

GOVERNMENT OF THE REPUBLIC OF HUNGARY

Act LX of 2007 on the implementation framework of the UN Framework Convention on Climate Change and the Kyoto Protocol thereof

Scope of the Act

Section 1

The scope of the Act covers natural persons, legal persons and non-limited companies performing activities connected to the reduction of greenhouse gas emissions and removal thereof by sinks.

Definitions

Section 2

For the purposes of this Act:

- 1) *Framework Convention*: UN Framework Convention on Climate Change promulgated by Act LXXXII of 1995;
- 2) *Protocol*: Kyoto Protocol promulgated by Act IV of 2007;
- 3) *party*: country listed in Annex I of the Framework Convention that ratified the Protocol;
- 4) *greenhouse gas*: carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulphur hexafluoride (SF₆);
- 5) *carbon dioxide equivalent*: one ton of carbon dioxide or the amount of a greenhouse gas having the same Global Warming Potential (GWP);

- 6) *sink*: the facility or the biomass itself that is able to sequester any greenhouse gases, aerosol particles or material causing the generation thereof from the atmosphere;
- 7) *international flexibility mechanisms*: complementary instruments serving the compliance with the greenhouse gas emission reduction undertaken in the Protocol by the parties, so in particular project activities implemented through international co-operation and international emission trading;
- 8) *project activities implemented through international co-operation*: joint implementation and clean development mechanism;
- 9) *joint implementation*: such project activity implemented through international co-operation during which the investment of one party (investor country), in the territory of another party (host country) results in the reduction of greenhouse gas emissions and increased removal thereof by sinks approved in accordance with the decisions based on the Framework Convention and the Protocol;
- 10) *clean development mechanism*: such project activity implemented through international co-operation during which the investment of one party (investor country), in the territory of a party not listed in Annex I of the Framework Convention (host country) results in the reduction of greenhouse gas emissions and increased removal thereof by sinks approved in accordance with the decisions based on the Framework Convention and the Protocol;
- 11) *international emission trading*: assignment of Kyoto units in accordance with the decisions based on the Framework Convention and the Protocol;
- 12) *assigned amount*: aggregate emission amount of greenhouse gases of anthropogenic origin expressed in carbon dioxide equivalent for a given commitment period, in accordance with the relevant provisions of the Protocol and of the Decision No 280/2004 of the European Parliament and of the Council concerning a mechanism for monitoring Community greenhouse gas emissions and for implementing the Kyoto Protocol (hereinafter: Decision No 280/2004);
- 13) *Kyoto unit*: assigned amount unit (AAU), emission reduction unit (ERU), certified emission reduction (CER) and removal unit (RMU);
- 14) *assigned amount unit (AAU)*: intangible assets determined and issued on the basis of the assigned amount that entitle to emit one carbon dioxide equivalent;
- 15) *emission reduction unit (ERU)*: intangible assets determined and issued as a result of joint implementation that entitle to emit one carbon dioxide equivalent;
- 16) *commitment period*: period determined on the basis of subarticle (1) Article 3 of the Protocol;
- 17) *certified emission reduction (CER)*: intangible assets determined and issued as a result of the clean development mechanism that entitle to emit one carbon dioxide equivalent;

- 18) *removal unit (RMU)*: intangible assets determined and issued in the case of removal of greenhouse gases from the atmosphere by sink in the first commitment period (2008-2012) that entitle to emit one carbon dioxide equivalent;
- 19) *national transaction registry*: authentic and open registry containing the registration of the issue, assignment and cancellation of Kyoto units as well as of the trade registry pursuant to Section 15 of Act XV of 2005 on trading with greenhouse gas allowances (hereinafter: Üht.).

National Climate Strategy and National Climate Programme

Section 3

(1) The Parliament adopts the National Climate Strategy (hereinafter: Climate Strategy) in order to determine objectives, instruments, priorities, so particularly tasks connected to the Hungarian researches on climate change, the processes causing thereof and impacts, to the reduction of domestic greenhouse gas emissions and to the adaptation to domestic impacts of climate change as well as to the preparation for the domestic impacts and instruments for complying with these objectives.

The Climate Strategy should be elaborated first for the period of 2008-2025, in accordance with the international commitments. The Government shall review the Climate Strategy in two years after its adoption, and then in every five years. The proposal on the review should be submitted to the Parliament to be approved.

