

## **Annex 3**

**Romania's answers sent on 22 March 2011  
Regarding Potential Problems and Further Questions from the additional  
questions of ERT, sent on 26 January 2011  
(CR\_ROU\_2010\_CommentsERT\_adjusment\_gases\_260111) and  
formulated in the course of the 2010 review of the greenhouse gas  
inventories of Romania submitted in 2010**

**Note: the additional answers, sent on 22 March 2011, are marked out with red color.**

## **Potential problems with non-inventory elements of the annual submission under the Kyoto Protocol**

With reference to the Guidelines for review under Article 8 of the Kyoto Protocol the ERT requests that additional information corresponding to the potential problems identified in this paper be forwarded to the ERT, through the UNFCCC secretariat, not later than by 6 November 2010.

### *National System*

#### Potential problem: *In relation to 19/CMP.1 - Guidelines for National Systems*

In accordance to the annex of Decision 19/CMP.1, paragraph 14 (b) and (c), each Party included in annex I **shall, as part of its inventory preparation:**

“Prepare estimates in accordance with the methods described in the Revised 1996 IPCC guidelines for national GHG Inventories, as elaborated by the IPCC good practice guidance, and ensure that appropriate methods are used to estimate emissions from key source categories;”(paragraph 14.b)

“Collect sufficient activity data, process information and emission factors as are necessary to support the methods selected for estimating anthropogenic GHG emissions by sources and removals by sinks;” (paragraph 14.c)

The ERT noted that a large number of categories in all sectors of Romania’s inventory are not estimated. It further noted that all estimates in the Energy, Agriculture and Waste sector are prepared using Tier 1 methods and default emission factors, although several of them are key categories. The ERT therefore concluded that Romania’s inventory system fails to conduct the activities required for inventory preparation, as described in Decision 19/CMP.1, paragraphs 14.b and 14.c

#### Potential problem: *In relation to 15/CMP.1 - Guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol*

In accordance to paragraphs 5 and 6 of the annex of Decision 15/CMP.1, each party included in Annex I **shall** include the following information, as part of its annual greenhouse gas inventory:

“... information on anthropogenic greenhouse gas emissions by sources and removals by sinks from land use, land-use change and forestry activities under Article 3, paragraph 3, and, if any, elected activities under Article 3, paragraph 4, in accordance with Article 5, paragraph 2, as elaborated by any good practice guidance in accordance with relevant decisions of the COP/MOP on land use, land-use change and forestry.” (paragraph 5)

“ .. information on how inventory methodologies have been applied taking into account any IPCC good practice guidance on land use, land-use change and forestry agreed by the COP and recognizing the principles as laid out in decision 16/CMP.1 (paragraph 6a.)

"...information on which, if any, of the following pools – above-ground biomass, belowground biomass, litter, dead wood and/or soil organic carbon – were not accounted for, together with verifiable information that demonstrates that these unaccounted pools were not a net source of anthropogenic greenhouse gas emissions;" (paragraph 6c)

Romania has elected Forest Management under Article 3.4 of the Kyoto Protocol. Forest Management is a large category which offsets 28% of total national emissions. It is also a key category both under the Convention and the Kyoto Protocol. Romania applies a Tier 1 methodology to estimate emissions and removals from Forest Management; carbon stock changes in the litter and dead wood pools are not estimated, and the NIR does not provide transparent and verifiable information that these pools do not constitute sources.

The ERT concluded that the method used to estimate emissions and removals for Forest Management is not appropriate to national circumstances and does not comply with good practice. It further concluded that the available activity data, process information and emission factors were insufficient to support the preparation of Forest Management estimates (several pools are not reported). Finally, the ERT found that the information required in accordance with paragraph 6(e) above to demonstrate that carbon pools are not net sources is missing.

Therefore, the ERT believes that Romania's national system is not performing the specific function of inventory preparation required to comply with the *Guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol*.

#### Specific recommendations by the ERT:

The ERT strongly recommends that Romania take immediate remedial action to improve its national system and ensure that:

- Emissions are estimated for those categories in which they are known to occur in the country and for which estimation methodologies are available in the Revised 1996 IPCC Guidelines for National Greenhouse Gas Inventories and the IPCC good practice guidance;
- Appropriate methods are used to estimate emissions and removals, especially for key categories;
- Activity data, process information and emission factors are collected or developed to adequately support the estimation methods selected;
- Reporting requirements under Article 7.1 of the Kyoto Protocol are met.

The ERT further asks Romania by 6 November 2010 to:

- Document in writing the required changes to the national system that will allow it to fulfill its 'Inventory Preparation' function as described in paragraphs 14.b and 14.c of Decision 19/CMP.1; provide an implementation schedule for such changes; and describe how it will maintain an effective, properly functioning national system.

