

Procedure in relation to joint implementation and clean development projects

Article 1

The procedure covers the project activities determined in this procedure (hereinafter: project activities) and the participants taking part in these project activities according to Article 6 of the Kyoto Protocol (hereinafter: Protocol) of the United Nations Framework Convention on Climate Change (hereinafter: Convention) in the Republic of Hungary; and according to Article 12 of the Protocol in other states.

Article 2

Definitions

For the purpose of this order of procedure:

- a) *Annex 1 party*: such party listed in Annex I of the Act LXXXII of 1995 on the promulgation of the Convention, that party – according to the provisions of the Article 7. of the Protocol – ratified the Protocol;
- b) *project activity*: the project activity approved according to the decisions passed by one party or more parties listed in Annex 1 of the Convention, on the basis of Article 6 or Article 12 of the Protocol, as well as of the Convention or the Protocol as well as approved according to this rule of law;
- c) *joint implementation (JI) project*: project serving the increase of the reduction of greenhouse gas emissions or the removal thereof with the help of sinks in accordance with the decision passed on the basis of Article 6 of the Protocol as well as of the Convention and the Protocol;
- d) *clean development mechanism (CDM project)*: emission reduction project in accordance with Article 12 of the Protocol as well as with the decisions passed on the basis of the Convention or the Protocol that may be implemented only in the countries of those parties that ratified the Protocol but are not included in Annex B;
- e) *emission reduction unit (ERU)*: unit issued in accordance with Article 6 of the Protocol as well as with the decisions passed on the basis of the Convention or the Protocol that is equal to one ton of carbon dioxide equivalent;
- f) *certified emission reduction (CER)*: unit issued in accordance with Article 12 of the Protocol as well as with the decisions passed on the basis of the Convention or the Protocol that is equal to one ton of carbon dioxide equivalent;
- g) *greenhouse gases*: carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulphur hexafluoride;
- h) *Secretariat*: public administration unit assigned by the minister of environment and water that – as regards the joint implementation (JI) projects and clean development mechanism (CDM) projects – proceeds for the preparation of project approval and the monitoring of project implementation, and as appointed contact proceeds towards the secretariat of the Convention and is responsible for the compliance of international reporting obligations connected to project activities at national level.
- i) *Verifier*: natural or legal person authorised to performing verifying activities by separate rule of law.
- (r) *Community scheme*: emission trading system of the European Union to which the provisions of the Act XV of 2005 on greenhouse gas emission allowance trading (hereinafter: Üht) are applied.

- (s) *Committee*: Inter-ministerial Committee for the implementation of the Kyoto Protocol.

Article 3

Joint implementation (JI) project

The net emission reduction implemented in the frame of the joint implementation (JI) project and expressed in carbon dioxide equivalents can only occur through employing such technological solution that directly or indirectly decreases the net greenhouse gas emission of human origin.

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(11) The procedure shall be commenced on request. The applicant shall submit the project documents of the joint implementation (JI) project (hereinafter: Project description) to the Office in two written copies or in electronic form in accordance with the provisions of Annex 2 of this order of procedure.

(11) If the Project description is complete in terms of the data determined in Annex 2, the Secretariat shall register the Project description and publish it on its official homepage.

(11) Together with the Project description the applicant may indicate the confidential data not to be disclosed. Information on environmental impacts of Project description and the methodology of baseline emission calculation cannot be confidential.

(11) The Secretariat shall perform a preliminary rating of the registered Project description. In the course of the rating procedure the Secretariat examines, whether

- (a) the joint implementation (JI) project harmonises with the national environmental objectives as well as in the case of energetics projects with the national energy policy;
- (b) the joint implementation (JI) project harmonises with the national registration scheme as well as the greenhouse gas emissions to be reduced by the project are in the national registration scheme and whether the provided preliminary greenhouse gas calculations harmonise with the calculation methods and emission factors used in the national registration scheme.

(11) As a result of the preliminary rating procedure the Secretariat – within 30 days from the publication date determined in subarticle (2) – shall present the project to the Committee. With the help of considering the proposal of the Committee, the chair of the Committee shall decide on issuing the letter of endorsement (hereinafter: Letter of Endorsement) of the joint implementation (JI) project, or denies the issue of the Letter of Endorsement, and shall notify the applicant on the decision in written form.

