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Republic of Latvia

Cabinet

Regulation No 115

Adopted 7 February 2006

Regulations Regarding Implementation of Project Mechanisms under the Kyoto Protocol to the United Nations Framework Convention on Climate Change and Activities Related to Allocation and Utilisation of Emission Reduction Units, Certified Emission Reduction Units, Removal Units and Assigned Amount Units

*Issued pursuant to Section 5 of
The Law On Kyoto Protocol to the United Nations
Framework Convention on Climate Change
"Kioto protokolu" 5.pantu*

I. General Provisions

1. Terms used in these Regulations:

1.1. **implementation of the Protocol's project mechanisms** — the activities related to the preparation and approval of projects (hereinafter — a project) specified in the Kyoto Protocol to the United Nations Framework Convention on Climate Change (hereinafter — the Protocol), and the implementation and supervision of the projects;

1.2. **an emission reduction unit** — a unit which is allocated in accordance with Article 6 of the Protocol and which is identical to one tonne of carbon dioxide or a specified amount of other greenhouse gases expressed in carbon dioxide equivalents, taking into account the global warming potential of the relevant greenhouse gas;

1.3. **a certified emission reduction unit** — a unit which is allocated in accordance with Article 12 of the Protocol and which is identical to one tonne of carbon dioxide or a specified amount of other greenhouse gases expressed in carbon dioxide equivalents, taking into account the global warming potential of the relevant greenhouse gas;

1.4. **a removal unit** — a unit which is allocated in accordance with Article 6 of the Protocol for activities related to land use, land-use change and forestry and is identical to one tonne of carbon dioxide; and

1.5. **an assigned amount unit** — a conventional unit of the total permissible amount of emissions of the greenhouse gases for the time period from 2008 until 2012 which the developed countries have resolved not to exceed in the first commitment period of the Protocol and which is identical to one tonne of carbon dioxide.

2. These Regulations prescribe:

2.1. the procedure by which the projects referred to in Article 6 and the clean development mechanism referred to in Article 12 of the Protocol (hereinafter — the Protocol's project mechanism) shall be implemented, as well as the public shall be informed;

2.2. the procedure by which the emission reduction units, certified emission reduction units, removal units and assigned amount units shall be allocated in accordance with the Protocol; and

2.3. the procedure by which the emission reduction units and certified emission reduction units shall be utilised in the European Union Emission Allowance Trading System.

3. The approval of the Protocol's project mechanisms submitted in foreign states by the legal persons registered in the Republic of Latvia shall be provided in conformity with the memorandums of understanding entered into by the Republic of Latvia and other states in respect of the joint implementation of the Protocol's project mechanisms.

II. Preparation, Submission and Approval of a Project Submission

4. A project initiator — a legal person registered in the Republic of Latvia or another state — shall submit a project idea submission in writing and electronically to the Ministry of Environment. An initiator of the projects related to land use, land-use change and forestry may be a natural person. If the measures referred to in the project idea submission are related to the production of hydro-electric power the capacity of which is more than 20 MW, the project initiator shall ensure the observance of the regulatory enactments which regulate the requirements for hydro-technical structures, as well as shall take into account the Report of the World Commission on Dams of November 2000, Dams and Development: A New Framework for Decision-Making (the report is available electronically on the Internet home page of the Ministry of Environment).

5. The Ministry of Environment within a time period of 14 days after the receipt of a project idea submission shall evaluate the conformity thereof with Article 6 or 12 of the Protocol, and shall prepare and send an opinion to the project initiator. The project idea submissions shall be evaluated in accordance with the following criteria:

5.1. emission reduction or the linkage thereof to the carbon dioxide equivalent (tonnes per year) and the total emission reduction during the project implementation period; and

5.2. the return on fixed assets (including the value of emission reduction units) and the refund period.

6. If the opinion of the Ministry of Environment contains proposals or objections regarding a submitted project idea submission, the project initiator within a time period of 14 days after the receipt of the opinion shall adjust the project idea submission and resubmit it for evaluation. The Ministry of Environment shall evaluate the resubmitted project idea submission within a time period of 14 days after the receipt thereof.

7. If the opinion of the Ministry of Environment does not contain proposals or objections regarding the submitted project idea submission and the Ministry of Environment supports the further advancement of the project, the project initiator shall within a time period of 90 days prepare a project submission.