(3) The Government adopts the National Climate Programme (hereinafter: Climate Programme) with regard to the implementation of the Climate Strategy, to the international commitments and to the claims to the adaptation to the impacts of climate change, in order to determine and implement the commitments to reduce and limit emissions and to monitor the actual and expected results.

(4) The Climate Programme contains the following in particular:

a) the main measures to implement the commitments undertaken by the Republic of Hungary in the frame of the Framework Convention and of the Protocol to reduce and limit greenhouse gas emissions of anthropogenic origin and to strengthen the sinks of these gases, and the schedule and financial sources thereof;

b) the steps necessary for the adaptation to the domestic impacts of climate change and the major measures and financial sources necessary to achieve them;

c) the research priorities connected to the cost-efficient reduction of domestic emissions and to the domestic impacts of climate change as well as the financial sources thereof.

(5) The Climate Programme should be determined for a two-year period, by taking into account the relevant EU programmes, policies and requirements. The Government shall report annually to the Parliament on the implementation of the Programme and the experience gained through the implementation.

Registration of greenhouse gas emissions, supply of data

Section 4

(1) The minister responsible for environment (hereinafter: minister) shall annually compile an inventory (hereinafter: National Emission Inventory) to monitor the domestic emissions of greenhouse gases of anthropogenic origin as well as the removal by sinks thereof, to collect and register data, and shall establish and operate a registration system (hereinafter: National Registration System) to process and analyse data as well as to elaborate forecasts, in accordance with the international commitments. The National Emission Inventory is the part of the National Registration System.

(2) The state authorities having disposal of the data necessary to operate the National Registration System and the organisations emitting at least 100 tons of carbon dioxide equivalent per year shall provide these data for the National Registration System in accordance with the provisions of a separate legal instrument.

(3) In order to have a more precise forecast of greenhouse gas emissions in Hungary, the investor shall prepare forecast on the overall greenhouse gas emissions connected to and generated during the activity, before the commencement of activities (identified in a separate legal instrument) emitting as well as sequestering greenhouse gases to a significant extent, and shall inform about it the institution operating the National Registration System in writing.

(4) The environmental authority may oblige the entity obliged to supply data or provide forecast as laid down in subsections (2)-(3) to pay a fine determined by a separate legal instrument in case the entity fully or partly does not comply with the obligations determined in subsection (2)-(3). The authority shall impose the fine with regard to all conditions of the case – particularly to the seriousness and duration of the violation and to the recurrent commitment of the unlawful conduct.

(5) The data determined in subsection (2) necessary to fulfil international data supply shall be provided for the National Registration System irrespective of the fact that they are qualified as individual data pursuant to the relevant provisions of Act XLVI of 1993 on statistics.

National transaction registry

Section 5

(1) The registry of issue, assignment and cancellation of Kyoto units occurs in authentic and open national transaction registry.

(2) The environmental authority shall operate the national transaction registry defined in subsection (1).

(3) Registration on the account held in the national transaction registry is required for the assignment of the Kyoto units.

(4) The Kyoto units belonging to the Treasury's assets shall be kept on a separate account in the national transaction registry. The minister shall have the right to dispose of the account.

(5) Those having account in the national transaction registry shall pay maintenance fee determined in the separate legal instrument.

Publicity of the data connected to greenhouse gases

Section 6

Data pertaining to the emission of greenhouse gases as well as to the removal thereof by sinks, so data pertaining particularly to the Climate Strategy, Climate Programme, National Registration System and international flexibility mechanisms shall qualify as environmental information.

National reporting

Section 7

The minister shall perform the reporting obligations on greenhouse gas emissions as well as the removal thereof by sinks and other climate change issues in accordance with the provisions of the Decision No 280/2004/EC as well as with the international commitments.

Generation and expiry of Kyoto units

Section 8

(1) The Kyoto units generated on the basis of the Protocol are intangible assets belonging to the Treasury of the Hungarian State and they are limitedly transferable pursuant to the separate legal instrument.

(2) The generation of the Kyoto unit occurs by registration in the national transaction registry and the expiry thereof occurs by cancellation from the registry. At the end of the given commitment period the trustee of the Kyoto units shall be responsible for cancelling the Kyoto units equivalent to the amount of the emitted greenhouse gases.