(6) In the course of the preliminary rating procedure the Letter of Endorsement cannot be issued, if

- a) the party participating in the implementation is under bankruptcy, liquidation or final settlement procedure as well as it has public dues that are expired more than 90 days;
- b) the joint implementation (JI) project is aimed at the establishment or development of facilities using nuclear energy;
- c) the forest plantation occurring on areas generated as a result of the joint implementation (JI) project harmonises with the provisions of Act LIV of 1996 on forests and forest protection;
- d) the joint implementation (JI) project is implemented in a facility that is under the Community scheme and it serves greenhouse gas reduction under the Community scheme, except for projects according to subsection (5) and (7) Section 7;
- e) the investment intended to be implemented within the frame of the joint implementation (JI) project receives grants from European Union or state sources;

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- f) the implementation of the investment intended to be implemented within the frame of the joint implementation (JI) project has started before or under the preliminary rating procedure;
- g) the joint implementation (JI) project probably shall bring adverse environmental impacts;
- h) the applicant did not submit any guarantees for the proper implementation of project activity, with special regard to the compliance with the obligations of this order of procedure;
- i) the Annex I party does not approve the project activities.

(7) In the Letter of Endorsement the Secretariat shall notice the intention of the applicants on the implementation of the joint implementation (JI) project. The Letter of Endorsement is valid for 6 months and it authorises the applicant to proceed the preparatory activities of the joint implementation (JI) project as well as it renders the opportunity for the applicant to submit the plan document of the joint implementation (JI) project (hereinafter: Plan document) within six months after receiving the Letter of Endorsement, in accordance with Annex 3 of this order of procedure.

(8) If the Plan document is complete in terms of the data determined in Annex 3, the Secretariat shall examine the Plan document; otherwise the documents should be completed.

(9) The Plan document can only be approved, if:

- (a) it harmonises with the requirements of the relevant international agreements; and
- (b) the joint implementation (JI) project:
 - (bi) directly or indirectly reduces net greenhouse gas emissions (environmental additionality); and
 - (bii) implements such an investment that is not a result of legal requirements (legal additionality); and
 - (biii) the implementation of the investment has not commenced till the date of approval, or it can be proved that the implementation of the project would not be completed without any additional financing source from the project, due to some kind of essential conditions emerged from the implementation of the project (financial additionality); and
 - (biv) on the basis of the financial calculations as well as detailed cash flow data of Plan document it can be ascertained that the project complies with the regulation on financial additionality issued by the Ministry of Environment and Water (hereinafter: MEW); and
- (c) in the case of project activities performed in order to generate electricity by hydroelectric power plant with capacity of over 20 MW the international criteria and guidelines determined in subarticle 6 Article 11b of 2003/87/EC Directive on emissions trading are met; and
- (d) the investment intended to be implemented within the frame of the joint implementation (JI) project does not receive grants from European Union, state or local government sources; and
- (e) the greenhouse gas calculations presented in the Plan document harmonise with the calculation methods and emission factors used in the national registration scheme; and
- (f) in the case of joint implementation (JI) projects on electricity generation or use the baseline calculation method complies with the regulation issued by the MEW;
- (g) in the case of the emission reduction units (ERUs) generated by the joint implementation (JI) project maximum 90% (of the verified value) of the actually produced emission reduction units will be transferred; as well as
- (h) the applicant, simultaneously with the submission of the Plan document, submitted the verifier report compiled by the independent joint implementation (JI) project verifier (hereinafter: Verifier Report), and the Verifier qualified all project conditions as adequate in the Verifier Report.

(10) The Secretariat shall take into account the opinions of the relevant ministries at the evaluation of the Plan document.

(11) The Secretariat shall present the result of the evaluation procedure – together with the Plan document – within 30 days from the reception date to the Committee for supporting the project. With the help of considering the proposal of the Committee, the chair of the Committee shall decide on issuing the letter of approval (hereinafter: Letter of Approval) of the joint implementation (JI) project, or denies the issue of the Letter of Approval; the Secretariat notifies the applicant on the decision in written form.

(12) In case of approval the chair of the Committee shall declare the joint implementation (JI) project as being in conformity with Article 6 of the Protocol in the Letter of Approval of the joint implementation (JI) project.

(13) The chair of the Committee shall provide the Letter of Approval for the period required by the applicant, but it cannot reach beyond 31 December 2012. The Letter of Approval shall contain the declaration of the fact that the emission reduction units may only be issued for emission reductions realised after 1 January 2008.

(14) The Letter of Approval shall not exempt the applicant of getting other official permits necessary to the implementations of the joint implementation (JI) project.

(15) After issuing the Letter of Approval the parties of the joint implementation (JI) project shall submit their draft contract on emission reduction sales within 4 months before the implementation of the project, in accordance with Annex 3 of this order of procedure. In case of non-compliance, the Secretariat shall withdraw the Letter of Approval.