8. A project initiator shall in writing and electronically submit to the Ministry of Environment a project submission. A project submission shall contain:

- 8.1. a description of the base scenario;
- 8.2. a description of expandability; and
- 8.3. a description of the monitoring.

9. The description of a base scenario shall be a document in which all the possible greenhouse gas emissions from specific pollution sources or potential removals by sink that may arise if the specific project were not implemented shall be identified. The description of a base scenario shall conform to the following criteria:

9.1. the calculations of emissions or removals by sink have been performed on the basis of a specific project or by making use of the emission factors of other projects;

9.2. it shall have a transparent structure in respect of the assumptions, methodology, parameters, data acquisition sources and specific circumstances that are being utilised; and

9.3. the requirements prescribed by regulatory enactments which regulate environmental protection in respect of the area of economic activity in which a project initiator intends to implement the project have been taken into account in the description.

10. The description of expandability shall be a document in which a project initiator has compiled the requirements prescribed by regulatory enactments in the field of environmental protection, technological, technical or financial information regarding the measures planned for the implementation of the project. The description of expandability shall conform to the following criteria:

10.1. the activities provided for in the project submission are not specified in the regulatory enactments regarding environmental protection; and

10.2. the technologies or practice that in respect of emissions of greenhouse gases is equivalent to or better than the technology that dominates in the corresponding area or sector of economic activity is utilised in the implementation of the project.

11. The description of the monitoring shall be a document in which a project initiator compiles the information regarding the following:

11.1. the data collection and storage procedures in order to evaluate or measure the amount of emission or removal by sink of greenhouse gases for the specific project in a specified period of time, as well as for the base scenario; and

11.2. the monitoring quality assurance and control procedures.

12. A project submission and the information provided therein shall be available to the public in accordance with the procedure prescribed by regulatory enactments. If a project initiator considers that a part of the information is restricted access information, such information shall be submitted separately and the reasons for considering such information to be restricted access information shall be specified. If pursuant to a decision of the Ministry of Environment the information has been recognised as restricted access information, the Ministry of Environment shall ensure the protection thereof taking into account the regulatory enactments, which regulate the freedom of information. If the Ministry of Environment does not agree that the information should be considered as restricted access information, the Ministry of Environment shall take a relevant justified decision and notify the project initiator in writing thereof. The referred to decision within a time period of 30 days may be appealed in court in accordance with the procedure specified in the Administrative Procedure Law.

13. Within a time period of 7 days after the acceptance of a project submission the Ministry of Environment shall place the notification regarding the project submission on the Internet home page of the Ministry of Environment and in the premises of the Ministry of Environment in a place where any interested person may get acquainted with such, as well as shall send electronically to the interested persons who have expressed a wish to receive such notification and have submitted to the Ministry of Environment an e-mail address, to which the notification shall be sent.

14. The place and deadline for getting acquainted with a project submission and for the submission of proposals shall be specified in the notification. The time period for the submission of proposals may not be less than 30 days after the day of acceptance of a project submission.

15. The day when a project initiator submits a project submission in conformity with the requirements of Paragraph 8 of these Regulations shall be considered to be the day of acceptance of a project submission.

16. Within a time period of 7 days after the deadline for the submission of proposals, the Ministry of Environment shall inform a project initiator regarding the proposals received and shall specify the time limit by which the proposals submitted shall be evaluated and, where necessary, the project submission shall be adjusted.

17. A project initiator shall send the adjusted project submission in writing and electronically to the inspection authority. If a project initiator does not submit the adjusted project submission within the specified time period, the Ministry of Environment is entitled to discontinue the examination of the project submission and shall notify the project initiator thereof.

18. Validation and verification examinations in conformity with the requirements prescribed by these Regulations shall be performed by inspection authorities that have been accredited by the State Agency Latvian National Accreditation Bureau in accordance with the requirements specified by the standard LVS EN ISO/EC 17020:2005 "General Criteria for Authorities of Different Types" or other notified authorities of the European Union Member States, regarding the accreditation of which the Ministry of Economics has published a notification in the newspaper "*Latvijas Vestnesis*" [the official Gazette of the Government of Latvia].