(3) The Kyoto unit may only be acquired and assigned pursuant to the provisions of this Act and of the separate legal instrument.

Management of Kyoto units

Section 9

- (1) In the course of the sale of the Kyoto units belonging to the Treasury's assets the provisions of Act XXXVIII of 1992 on the State Budget (hereinafter: Áht.) as well as of this Act and of the executive legal instruments thereof shall be applied.
- (2) The minister shall exert the rights of trustee over the Kyoto units. The minister may also exert the rights of trustee through the appointed central budgetary agency.
- (3) The Kyoto unit cannot be encumbered and the title of ownership thereof – except for the greenhouse gas allowance determined in paragraph c) Section 3 of the Üht. – cannot be conceded free of charge.
- (4) In a given commitment period the number of assigned amount units in the national transaction registry cannot be less than the reserve required by the Framework Convention as well as by the Protocol.
- (5) The assigned amount units can be carried over to the following commitment period without limitation, while the emission reduction units and the certified emission reductions can be carried over up to 2.5% of the assigned amount of the given commitment period.
- (6) The minister shall publish a communication on the assigned amount as well as the number of the assigned amount units determined in accordance with the Protocol and with the subsequent decisions.
- (7) The minister shall inform the organisation responsible for handling the Treasury's assets of the fact that the assigned amount units have entered into the Treasury's assets as well as the overall amount thereof, within 21 days after their registration into the national transaction registry.
- (8) The minister shall annually inform the organisation responsible for handling the Treasury's assets of the fact that the assigned amount units were retreated from the Treasury's assets as well as of their cancellation.

Section 10

- (1) The Kyoto units can be used in accordance with the Protocol and with the subsequent decisions as it follows:
 - a)* in accordance with the emission reduction objectives undertaken on the basis of the Protocol, in order to offset the greenhouse gas emissions occurring in the territory of the Republic of Hungary, by withdrawal;
 - b)* in order to generate emission reduction units equivalent to the emission reduction achieved in the frame of joint implementation projects implemented in the territory of the Republic of Hungary as host country. The entire or partial amount of the emission reduction units generated so shall be transferred to the investor country of the joint implementation project.

(2) In the frame of the international emission trading the minister may sell and buy Kyoto units on behalf of the Hungarian State in order to promote the more efficient implementation of this Act.

(3) In the first commitment period the revenue coming from the assignment of the Kyoto units shall be spent on supporting the activities, measures aiming at the reduction of the domestic emissions of greenhouse gases, on increasing the removal thereof by sinks and on the adaptation to the impacts of climate change, in accordance with the provisions of separate legal instrument.

(4) The minister shall manage the use of the revenue determined in subsection (3) in accordance with the Climate Strategy and with the Climate Programme.

(5) The Government shall annually report on the use of the revenues to the Parliament.

Participation in international flexibility mechanisms

Section 11

(1) Legal persons can participate in the joint implementation to be realised in the territory of the Republic of Hungary in accordance with the international commitments, pursuant to the provisions of the separate legal instrument, based on the minister's approval.

(2) After the realisation of the joint implementation accomplished in the territory of the Republic of Hungary in accordance with the international commitments, pursuant to the provisions of the separate legal instrument the minister shall determine and transfer emission reduction units to the investor country participating in the joint implementation or to the organisation authorized by the investor country.

Section 12

Legal persons can participate in the joint implementation or clean development mechanism to be realised outside the territory of the Republic of Hungary in accordance with the international commitments, through the compliance with the conditions determined in the separate legal instrument, based on the minister's approval.

Section 13

(1) Legal persons participating in the joint implementation to be realised in the territory of the Republic of Hungary shall pay one-off inspection fee within 30 days after receiving the minister's approval. The environmental authority shall spend the inspectoral charge on the activities connected to the operation of the National Registration System.

(2) The amount of the inspection fee shall be determined by the relevant act on annual budget.