## Response/Information by Party:

1) Document in writing the required changes to the national system that will allow it to fulfill its 'Inventory Preparation' function as described in paragraphs 14.b and 14.c of Decision 19/CMP.1

In accordance with the Governmental Decision no. 1570/December 2007 for establishing the National System for the estimation of anthropogenic greenhouse gas emissions levels by sources and CO<sub>2</sub> removals by sinks, in order to fulfil the relevant provisions in paragraphs 14.b and 14.c of Decision 19/CMP.1 Romania will develop and/or collect the relevant data/information as are necessary to prepare all estimates of the occurring emissions/removals, considering the provisions in the Revised 1996 IPCC guidelines for national GHG Inventories, in the IPCC good practice guidance and/or in the IPCC good practice guidance on land use, land-use change and forestry, by implementing the studies mentioned in the Table below on a contractual base, by specialized third party organisations; additionally, the study on LULUCF under the Kyoto Protocol aims also at the preparation of the emissions/removals estimates.

Table: Studies which will be developed by Romania in order to fulfill its 'Inventory Preparation' function as described in paragraphs 14.b and 14.c of Decision 19/CMP.1

No.	Title of the study	Envisaged improvement	Deadline
1.	The calculation and the documentation of the national emission factors specific to every fuel type, raw material, industrial production, for every subsector within the Energy and Industrial Processes Sectors, data necessary for the preparation of the GHG Inventory and for the implementation of the scheme for GHG emission allowance trading at the European Community level (EU-ETS), of the national net calorific values for every EU-ETS subsector and of the associated uncertainties; the calculation and the documentation of the conversion factors specific to the technologies utilized within the energy and industrial processes and of their associated uncertainties.	providing accuracy through higher tier methods use	2011
2.	The development of the historical data, data adjacent to the 1989-2003 period, data which allow for the estimation of the road transport emissions utilizing the COPERT model.	providing completeness	2012
3.	The calculation and the documentation of the emission factors, of other national parameters and of the associated uncertainties, elements relevant to the key categories within the Agriculture Sector.	providing transparency through a well documented NIR	2011
4.	The calculation and the documentation of the emission factors, of other national parameters and of the associated uncertainties, elements necessary for the calculation of the CH <sub>4</sub> emissions from Solid Waste Disposal on Land category.	proper use of notation keys	2012
5.	The calculation and the documentation of the emission factors, of other national parameters and of the associated uncertainties, elements necessary for the calculation of the CH <sub>4</sub> and N <sub>2</sub> O emissions from Waste Water Handling category.	lack of NE use within the GHG Inventory	2012
6.	The elaboration of the GHG Inventory LULUCF Sector both under the UNFCCC and KP requirements	proper use of notation keys	2011

The written confirmation that the studies in the Table above have been approved by the designated national authority, the Ministry of Environment and Forests, is attached to the present document (in the form of the Note on the measures proposed to address the issues raised following the revision of INEGES 2010). The organization having the responsibility of implementing the acquisition procedure pertaining to the studies previously mentioned, including the contracting stage is the Ministry of Environment and Forests (MEF).

In respect to the provisions in the current Improvement Plan, the studies are meant to improve the accuracy of the GHG Inventory through the use of higher Tier methods according to the specific IPCC good practice guidance decision trees provisions, to improve its completeness by allowing for the estimation of all relevant emissions/removals and to improve the consistency of the data series.

The authorities responsible for ensuring that the studies will provide data and information compliant with reporting requirements is the National Environmental Protection Agency (NEPA), the competent authority in the GHG Inventory preparation.

The quality management process will be assured as follows:

- during the acquisition procedure, through the involvement of the relevant people in NEPA/ third party organizations aiming to properly elaborate the technical requirements;
- during the implementation of the study, through maintaining a continuous dialogue between the contractor and NEPA/MEF aiming to properly developing the study in respect to the technical and timeliness requirements;- after the results are generated, through the involvement of relevant third party organizations developing/documenting Quality Assurance activities.

- During the acquisition procedure the contractor will be required to provide to NEPA, after the generation of the results, the proper documentation on the scope, methods, assumptions, key parameter values and data sources; further, NEPA will ensure the proper use, archive and storage of these data/information.

The agency responsible for the implementation of study findings/results is NEPA, through their incorporation within the GHG Inventory.

After the studies completion, depending on the availability of data, NEPA/third party organization contracted will ensure the on-going data collection.

2) Provide an implementation schedule for such changes.

The schedule for the implementation of the studies referred to at point 1) is provided in the Table above.

The deadlines for the provision of the results generated incorporate a detailed schedule of the implementation of the studies, as follows:

- a starting point in respect to the studies public acquisition which is January-February 2011; in the case of the study relevant to the LULUCF under the in the case of the study relevant to the LULUCF under the UNFCCC and the Kyoto Protocol, the beginning before the current moment of the public acquisition procedure. The study has been recently lunched in the electronic acquisition procedure.