19. An inspection authority shall conform to the following requirements:

19.1. the employees of the authority shall have the relevant qualifications, the necessary comprehension of the basic principles of the Protocol's project mechanisms, knowledge and skills regarding the environmental aspects of a project examination, calculation and monitoring of a project base scenario, the corresponding audit requirements and methods, as well as the methods for the calculation of greenhouse gas emissions and removals by sink;

19.2. the authority shall be financially stable, shall have the necessary resources, and shall have insured the civil liability thereof to such extent as to cover the loss caused by a potential error which has been calculated in the risk assessment of the area of activities of the authority in co-operation with the insurer chosen by the authority;

19.3. the internal procedures of the operation of the authority shall be described and this information shall be available to the public;

19.4. the management structure of the authority shall ensure a stable quality level of the services, including quality control and taking of decisions in respect of the validation or verification process, as well as the following:

19.4.1. information regarding the personnel of the authority shall be available — the given name, surname, qualification, description of experience;

19.4.2. a block scheme of the organisational management shall be developed in which the division of powers, responsibilities and functions shall be clearly comprehensible;

19.4.3. the quality assurance policy and procedures of the authority shall be available;

19.4.4. the administrative procedures of the authority, including that of document control, shall be available;

19.4.5. the employee selection and training policy shall be available as well as the description of the procedures that provide the employees with the necessary knowledge, skills and abilities, as well as reflect the achievements of the employees; and

19.4.6. the procedure for the examination of complaints and submissions submitted to the authority shall be available;

19.5. court proceedings have not been initiated against the authority for unlawful or malicious professional activities, fraud or other activities that are not compatible with the functions of an inspection authority.

20. An inspection authority shall perform the validation of a project submission by evaluating whether a project submission conforms to Article 6 or 12 of the Protocol and the regulatory enactments in respect of environmental protection.

21. An inspection authority within a time period of 30 days after the receipt of a project submission shall prepare and send in writing and electronically to the Ministry of Environment and the project initiator a validation report.

22. In the validation report an inspection authority shall specify whether the emission reduction or additional removal by sink acquired during the implementation of a project shall be defined as expandability, shall evaluate whether the project base scenario and the description of the monitoring conforms to Article 6 or 12 of the Protocol and the regulatory enactments in respect of environmental protection.

23. If a project submission in accordance with the validation report conforms to the status of the Protocol's project mechanism, the Ministry of Environment within a time period of 14 days shall prepare a project submission to be examined by the Monitoring Committee. After the performance of validation, changes in a project submission may be made only in cases when a written consent of the Ministry of Environment has been received.

24. The Monitoring Committee shall operate in accordance with the by-law of the Monitoring Committee. The Minister for Environment shall approve the by-laws and the personnel of the Monitoring Committee.

25. The Monitoring Committee shall include representatives from the following institutions:

25.1. the Ministry of Environment (three representatives);

25.2. the Ministry of Foreign Affairs (one representative);

25.3. the Ministry of Economics (two representatives);

25.4. the Ministry of Transport (one representative);
25.5. the Ministry of Agriculture (two representatives);
25.6. the Environmental Advisory Council (one representative); and
25.7. the Latvian Associations of Local and Regional Governments (one representative).

26. The Monitoring Committee shall be chaired by a representative of the Ministry of Environment. The Ministry of Environment shall perform the secretariat functions of the Monitoring Committee.

27. The Monitoring Committee shall examine project submissions and provide the Ministry of Environment with proposals regarding the granting of a status of the Protocol's project mechanism.

28. The Ministry of Environment shall approve a project submission by granting a status of the Protocol's project mechanism thereto.

III. Project Supervision and Implementation

29. The Ministry of Environment shall supervise the implementation of a project in conformity with the approved project submission.

30. A project initiator shall ensure:

30.1. the technical implementation of the project in conformity with the project submission; and

30.2. the monitoring of emission or removal by sink in conformity with the description of the monitoring.

31. A project initiator every year by 15 April shall submit to the Ministry of Environment a report regarding the monitoring results of emission or removal by sink for the previous calendar year.

32. A project initiator shall submit the report for the examination in writing and electronically to such inspection authority as has not performed the validation of the project submission and is not dependent on the project initiator.

33. The inspection authority shall verify the conformity of the calculations or measurements submitted in the report to the requirements specified in the project submission, as well as the methodology employed, in order to establish whether the report contains complete, correct and true information regarding the monitoring results of emission or removal by sink.

