER 4)



In 2021, Ukraine submitted its most recent NIR, being part of Ukraine's GHG Inventory, consisting of information on national GHG emissions and removals during the period of 1990-2019. Some of its elements, Article 26(4) of the Governance Regulation 2018/1999.



Does not mirror all the annual reporting requirements of Art.26.

KEY FINDINGS ON COMPLIANCE WITH GR: Overall partial transposition (2)

5. NATIONAL SYSTEMS ON GREENHOUSE GAS EMISSIONS AND REMOVALS BY SINKS (Art. 37)



CMU resolution dated 21 April 2006 No. 554 establishes national inventory system for GHG emissions. Rules related to continuous improvement are envisaged in the CMU resolution 2006 and the 2030 Climate Change Concept Action Plan.



No explicit list of GHG as referred to in Article 37 and Annex V. Absence of primary law rules to obtain necessary information for NIR. Detailed requirements of Art.37 are not included (competent authorities' access to information and consistency checks).

6. NATIONAL SYSTEMS FOR PAMS AND PROJECTIONS (Art. 39)



Fragmented nature of Ukraine's bylaws, mainly duplicating each other as adopted at different time and separate state authorities. at the national, regional and local levels. The said policies and strategies on GHG emission limitation or reduction focus mainly on risk assessment, vulnerability and climate change projections, formation of action plans for climate change adaptation as well as strategic planning.



Ukraine is missing legal rules to fully reflect Art.39 and other respective provisions, including Article18.

Part II: Recommendations to Ukraine for implementation of provisions stemming from GR, incorporating MMR provisions



define a list of specific priority actions and recommendations



aim at facilitation of Ukraine's gradual approximation with EU climate *acquis* as per its obligations EnCT



provide concise but detailed guidance on necessary actions to be taken to consolidate Ukraine's efforts on climate action



suggest reasonable timeline accounting on deadlines indicated in the national legislation, EU *acquis* and EnCT

LIST OF PRIORITY ACTIONS AND RECOMMENDATIONS

ACTION 1

Enhance existing legal and institutional framework for national system for PAMs and projections to comply with obligations stemming from the GR

Recommendation 1: Streamline and revise existing separate energy- and climate-related legal acts on policies, strategies and planning documents in Ukraine

Recommendation 2: Introduce legal rules defining roles and designating responsible authorities with overall responsibilities for requirements stemming from the GR and reporting thereof



ACTION 2

Develop and submit to the ECS Ukraine's National Energy and Climate Plan

Recommendation 1: Finalize process of preparation and submission of first draft NECP (as per EnC MC Recommendation) to the ECS

Recommendation 2: Start planning the process of the NECP in line with the GR

Recommendation 3: Foresee the submission to the ECS of the integrated NECP report

LIST OF PRIORITY ACTIONS AND RECOMMENDATIONS

ACTION 3

Enhance and introduce primary legal rules on national GHG inventory system

Recommendation 1: Introduce primary law rules as regards collection of data and information for NIR compilation, including confidential information

Recommendation 2: Revise the existing legal rules in line with the extensive requirements of the GR

ACTION 4

Start the process of LTS preparation and submission to the ECS in line with the GR

Recommendation 1: Launch the submission process of Ukraine's LTS and reporting thereof



Timeline for Recommendations to Ukraine to align with specific parts of its obligations under the Governance Regulation 2018/1999 (adapted by MC Decision 2021/14/MC-EnC)

SHORT TERM					MEDIUM TERM	
2022	2023	2024	2025	2030		
Action 1: Enhance existing legal and institutional framework for national system for PAMs and projections to comply with obligations stemming from the Governance Regulation 2018/1999						
Recommendation 1: Streamline and revise existing separate energy- and climate-related legal acts on policies, strategies and planning documents in Ukraine						
Recommendation 2: Introduce legal rules defining roles and designating responsible authorities with overall responsibilities for requirements stemming from the Governance Regulation 2018/1999 and reporting thereof						
Deadline 31 December 2022						
Action 2: Develop and submit to the ECS Ukraine's National Energy and Climate Plan						
Recommendation 1: Finalize process of preparation and submission of first draft NECP (as per EnC MC Recommendation) to the ECS						
Deadline: 1Q 2022						
Recommendation 2: Start planning the process of the NECP in line with the Governance Regulation 2018/1999						
Deadline 30 June 2024						
Recommendation 3: Foresee the submission to the ECS of the integrated NECP report						
Deadline 15 March 2025						
Action 3: Enhance and introduce primary legal rules on national GHG inventory system						
Recommendation 1: Introduce primary law rules as regards collection of information for NIR compilation, including confidential information						
Deadline 31 December 2022						
Recommendation 2: Revise the existing legal rules in line with the extensive requirements of the Governance Regulation 2018/1999						
Action 4: Action 4: Start the process of LTS preparation and submission to the ECS in line with the Governance Regulation 2018/1999						
Recommendation 1: Launch the submission process of Ukraine's LTS and reporting thereof						
Deadline 31 January 2023						

KEY SHORT AND MID- TERM ACTIONS

2022

Submission of first draft NECP to the ECS
Revision of rules regarding the functioning of the national GHG
Streamline and update the existing climate- and energy –related policies, strategies, planning documents, define responsible authorities for PAMs reporting and projections

2023

Submit LTS based on existing 2050 LEDS and the draft NECP based on existing NECP [expected to be submitted by 2022 as per EnC MC Recommendation 2018/01/MC-EnC] in line with the GR

2024

Final NECP submission to the ECS

2025

Submission to the ECS of the integrated NECP report

Thank you for
attention!