- the period needed for the public acquisition which is to respect the Romanian relevant legislation; the estimated period accounts for approximately 3 months;

- the period dedicated to the study implementation, including the final reception: the rest of the period.

Additionally, the results of the studies are to be considered as part of the GHG Inventory to be submitted in the year after the studies finalization.

3) Describe how it will maintain an effective, properly functioning national system

An effective, properly functioning national system will be maintained by:

- allocating sufficient funds for the implementation of the studies in Table above

Two national funding sources are currently in place:

according to the Law no. 167/July 2010 on the approval of the Governmental Emergency Ordinance no. 15/2010 for the modifying the Article 13.2 from the Governmental Emergency Ordinance no. 196/2005 on the Fund for the environment, the Fund for the Environment is utilized also for implementing studies/research within the environmental protection and forests fields aiming at fulfilling the international assumed obligations

Note: The Fund for the environment is a public economic-financial instrument developed to sustain and implement environmental protection projects, according to the legal provisions in place.

The Fund for the environment is administered by the Fund for the Environment Administration, a public institution with judicial personality, entirely financed by own income, under the coordination of the Ministry of Environment and Forests.

- the revenues from selling of the surplus of the assigned amount under the International Emission Trading mechanism defined through the Kyoto Protocol: according to the Governmental Decision no. 432/2010 on the establishment and development of the green investment schemes (completed by the Governmental Emergency Ordinance no. 29/2010 on the valorification of the assign amount surplus assigned to Romania through the Kyoto Protocol), 2% from the funds resulted from the commercialization of the assign amount surplus are to be utilized for informational and awareness campaigns as well as for implementing research studies within the climate change field

Note: A first round of negotiation for selling assigned amounts units is currently under development.

- the budget of MEF, following the approval by the Minister of the Environment of the Note on the measures proposed to address the issues raised following the revision of INEGES 2010 (attached).

- maintaining, at the National Environmental Protection Agency level, the single national entity, the team assigned with the National System administration and with the management/preparation of the GHG Inventory.

In respect to the availability of funds for developing the studies presented in the Table above,

- all the studies can be funded at the current moment using the funds available at the Fund for the Environment Administration level; - the revenues from selling of the surplus of the assigned amount under the International Emission Trading mechanism defined through the Kyoto Protocol are expected to become available by the end of 2010;

- the relevant funds part of the MEF's budget will become available at the beginning of 2011.

As part of its 2011 and 2012 GHG Inventory submissions, Romania will present in the NIR, the following elements on the implementation of the studies in the Table above, for each study:

- a summary of the information provided below:
  - o written confirmation that the study has been approved by the designated national authority;
  - o identification of the contracting agency;
  - o detailed schedule;
  - o where the study fit within the more general Inventory improvement plan;
  - o the authority responsible for ensuring that the study will provide data and information compliant with reporting requirements;
  - o the quality management process (from the initiation, throughout the studies themselves, and the quality assurance of the findings);
  - o how it will ensure that proper documentation is available on the scope, methods, assumptions, key parameter values and data sources;
  - o the agency responsible for the implementation of study findings;
  - o the process for the on-going collection of currently missing data.
- a detailed update on the status, including phases that have been completed and any delays from the schedule requested above;
- any change in the scope, methods, or process.

**Response by the ERT:**

The ERT appreciates that the planned studies will fill some reporting gaps. However Romania's response does not indicate any specific change in the national system in order to ensure its proper functioning. The ERT notes that the following information is missing:

- - the authority responsible for ensuring that the studies will provide data and information compliant with reporting requirements;
- - the authority responsible for the quality management process (from the initiation, throughout the studies themselves, and the quality assurance of the findings);
- - where will proper documentation be available on the scope, methods, assumptions, key parameter values and data sources for each study;
- - the agency responsible for the implementation of study findings;
- - the process for the on-going collection and quality control of currently missing data

With respect to the available funding, the following information is also missing:

- - confirmation that funds are available now for all the studies listed in the table above, or if not when they are expected to become available (preferably in the very near future);
- - indication of the relative contribution of the Swiss framework to the funding of the LULUCF study;
- - indication of how the funding will be used to strengthen the national system, especially to set up stable and effective institutional arrangements

In addition, as reported by Romania, it seems that the Romanian inventory would benefit from the results of the planned studies only one year after their completion which means 2013 submission for most of the categories, perhaps the 2012 submission for the LULUCF sector.

If this is the case, these improvements will not be reviewed until the end of the Kyoto Commitment period, which the ERT considers a high risk given Romania's current issues with its national system. The ERT also considers that Romania should provide in each of the 2011 and 2012 NIR:

- - A status report for each study, including starting date, identification of the contracting agency, a detailed schedule including phases that have been completed so far, and any delays from the schedule requested above;
- - Any change in the scope, methods, or process of any of the studies.