34. A project initiator has a duty to provide the inspection authority with the necessary information and access to the technological equipment.

35. An inspection authority shall be responsible for the non-disclosure of restricted access information.

36. An inspection authority within a time period of 20 days after the receipt of a report shall prepare and send in writing and electronically to the project initiator and the Ministry of Environment a verification report regarding the results of the examination.

37. The Ministry of Environment within a time period of 14 days shall evaluate the verification report and take a decision regarding the allocation of emission reduction units, removal units or assigned amount units. The referred to decision within a time period of 30 days may be appealed in court in accordance with the procedure specified in the Administrative Procedure Law.

IV. Allocation of Emission Reduction Units, Certified Emission Reduction Units, Removal Units and Assigned Amount Units

38. The Latvian Environment, Geology and Meteorology Agency in accordance with the Law On Pollution on the basis of a submission of a project initiator shall open an account in the greenhouse gas emission unit register (hereinafter — the emission register). At least two authorised persons, who shall be eligible to operate the account, shall be specified in the submission. The given name, surname, address, telephone and fax number, as well as the e-mail address of each authorised person shall be specified.

39. Activities with emission reduction units, certified emission reduction units, removal units or assigned amount units shall be performed electronically by using the emission register.

40. The emission register shall perform the recording of the accumulation, transfer, replacement and cancellation of emission reduction units, certified emission reduction units, removal units and assigned amount units in the State.

41. Emission reduction units, certified emission reduction units, removal units and assigned amount units shall be transferred or cancelled upon the request of the authorised person. The request shall be submitted electronically, by completing a form on the Internet home page of the emission register.

42. If a project initiator concurrently is an operator who participates in the European Union Emission Allowance Trading System in accordance with the procedure specified in the Law On Pollution, when emission reduction units are allocated to the project initiator, the same number of emission allowances allocated to the operator shall be cancelled.

43. Emission reduction units or removal units shall be allocated for a verified emission reduction resulting from the implementation of the Protocol's project mechanism from 1 January 2008.

44. In the time period until 1 January 2008 the same number of assigned amount units may be allocated for a verified emission reduction resulting from the implementation of the Protocol's project mechanism.

45. In order to allocate to a project initiator the assigned amount units in accordance with Paragraph 44 of these Regulations, the project initiator shall submit a submission to the Ministry of Environment. The Ministry of Environment, when taking a decision regarding the allocation of the assigned amount units, shall take into account the liabilities specified in the

memorandum of understanding entered into by the Republic of Latvia and another state in respect of the joint implementation of the Protocol's project mechanisms.

V Utilisation of Emission Reduction Units and Certified Emission Reduction Units in the European Union Emission Allowance Trading System

46. An operator who participates in the European Union Emission Allowance Trading System in accordance with the procedures specified in the Law On Pollution from 1 January 2008 may submit to the Ministry of Environment a submission regarding the replacement of the emission reduction units or certified emission reduction units in his or her account with emission allowances (hereinafter — the replacement of units).

47. In taking a decision regarding the submission referred to in Paragraph 46 of these Regulations, the Ministry of Environment shall take into account the following conditions:

47.1. the replacement of units may be performed up to the percentage part of the amount of emission allowances allocated to each piece of equipment. The percentage part shall be determined in the emission allowance allocation plan for the period specified in Section 24¹, Paragraph five of the Law On Pollution.

47.2. the replacement of units may not be performed if emission reduction units or certified emission reduction units have been allocated for a project measure, which has been approved by one or several parties to the agreement specified in Annex I of the United Nations Framework Convention on Climate Change, which parties have ratified the Protocol in accordance with Article 6 or 12 thereof, if the relevant measure is related to land use, land-use change, forestry or nuclear facilities.

48. The Ministry of Environment in the decision regarding the replacement of units shall specify that one emission reduction unit or one certified emission reduction unit, which has been allocated to a project initiator in the emission register, shall be replaced by one emission allowance. The referred to decision within a time period of 30 days may be appealed in court in accordance with the procedure specified in the Administrative Procedure Law.

Informative Reference to European Union Directive

These Regulations contain legal norms arising from 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.

Prime Minister

A. Kalvītis

Acting for the Minister for Environment —
Minister for Agriculture

M. Roze