Closing provisions

Section 14

- (1) This Act – except for the provisions of subsection (2) – shall enter into force on the 15th day after its promulgation.
- (2) Subsection (4) Section 4 and Section 13 of this Act shall enter into force on 1 January 2008.
- (3) Prior to the entry into force of this Act the joint implementation project activities approved by the minister qualify as approved pursuant to this Act.
- (4) Emission reduction units based on subsection (3) Section 5 can be issued after 1 January 2008.
- (5) The Government shall be authorized to issue decree on:
 - a) the National Climate Programme;
 - b) the detailed rules of the management of Kyoto units and the revenues deriving therefrom as well as of the selling procedure;
 - c) the rules and fees of project activities being realised through international co-operation and of the participation in the international emission trading;
 - d) the operational rules of the national transaction registry;
 - e) the amount and rules of payment of the account maintenance fee connected to the national transaction registry;
 - f) the contents and compilation method of international reports;
 - g) the rules of the operation of the emission inventory as well as of data supply obligations pertaining to the system;
 - h) the amount of the fine payable in the case of violating the data supply and forecasting obligations connected to the emission inventory;
 - i) the rules of participation in the international emission trading for the persons participating in the emission trading system of the European Community;
 - j) the range of activities that cause significant greenhouse gas emissions as well as perform removal by sinks and are obliged to forecast of emission or sinking before the commencement of the activity.
- (6) The minister shall be authorized to issue decree on:
 - a) the professional and personal requirements pertaining to the verifiers of the joint implementation being realized in the territory of the Republic of Hungary as well as the verification rules;
 - b) the detailed rules of paying the inspection fee of joint implementation project activities being realized in the territory of the Republic of Hungary;
 - c) the organisation collaborating in the trusteeship of the Kyoto units [subsection (2) Section 9].

Section 15

(1) Subsection (1) Section 108 of the Áht. shall be complemented by the following subparagraph *h*):

”[Asset connected to the subsystem of state budget – that is above the value limit determined in the Act on annual budget, in the Government Decree on treasury assets management as well as in the decree of local government or in the decision of local minority government – can only be sold, the trustee right on the asset, the use of the asset as well as the right to utilise it can only be conceded—if act or in the case of Treasury’s assets other legal instrument issued on the basis of the authorization of an act do not make an exception – through open (or closed in reasonable cases) tendering, for the best-value-of-money tenderer. This provision shall not apply to:]

h) the Kyoto unit determined in the Act on the implementation framework of the UN Framework Convention on Climate Change and the Kyoto Protocol thereof.”

(2) Section 109/B of the Áht. shall be complemented by the following subparagraph *g*):

“[Belongs to the Treasury’s assets:]

g) the Kyoto unit determined in the Act on the implementation framework of the UN Framework Convention on Climate Change and the Kyoto Protocol thereof.”

(3) Paragraph *e*) subsection (3) Section 109/D. of the Áht. shall be substituted by the following provision:

“[(3) Treasury’s assets can be sold through the following methods:]

*e) commission to stockmarket sale for the asset elements determined paragraph *g*) and *h*) subsection (1) Section 108.”*

(4) Section 109/D. of the Áht. shall be complemented by the following subsection (13):

*“(13) The asset elements determined paragraph *g*) and *h*) subsection (1) Section 108 can be assigned in the frame of international flexibility mechanisms determined in the Act on the implementation framework of the UN Framework Convention on Climate Change and the Kyoto Protocol thereof.”*

Section 16

(1) Simultaneously with the entry into force of this Act, paragraph *b*) subsection (1) Section 2 of the Üht. shall cease to be in force

(2) Paragraph *b*) Section 3 of the Üht. shall be substituted by the following provision:

”[Section 3 For the purposes of this Act:]

b) carbon dioxide equivalent: one ton of carbon dioxide or the amount of a greenhouse gas having the same Global Warming Potential (GWP);”

(3) Section 5 of the Üht. shall be substituted by the following provision:

”Section 5

(1) The operator, pursuant to separate legal instrument, shall monitor the greenhouse gas emissions falling under the scope of the emission licence and shall submit a verified report on it to the environmental authority till 31 March of the year after the year under review.

(2) The operator shall record the emission amount of the year under review in the national transaction registry pursuant to the verified report till the deadline determined in subsection (1) in accordance with the Directive No 2003/87/EC and with Commission Regulation No 2216/2004/EC for a standardised and secured system of registries (hereinafter: Registries Regulation) pursuant to the Decision No 280/2004/EC of the European Parliament and of the Council.