#### **Response and Additional/Information by Party:**

I. Regarding the first thesis in the second response transmitted by the ERT on 26 January 2011, Romania presents the following clarifications:

- the authority responsible for ensuring that the studies will provide data and information compliant with reporting requirements

The scope of the studies is to provide additional information to the Romanian authorities in order to strengthen the reporting obligations under the UNFCCC process and the EU monitoring mechanism. The Romanian authorities in charge of the GHG emission reporting are the Ministry of Environment and Forests (MEF) and the National Environmental Protection Agency (NEPA), and thus both institutions will ensure that the studies will provide adequate information. The results of the studies will provide the necessary data for the national GHG emission inventory to fully comply with the IPCC reporting requirements.

According to the specific provisions within the Romanian legislation, namely the Government Decision nr. 1635/2009, the MEF is the responsible institution with implementation of UNFCCC and KP. In addition, MEF is the coordinator of funds distribution for studies in the field of environment and forests.

The NEPA, institution subordinated to MEF, has tasks in the implementation of environment policy and legislation, including the entire responsibility regarding the National GHG Inventory.

Therefore MEF will be the contracting authority in charge with the promotion of the different studies and will ensure the elaboration of relevant documentation necessary for the acquisition of these studies, the formal approval of documents as well as with financial disbursement. NEPA will be the beneficiary of these studies and will use the results to adequately meet the reporting obligations.



MEF will ensure the fast development of the Terms of Reference (ToRs) of the studies and NEPA will support MEF in drawing up the technical aspects of ToRs, in a way to comply with the needs and the provisions of reporting requirements.

The authority responsible with the technical verification of the results of studies is NEPA which will need to use the results in the inventory preparation and hence the interest of NEPA in participating in the process of contracting the best institution to perform the studies in a professional and timely manner.

- the authority responsible for the quality management process (from the initiation, throughout the studies themselves, and the quality assurance of the findings)

The quality management from the initiation, throughout the completion of the studies themselves, and the quality assurance of the findings, will be ensured as follows:

1) within the initiation phase – when drawing up the relevant ToRs, MEF as a contracting authority and NEPA as the implementing agency will ensure that the necessary data and information provided by the studies will support the Romanian authorities to fully comply with the reporting requirements;

The required quality of these studies will be assured by the following legal procedure:

- the Terms of Reference (ToRs) for each of these studies will be approved and published by the MEF by using technical elements developed by NEPA with the aim to fill the gaps of recent inventory,
- the funding will be provided by the MEF from the sources mentioned below;
- the contractor will have to develop a work plan approved by the beneficiary observing the timeline indicated in ToRs;
- the implementation will be carried out in intermediate steps followed by progress reports subject to the approval of the NEPA as the main beneficiary of these studies;
- during the implementation phase, the contractor will be required to provide NEPA, after the generation of the results, the proper documentation on the scope, methods, assumptions, key parameter values and data sources; further on, NEPA will ensure the adequate use, archive and storage of the information provided;
- the studies will provide also recommendation for long terms solutions in generating similar information annually.

2) during the development phase of the studies

The organisations/entities selected to develop the studies will have to perform QC activities through all the stages of the study development, will document all the activities performed and will provide NEPA the specific documentation including the relevant methodology. In this respect, the contractor will be asked to perform and document the QC activities through all stages of the study development and to provide relevant documentation to the beneficiary.

Also, through the contract, the organization elaborating the study will be asked to ensure the implementation of QA activities in the preparation of the respective studies and to provide NEPA with the relevant documentation.

The implementation of the studies will follow the classic procedure: inception phase, progress phases and final phase, and thus offering the possibility to MEF and NEPA to monitor closely their development and avoiding in this way the deviation from the initial scope of the studies.

### 3) within the reception phase

MEF will make the payments for the contractor only after NEPA's endorsement of results according to contract. Therefore, the studies will provide quality and useful information for the elaboration of GHG inventories in accordance with reporting requirements.

- where will proper documentation be available on the scope, methods, assumptions, key parameter values and data sources for each study

The entire documentation on the scope, methods, assumptions, key parameter values and data sources for each study will be part of the electronic/paper archive stored within the NEPA's headquarters, and will be available for using further by experts and checked by review teams. Copies of the relevant documentation will be stored at the MEF's headquarters.

- the agency responsible for the implementation of study findings

Giving its legally assigned task and its designation as the responsible authority for the national system and preparation of the National GHG Inventory management, NEPA is responsible for the implementation of all studies immediately after their delivery. In some cases, the comprehensive studies will have phases finalized before the final deadline of the studies.

- the process for the on-going collection and QC of currently missing data

This issue is one of the most important on-going action under the national system management. The NEPA inventory team is already engaged in analyzing the previously NE sources in order to minimize the number of NE and decide the sources that are NO or NA in Romania. The planned studies will also support the same endeavour in minimizing the NE sources, and in addition the studies will result in the possibility of using higher tier methods in estimating key categories.