(16) In the contract on emission reduction sales the maximum amount of emission reduction units (ERUs) to be transferred shall be determined in a way that the following requirements are met:

- the amount of transferred emission reduction units (ERUs) cannot exceed the 90% of the emission reduction realised by the joint implementation (JI) project;
- the value of transferred emission reduction units (ERUs) cannot exceed the 110% of the full costs of the joint implementation (JI) project.

(17) In order to cover the procedure costs of the joint implementation (JI) projects intended to be implemented in Hungary the Secretariat collects fees determined in separate rules of law.

Article 5

Monitoring and reporting connected to joint implementation (JI) projects implemented in Hungary

(1) The applicant shall prepare a yearly report on the implementation and operation of approved joint implementation (JI) projects – in accordance with the monitoring procedure determined in separate rule of law and in the Plan document as well as with the procedure approved by the Secretariat – for the Office, and in special case determined in the rule of law it is obliged to submit a special report within 30 days.

(2) In case of non-compliance with reporting obligation the Secretariat may consider cancelling the JI status of the given project as a function of its seriousness.

Article 6

The verification of emission reduction in the case of joint implementation (JI) projects implemented in Hungary

The applicants shall have the emission reduction implemented within the frame of the joint implementation (JI) project verified in accordance with the verification procedure determined in separate rule of law.

Article 7

Registration of the joint implementation (JI) projects implemented in Hungary in the National Registry, converting thereof in the Community scheme and the transfer of the emission reduction units (ERUs)

- (1) As a result of the joint implementation (JI) project, in compliance with the Protocol and the decisions related to it, an amount of emission reduction units (ERUs) equal to the implemented emission reduction shall come into existence.
- (2) The transfer of the emission reduction units coming into existence within the frame of the joint implementation (JI) project shall be done only after completing the verification process determined in Article 6.
- (3) Based on the emission reduction sales contract, the quantity of the emission reduction unit (ERU) equal to the verified emission reduction has to be transferred by the registry holder on the basis of the notice of the Secretariat to the account determined by the applicant till the upcoming April 30 after each year of the Kyoto compliance period.
- (4) The Secretariat before issuing the notice determined in Section 3 shall examine whether the applicant is entitled to assign or obtain the emission reduction unit (ERU).
- (5) Except of the provisions of subarticles (6) and (7), as a result of the activities arising from the joint implementation project to be implemented, no one emission reduction unit (ERU) or certified emission reduction (CER) can be taken over if they are aimed at the reduction and limitation of the carbon dioxide emission arising from the facilities determined in Annex 1 of the Üht.
- (6) Regarding the joint implementation (JI) project activities implemented in Hungary in the period between 1 January 2008 and 31 December 2012, which directly reduce or restrict the emission arising from the facilities listed in Annex 1 of the Üht, emission reduction unit (ERU) equal to the amount of emission unit determined in the Üht can be transferred only if this amount is simultaneously cancelled from the account of the operator of this facility.
- (7) According to subarticle (6) in the case of joint implementation (JI) project the operator of the facility is obliged to inform the Secretariat about the application related to transmission of the emission reduction unit (ERU), as well as is obliged to ask for cancellation of the emission units adequate to the transfer emission reduction units (ERUs) from the transaction registry at the transaction registry holder as determined by the Üht.
- (8) During the period between 1 January 2008 and 31 December 2012, emission reduction unit (ERU) equal to the amount of emission unit determined in Üht related the joint implementation (JI) project activities that directly reduce or restrict the emission arising from the facilities being under the scope of the Üht can be transferred if this amount is simultaneously cancelled from the national registry.
- (9) The Secretariat during the examination of the direct or indirect impacts of the joint implementation (JI) projects related to the Community scheme shall take into account the following aspects:
 - (a) whether the given joint implementation (JI) project is implemented in the facility being under the scope of the Community scheme as well as whether the emission reduction arises in a facility being under the scope of the Community scheme (direct impact).

(b) in spite of the fact that the given joint implementation (JI) project does not have a direct effect on the carbon dioxide emission of one or more given facilities, whether it has a direct impact on the carbon dioxide emission of any sectors of the Community scheme or on the entire scheme (indirect impact).

- (10) The Secretariat conducts the examination at uniquely for each project activity.
- (11) Only those joint implementation (JI) projects planned to be implemented in Hungary can be supported of which planned emission reduction offset is possible according to the JI reserves determined in the National Allocation Plan for the period of 2008-2012, in compliance with the regulation of the Allocation Plan and the 101/2004/EC Directive.