(3) The operator shall get the verification pursuant to subsection (1) of the emission reports done by the independent verifier authorized pursuant to separate legal instrument in a way determined in separate legal instrument. In the Member State of the European Union and in other states being party in the treaty on the European Economic Area as well as in such a state whose citizen enjoys the same legal status as the citizens of the states being party in the treaty on the European Economic Area on the basis of the international agreement between the European Community and the member states thereof and a state being not party in the treaty on the European Economic Area, the authorized verifier being registered by the environmental authority shall pursue the verification activity realised in the territory of the Republic of Hungary pursuant to the Hungarian legislation.

(4) If the operator did not submit the verified report in time, or submitted a report not complying with the provisions of the emission licence and of the separate legal instruments, the environmental authority shall determine the overall emission of the facility on the basis of the available data, and shall apply the sanctions determined in Section 17. In the course of the procedure the environmental authority shall be entitled to appoint an authorized verifier at the operator’s expenses in order to determine the overall emission of the facility.”

(4) Subsection (2) Section 6 of the Üht. shall be complemented by the following subparagraph *h*):

“(2) The Allocation Plan – in accordance with the fundamental principles in Annex 2 – particularly contains the following:]

h) the possible extent to which the obligation towards surrendering allowances may be realised by imputing the emission reduction unit as well as certified emission reduction determined and transferred according to a separate legal instrument.”

(5) Section 11 of the Üht. shall be complemented by the following subsection (2) and simultaneously the current text shall be under subsection (1):

“(2) The operator shall surrender allowances in an amount equivalent to the overall emission of the facility determined pursuant to subsection (4) Section 5 – as the environmental authority demands – to the Hungarian State pursuant to separate legal instrument.”

(6) Section 14 as well as the subtitle of Section 14 of the Üht. shall be substituted by the following provision:

“Imputation of the emission reduction unit and the certified emission reduction

Section 14

(1) From 1 January 2008 the operator of the national transaction registry pursuant to the separate legal instrument shall impute the emission reduction unit as well as certified emission reduction determined and transferred pursuant to the provisions of the separate legal instrument to the compliance with the obligation towards surrendering the allowances at the request of the operator of the facility.

(2) Imputation cannot be applied in the case of such emission reduction unit as well as certified emission reduction, which

a) in connection with nuclear facilities as well as

b) for the outcomes of land use, change in land use as well as forest management activities

were issued.

(3) After the joint implementation determined in separate legal instrument that was realised in a facility under the scope of this Act emission reduction units can be transferred till 31 December 2012.

(7) Subsection (1) Section 15 of the Üht. shall be substituted by the following provision:

“(1) The allocation, circulation, surrender, cancellation and registration of allowances shall be done in an authentic and open registry pursuant to the Commission Regulation and to separate legal instrument, which is part of the National Transaction Registry determined in item 19 Section 2 of Act LX of 2007 on the implementation framework of the UN Framework Convention on Climate Change and the Kyoto Protocol thereof.”

(8) Section 16 of the Üht. shall be substituted by the following provision:

” Section 16

Data pertaining to emission trading, so in particular to

a) issued emission licenses,

b) verified emission reports and the related report of the verifier,

c) allocation decisions,

d) sanctions applied pursuant to Section 17, as well as

e) reports pursuant Section 18

qualify as environmental information.”

(9) Subsection (5) Section 20 of the Üht. shall be complemented by the following d)-e) paragraphs:

”[(5) The Government shall be authorized to issue decree on:]

- d) the detailed rules of the imputation of the emission reduction unit and the certified emission reduction pursuant to Section 14;*
- e) licensing, monitoring and reporting rules of greenhouse gas emissions of certain facilities.”*

Compliance with the European Union law

Section 17

(1) This Act – together with the legal instruments to execute it and with the ones to be issued pursuant to the authorizations in subsection (5) and (6) Section 15 – serves to comply with the following Community directives:

a) Directive 2004/101/EC of the European Parliament and of the Council of 27 October 2004 amending Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community, in respect of the Kyoto Protocol's project mechanisms;

b) Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC;

(2) This Act – together with the legal to instruments execute it and with the ones to be issued pursuant to the authorizations in subsection (5) and (6) Section 15 – contains the provisions requiring implementation by the member states of the Decision No 280/2004/EC of the European Parliament and of the Council of 11 February 2004 concerning a mechanism for monitoring Community greenhouse gas emissions and for implementing the Kyoto Protocol.