II. Regarding the second thesis in the ERT response from 26 January 2011, Romania confirms the existence of the necessary funds for the development of studies from the:

- MEF budget;
- Environmental Administration Fund budget;
- Swiss Financial Cooperation budget, in the cooperation between Romania and Switzerland.

The planned studies will be developed based on the following schedule:

- Launching public acquisition procedure March 2011
- Deadline for contracting studies: 2 months
- Deadline for the final report: as presented in the table submitted in the first response

The distribution of the studies through the three financing instruments was performed by MEF and is described in the table below.

No.	Title of the study	Financial instrument
1.	The calculation and the documentation of the national emission factors specific to every fuel type, raw material, industrial production, for every subsector within the Energy and Industrial Processes Sectors, data necessary for the preparation of the GHG Inventory and for the implementation of the scheme for GHG emission allowance trading at the European Community level (EU-ETS), of the national net calorific values for every EU-ETS subsector and of the associated uncertainties; the calculation and the documentation of the conversion factors specific to the technologies utilized within the energy and industrial processes and of their associated uncertainties.	MEF budget
2.	The development of the historical data, data adjacent to the 1989-2003 period, data which allow for the estimation of the road transport emissions utilizing the COPERT model.	Swiss Financial Cooperation budget
3.	The calculation and the documentation of the emission factors, of other national parameters and of the associated uncertainties, elements relevant to the key categories within Agriculture Sector.	Environmental Fund Administration budget
4.	The calculation and the documentation of the emission factors, of other national parameters and of the associated uncertainties, elements necessary for the calculation of the CH <sub>4</sub> emissions from Solid Waste Disposal on Land category.	Environmental Fund Administration budget
5.	The calculation and the documentation of the emission factors, of other national parameters and of the associated uncertainties, elements necessary for the calculation of the CH <sub>4</sub> and N <sub>2</sub> O emissions from Waste Water Handling category.	Environmental Fund Administration budget
6.	The elaboration of the GHG Inventory LULUCF Sector both under the UNFCCC and KP requirements.	MEF budget

Note: The Environment Fund Administration is a public self-financed authority with legal capacity, under the coordination of MEF and with responsibilities in managing the Romanian Environment Fund in compliance with the provisions of the Emergency Ordinance no. 196/2005 on the establishment of the Environment Fund, subsequently amended and supplemented.

- indication of the relative contribution of the Swiss framework to the funding of the LULUCF study

Due to its importance in the reporting process Romania decided to finance the LULUCF study directly from the MEF budget in order to speed up the finalization of the study (see table above).

- indication of how the funding will be used to strengthen the national system, especially to set up stable and effective institutional arrangements

The funding will be mostly used to strengthen the national system in complying with the reporting requirements.

In addition, the national system will be strengthened by ensuring the proper functioning of the institutional structure and arrangements described in the existing legislation (Governmental Decision 1570/2007). In this process, MEF and NEPA have already started to analyze the functioning of the institutional arrangements and the involvement of other institutions responsible with providing information, data, methods, factors, parameters.

The national system has been developed from 2008 and it has functioned continuously since then without any disruptions. However, some activities under the national system that were supposed to be implemented in the last couple of years based on previous ERT recommendations, were postponed due to the international financial crisis and the required budget restrictions in the public administration. The trend not only is not continuing but tremendous efforts have been taken in the last period to ensure the financial and human resources necessary in solving the issues identified in due time.

**Annex 4**: file name “Annex 4 ROU OUG 196.2010 Privind Fondul pentru mediu.pdf”

**Annex 5**: file name “Annex 5 ROU HG 567-2011.pdf”

received in Romanian

## Annex 6

**DECISION no. 432 from 28 April 2010**  
**concerning the setting up and development of green investment schemes**

**PUBLISHED in: MONITORUL OFICIAL no. 303 of 10 May 2010**  
**ENTRY INTO FORCE: 10 May 2010**

By reason of Art. 108 from the Constitution of Romania, republished and Art. 5 para (4) from the Government Emergency Ordinance no. 29/2010 concerning the trade of the Romanian Assigned Amount Units under the Kyoto Protocol,

The Government of Romania takes the following decision:

**ART. 1** (1) This decision creates the legal and institutional framework for the setting up and development of green investment schemes.

(2) The aim of this decision is the efficient trading of the Romanian Assigned Amount Units surplus under the Kyoto Protocol, hereinafter called AAUs.

**ART. 2** (1) For the purposes of this decision, the meaning of the following expressions is:

a) green investments – investments which provide funding for projects generating emission reductions of greenhouse gases;

b) clean technologies – technologies leading to the reduction of the energy intensity expressed in tone of CO<sub>2</sub> equivalent per product unit.