Article 8

Regulations related to joint implementation (JI) projects and clean development mechanism (CDM) projects to be implemented outside Hungary

- (1) Such legal entities registered in Hungary proving not to be under bankruptcy or liquidation procedures can submit an application to the Office in order to take part as a Buyer in the joint implementation (JI) and clean development mechanism (CDM) projects outside Hungary and to take over a determined percentage of the emission reduction units (ERUs) as well as certified emission reductions (CERs) arising from the joint implementation (JI) project or clean development mechanism project (CDM).
- (2) The Project description of the given project shall be attached to the application according to Annex 2 of this order of procedure. The applicant shall indicate whether the project, according to the regulations of the Üht is under the scope of the Community scheme.
- (3) The Secretariat can approve for the applicant to take part in the joint implementation (JI) project or clean development mechanism (CDM) project according to the subarticle (3) Article 6 of the Protocol on the basis of the presented documents within 30 days from the date of receiving the application. In case of denial of the approval the Secretariat is obliged to explain its decision.

Article 9

The clearing of units resulting from the project activities in the Community scheme

- (1) Each emission reduction unit (ERU) or certified emission reduction (CER) that will be allocated according to this order of procedure, the Protocol and decisions accepted later on the basis on the Protocol after 1 January 2008 can be used in the Community scheme, except:
 - (a) in the second trading period (1 January 2008 – 31 December 2012) certified emission reductions (CERs) or emission reduction units (ERUs) arising from nuclear facilities,
 - (b) certified emission reduction (CERs) or emission reduction units (ERUs) arising from land use, as a result of the land use change and forestry activity,
- (2) The emission reduction units (ERUs) or the certified emission reduction (CERs) arising from project activities in the Community scheme after 1 January 2008 and are in compliance with subsection (1) can be used on individual facilities for the given trading period according to the National Allocation Plan based on the Üht and to a percentile extent of the allocation of the emission units of the given period.

Content elements of the joint implementation project description

The joint implementation (JI) project description contains the following:

1. General information

1.1 The subject of the project

1.2 Location of the project

1.3 Participants of the project: name, address, company registration number, phone number, facsimile, email address of the project host legal entity; authorised representatives of the project participants.

1.4 Time schedule for the implementation of the project, including the schedule for the implementation of the investment.

2. Technological and financial information:

2.1 Short description of the applied technology

2.2 Preliminary financial plan of the project.

3. The source and the expected volume of emission reduction:

3.1 The reason of additionality and the sources of emission,

3.2 Volume of the expected emission reduction.

4. The monitoring concept:

The main elements of the monitoring procedure on which the procedure possibly will be focused.

5. The environmental impact assessment:

The preliminary estimated environmental impacts of the project.

6. The expected process of the social participation:

The process of the public consultations to be performed during the preparatory phase of the project investment.

Content elements of the plan documents of the joint implementation projects

The plan document contains the following:

1. General information:

1.1 The subject of the project (investment), the location of the implementation, the name, address, company registration number, phone number, fax number, email address of the project host legal entity; the name of its representatives.

1.2 The name and the address of the authorised representatives of the project participants.

1.3 Statement regarding the international agreement concerning the takeover of the specific parts of the emission reduction unit established by the given project, as well as the statements of the project participants related to this.

1.4 Time schedule for the implementation of the project (including the schedule for the implementation of the investment).

2. Technological and financial information:

Introduction of the applied technology and the financial plan of the project;

3. Baseline study, which mainly covers the following parts:

3.1 Showing that within the frame of the project the realised net emission reduction development/investment is of additional characteristics in accordance with the definition of this order of procedure;

3.2 Emission baseline: determining the emission baseline, introduction and justification of the applied method; baseline is the emission value estimation without the implementation of the given joint implementation project that serves as a comparative basis for the determination of the emission reduction realised by the project

3.3 Emission reduction: the quantity of the emission reduction (CO₂ eq t/year) being established by the implementation of the project, determining and analysing the cost efficiency of the emission reduction.

4. Verification study:

Preliminary verification study on the project documentation.

5. Monitoring plan:

The plan related to the monitoring of the project implementation that includes the provision of information and reports related to this to the Secretariat.

6. Impact analysis:

The result of the environmental impact assessment as well as in the case of the project subject to impact analysis, including the exploration of incidentally occurring emission change outside the frames of the project but due to it; local/regional development effects of the project and relations in connection with employment, manpower and other important economic policy areas. The environmental impact analysis should also cover the other environmental impacts of the activities implemented within the frame of the project, so not only impacts set by the project aiming at net reduction of greenhouse gas emissions.

7. Summary of social consultations:

Summary of the social participation performed during the preparatory phase of the project investment.