(2) the definitions provided in para (1) shall be complemented as appropriate, by those of the Government Emergency Ordinance no. 29/2010 concerning the trade of the Romanian Assigned Amount Units under the Kyoto Protocol, published in the Monitorul Oficial, Part I no.231 of 13 April 2010

**ART. 3** (1) The Green investment schemes comprise two stages :

a) trading the surplus of AAUs under a state contract for the sale of the AAUs surplus;

b) funding the green investment schemes, fast start financing , information and awareness campaigns, as well as for research on climate change.

(2) Trading of the surplus of AAUs shall be done by the Ministry of Economy, Trade and Business together with the Ministry of Environment and Forests, the Ministry of Public Finance, the Ministry of Foreign Affairs and other public central administration authorities as appropriate.

(3) the entities from the para (2) conduct their activities as public authorities in compliance with the provisions of Law no. 571/2003, art. 127, para (4), published in the Monitorul Oficial Part I, no. 927 of 23 December 2003, as subsequently amended and complemented, being exempted from taxation for trading the AAUs under the Government Emergency Ordinance no. 29/2010 .

ART. 4 (1) For the first commitment period under the Kyoto Protocol 2008-2012, the surplus of AAUs to be traded is up to 300.000.000 AAUs.

(2) The trading of the surplus of AAUs shall be done in tranches of at least 1 000 000 AAUs.

ART. 5 The purchasers of AAUs may be:

- a) Annex B Parties to the Kyoto Protocol, represented by their governments;
- b) legal entities authorized by Annex B Parties to the Kyoto Protocol.

ART. 6 (1) To approve the negotiation of a state contract for the sale of the AAUs surplus, the Ministry of Economy, Trade and Business together with the Ministry of Environment and Forests will initiate a memorandum endorsed by the Ministry of Public Finance, Ministry of Foreign Affairs and other public administrative authorities as appropriate, which will be submitted for approval to the Government.

(2) The memorandum for the approval of negotiations of a state contract for the sale of the AAUs surplus, contains provisions concerning clear elements for the Romanian party's mandate and proposals concerning the composition of the delegation of negotiators.

(3) The memorandum for the approval of negotiations of a state contract for the sale of the AAUs surplus shall always have attached the text proposal which will be presented at the start of the negotiations in Romanian and in the foreign language the contract will be concluded.

(4) The Romanian proposition text shall be drawn up in compliance with the provisions of the Government Emergency Ordinance no. 29/2010 and the present decision.

ART. 7 (1) The negotiations will be undertaken by direct meeting of the delegations of negotiators or by correspondence in strict compliance with the mandate.

(2) Where the text coming out of the negotiations is in line with the mandate approved through the memorandum, according to Article 6 para (2), a memorandum to conclude the state contract for the sale of the AAUs surplus will be initiated and endorsed by the same public authorities involved in the promotion of the memorandum of negotiation of the state contract, and which will be submitted to the Government for approval.

(3) Where the text coming out of the negotiations is substantially different from the mandate for negotiations, a new memorandum shall be drawn up which will be initiated and endorsed by the same public authorities involved in the promotion of the memorandum of negotiation of the state contract, and which will be submitted to the Government for approval.

(4) The memorandum mentioned in para (3) includes the summary of the process of negotiations indicating the position of the other partner, the assessment of the likely developments of negotiations, as well as proposals for the mandate amendments or the termination of negotiations.

ART. 8 (1) The Environmental Fund Administration shall open an analytical account in the hard currency account of the Ministry of Public Finance opened at the National Bank of Romania with a view to cash in the sums resulted from the trading of the surplus of AAUs; in this sense a tripartite convention shall be concluded.

(2) Within 7 working days from the crediting of the account mentioned at para (1) with the sums resulted from the trading of the surplus of AAUs, the Environmental Fund Administration shall proceed to the hard currency exchange and shall transfer the equivalent in lei to the income account of the Environmental Fund.

(3) Within the deadline mentioned in para (2), the Environmental Fund Administration shall transfer the sums due to the state budget according to the provisions of Article 10 para (2) of the Government Emergency Ordinance nr. 29/2010.

(4) The operation in the accounting of the Environmental Fund Administration shall be completed according to the provisions of the Methodological norms on the organization and managing of public accounting, Public account planning and the related guidelines, approved by the Ministerial Order nr. 1917/2005 of the Ministry of Public Finance, with the subsequent amendments and additions.

ART. 9 The revenues resulted from the trading of the surplus of the AAUs shall be a source for financing the green investments, fast start finance, information and awareness campaigns, as well as for research on climate change.

ART. 10 (1) The revenues provided in Article 9, except those provided in Article 10 para (2) from the Emergency Ordinance nr. 29/2010, shall be used as follows:

- a) 98% for green investments;
- b) 2% for information and awareness campaigns, but also for research on climate.

(2) The amounts indicated in para (1) letter. (a) for green investments shall be used for the following project categories:

- a) clean technologies, including, but not limited to coal distillation and high efficiency cogeneration;



- b) modernization and rehabilitation of power units;
- c) increasing the use of energy from renewable sources;
- d) improving the buildings energy efficiency;
- e) greenhouse gas emissions reduction in agriculture;
- f) greenhouse gas emissions reduction in transport, by stimulating especially the use of hybrid and electric vehicles;
- g) Aforestation, including of degraded agricultural land;
- h) Waste management which leads to greenhouse gas emissions reduction.

ART. 11 The funding of projects referred to in Article 10 para (2) shall comply with the state aid legislation.

ART. 12 (1) The beneficiaries of the projects mentioned in Article 10, para (2) may be the following:

- a) economic operators;
- b) central and local public administration authorities.

(2) The beneficiaries of funds for information campaigns, awareness and research on climate change, mentioned in Article 10 para (1), letter b), may be the following:

- a) central and local public administration authorities;
- b) non governmental organizations;
- c) national research, development and innovation centers.

ART. 13 The monitoring procedure for the greenhouse gas emissions for the projects mentioned in Art. 10, para (2) shall be approved thorough order of the Minister of Environment and Forests within 120 days from the entry into force of this decision.

PRIM-MINISTER  
EMIL BOC

Countersigned:  
Minister of economy, trade and business,  
Adriean Videanu

Minister of environment and forests,  
Borbely Laszlo

Minister of foreign affairs,  
Teodor Baconschi

Minister of public finance,  
Sebastian Teodor Gheorghe Vlădescu

Bucarest, 28 April 2010. No. 432.

## Annex 7

**EMERGENCY ORDINANCE no. 29 from 31 March 2010**  
**concerning the trade of the Romanian Assigned Amounts Units under the Kyoto Protocol**

**PUBLISHED in: MONITORUL OFICIAL no. 231 of 13 April 2010**  
**ENTRY INTO FORCE: 13 April 2010**

Taking into account the evolution of the negotiations under the United Nation Conference on Climate Change held in Copenhagen concerning the possibility of carrying over the surplus of assigned amounts units under the commitment of the Kyoto Protocol (2008-2012) and the commitment period post Kyoto,

Taking into account the present context of the international trading of the assigned amounts units which leads to the assessment of a significant decrease of the unit cost of the assigned amount,

Taking into account the economic crisis and that the revenues from the trading of the surplus of the assigned amounts units have a positive impact on the budgetary deficit and represent a financial resource for urgent environmental projects required by the economy, especially in the energy sector, as well as for projects developed in the housing, agriculture and transport sectors, for preparing the implementation of the climate-energy package,

All the above justify the emergency regulation of measures concerning the efficient trade of the surplus of the assigned amounts units,

The lack of the planned regulatory solution would negatively result in the delay of the trading of the surplus of AAUs, which would lead to the loss of revenues generated by the trade of the surplus of AAUs in the European negative context of carrying them over, and consequently the decreasing of financial resources for green investments, fast stat finance, and climate change information and awareness campaigns,

As these elements mentioned above concern the public interest and represent extraordinary and emergency situations for which the regulation cannot be delayed

By reason of Art. 115, para (4) from the Constitution of Romania

The Government of Romania adopts the following Emergency Ordinance.

### **Article 1**

(1) This Emergency Ordinance establishes measures for the efficient trading of the Romanian assigned amount unit's surplus under the Kyoto Protocol to United Nations Framework Convention on Climate Change, according to Art. 17 of this Protocol and to the subsequent decisions adopted by the Conference of the Parties.

(2) The efficient trading of the surplus of the assigned amount units is made under green investment schemes.

## Article 2

For the implementation of this Emergency Ordinance, the meaning of the following expressions shall be:

a) the United Nations Framework Convention on Climate Change - UNFCCC, signed in Rio de Janeiro on 5 June 1992, ratified by Law no. 24/1994, published in Monitorul Oficial, Part I, no. 119 of 12 May 1994;

b) the Kyoto Protocol - Kyoto Protocol to United Nations Framework Convention on Climate Change, ratified by Law no. 3/2001, published in Monitorul Oficial, Part I, no. 81 on 16 February 2001;

c) the assigned amount – the amount of greenhouse gases emissions that can be emitted during the first commitment period 2008-2012 by an Annex B country to the Kyoto Protocol, which is composed of the total number of assigned amount units;

d) Assigned Amount Unit - AAU - 1 tone of CO<sub>2</sub> equivalent, calculated based on the global warming potential;

e) the commitment period reserve - AAUs reserve required to ensure the meeting of the commitment under the Kyoto Protocol for the limitation and reduction of the greenhouse gases emissions, to comply with relevant EU regulations and for the development of the economy;

f) the surplus AAUs – the amount of tradable AAUs, resulted from the difference between the assigned amount and the commitment period reserve;

g) the international emissions trading - EIT – the flexible mechanism mentioned in Art. 17 of the Kyoto Protocol according to which the countries listed in Annex B to the Kyoto Protocol may trade between them the assigned amount units;

h) the green investment scheme - a tool for ensuring environmental benefits, which consists in the trading of the AAUs surplus, by trading the AAUs surplus under the EIT, and using the revenues resulted for financing greenhouse gases emissions reduction projects.

i) the State contract for the sale of the AAUs surplus – a contract concluded by the Romanian State with another State included in the Annex B to the Kyoto Protocol, or another entity, authorized by that State, which is not a subject of international law;

j) the fast start finance - the Romanian commitment in the European Council of December 2009 to allocate financial assistance to developing countries with a view to adapt to climate change and diminish during 2010-2012 the emissions of greenhouse gases.

### **Article 3**

For the purposes of this Emergency Ordinance, the assigned amount has the legal regime of movables, intangible goods from the private property of the State.

### **Article 4**

(1) The trading of the surplus of AAUs is completed by transferring the ownership right of the AAUs surplus by the Government of Romania, as a representative of the Romanian State, a Party to the Kyoto Protocol, to the other contracting State or to the State that authorized the contracting entity.

(2) The Government of Romania ensures the fulfillment of the eligibility criteria for the use of EIT mechanism included in the decisions adopted at the first Conference of the Parties serving as the Meeting of Parties to the Kyoto Protocol in Montreal in December 2005.

(3) The decisions proving for eligibility criteria shall be published by order of the Minister of foreign affairs in Monitorul Oficial, Part I, within 15 days from the entry into force of this Emergency Ordinance.

### **Article 5**

(1) The transferring of the ownership right provided for by Art. 4. para (1) shall be made on the date of the transfer of the AAUs in the National Register of greenhouse gases emissions of the contracting State or the authorized contracting entity subject to the confirmation from the State Treasury of the payment of the entire value of the purchased AAUs.

(2) The trading of the AAUs surplus shall be made by direct negotiation with all the entities mentioned in Art. 2 letter i).

(3) Cost-effectiveness is the main criterion considered when concluding the State contract for trading the state AAUs surplus.

(4) The setting up and development of the green investment schemes shall be approved by Government Decision within 15 days from the entry into force of this Emergency Ordinance.

### **Article 6**

The principles that form the basis for the green investment schemes are:

- a) equal and non-discriminatory treatment towards the buyers of the AAUs surplus;
- b) efficient trade of the AAUs surplus;
- c) efficient use of the resulted funds;
- d) transparency in selecting the projects which reduce greenhouse gases emissions;
- e) promotion through the selected projects of the concept of sustainable development.

#### **Article 7**

(1) The trading of the AAUs surplus shall be made according to the State contract for trading the AAUs surplus.

(2) The State contract for trading the AAUs surplus is governed and drawn up according to the provisions of the Romanian law, regardless of the nationality of the purchaser, unless the parties decide otherwise, and is drawn up in at least 4 copies, two in the Romanian language and two in the language chosen by the parties.

(3) Each party shall have at least one copy in the Romanian language and one in the foreign language in which the State contract for the trade of the AAUs surplus was drawn up, unless the parties decide otherwise.

#### **Article 8**

The elements of the mandate for the negotiation and conclusion of the State contract for trading the AAUs surplus shall be included in memoranda to be approved by the Government.

#### **Article 9**

The revenues resulted from the sale of AAUs surplus shall be used for financing projects which generate the reduction of greenhouse gases emissions.

#### **Article 10**

(1) The revenues resulted from the sale of AAUs surplus are revenues of the Environmental Fund and are managed by the Environmental Fund Administration, pursuant to Art. 60 para.

(2) of the Emergency Ordinance no. 195/2005 on environmental protection, approved with amendments and additions by Law no. 265/2006, with subsequent amendments and additions.

(2) As an exception to the provisions of para (1), 10% from the value of each transaction shall be income to the State budget until the meeting of the amount incurred by Romania for fast start finance.

(3) The projects financed by the Environmental Fund from the revenues provided for in para (1) shall be approved by Government Decision.

PRIME-MINISTER

EMIL BOC

Countersigned:

Minister of economy, trade and business,  
Adriean Videanu

Minister of environment and forests,  
László Borbély

Minister of foreign affairs,  
Teodor Baconschi

Minister of public finance,  
Sebastian Teodor Gheorghe Vlădescu

Bucharest, 31 March 2010

No. 29

**Annex 8**: file name “Annex 8 ROU Governmental Decision\_reorganization NEPA project.pdf”

**Annex 9**: file name “Annex 9 ROU Organisation chart NEPA.pdf”

received in Romanian

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