

November 2005

### Measures for the Administration Of the Operation of Clean Development Mechanism Projects

(Adopted by the National Coordination Committee on Climate Change. Issued by the National Development and Reform Commission, the Ministry of Science and Technology the Ministry of Foreign Affairs and the Ministry of Finance with Order No. 37 on, and effective from, October 12, 2005.)  
Previous SAFE Notices Repealed

#### 1. GENERAL PROVISIONS

Article 1. The Chinese government has formulated these Measures pursuant to the *United Nations Framework Convention on Climate Change* (the "Convention") ratified by China, the *Kyoto Protocol* (the "Protocol") approved by China and relevant decisions made by the Conference of the Parties, in order to promote the effective engagement in clean development mechanism ("CDM") project activities, safeguard the rights and interests of China and ensure the orderly carrying out of project activities.

Article 2. Pursuant to the Protocol, CDM is a mechanism for cooperative projects between developed country Parties and developing country Parties to assist the former in realizing part of their greenhouse gas emission reduction obligations. Its purpose is to assist developing country Parties in achieving sustainable development and in contributing to the ultimate objective of the Convention and to assist developed country Parties in achieving compliance with their quantified greenhouse gas emission limitation and reduction commitments. The core of CDM is to permit developed countries to gain project derived "certified greenhouse gas emission reductions" through project level cooperation with developing countries.

Article 3. Cooperation in launching CDM projects in China shall be subject to the approval of the State Council's relevant authorities.

Article 4. The priority areas for CDM projects in China shall be increasing energy efficiency, developing and using new energy resources and renewable energy resources and recovering and using methane and coal bed methane.

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Article 5. Pursuant to the relevant decisions of the Conference of the Parties, transparency, high efficiency and accountability shall be ensured in the implementation of CDM projects.

## **CHAPTER 2. PERMIT CONDITIONS**

Article 6. CDM projects shall comply with the laws and statutes of China, sustainable development strategies and policies and the overall requirements of national economic and social development plans.

Article 7. The implementation of CDM projects must comply with the Convention, the Protocol and relevant decisions of the Conference of the Parties.

Article 8. The implementation of CDM projects may not cause China to assume any new obligations other than those specified in the Convention and the Protocol.

Article 9. The funds used by a developed country Party in CDM projects shall be in addition to its current official development aid funds and the funding obligations assumed by it under the Convention.

Article 10. CDM project activities shall promote technology transfers that benefit the environment.

Article 11. Enterprises in China which are wholly Chinese-owned and those in which the Chinese party/parties hold a controlling interest may launch CDM projects with foreign parties.

Article 12. Enterprises which wish to implement CDM projects must submit CDM project design documents, documentation evidencing the enterprise's qualifications, an overview of the project and a description of the funding.

## **CHAPTER 3. ADMINISTRATION AND IMPLEMENTING**

### **ORGANIZATIONS**

Article 13. The National Board for the Examination of Clean Development Mechanism Projects (the "Project Examination Board") shall be established under the National Coordination Committee on Climate Change and a national organization for the administration of CDM projects shall be established under the Project Examination Board.

Article 14. The National Coordination Committee on Climate Change shall be the organization in charge of reviewing and coordinating major CDM policies. Its duties and responsibilities are set forth below:

- (1) reviewing national policies and standards relating to CDM projects;
- (2) approving Project Examination Board members; and
- (3) reviewing other matters that need to be decided by the Coordination Committee.

Article 15. The joint leading units of the Project Examination Board shall be the National Development and Reform Commission and the Ministry of Science and Technology, the deputy leading unit shall be the Ministry of Foreign Affairs and the member units shall be the State Administration of Environmental Protection, the China Meteorological Bureau, the Ministry of Finance and the Ministry of Agriculture. Its main duties and responsibilities are set forth below:

- (1) examining CDM projects, mainly examining such items as:

- (a) participation qualifications;
- (b) the design documents;
- (c) the determination of baseline methodology issues and greenhouse gas emission reductions;
- (d) the price of transferable greenhouse gas emission reductions;
- (e) the funds and technology transfer conditions;
- (f) the anticipated commencement of the transfer term;
- (g) the monitoring plan; and
- (h) the anticipated results of the promotion of sustainable development;

(2) if a foreign buyer has not been found at the time a project is submitted for approval and it is impossible to provide the pricing information required by item (1)(d) of this Article, the design documents for the project must state that the emission reductions generated by the project will be transferred to China's state account, and such emission reductions may only be transferred out of China's state account after approval by China's competent CDM authority;

- (3) reporting to the National Coordination Committee on Climate Change on the implementation of CDM projects, problems encountered in the course of implementation and recommendations; and
- (4) presenting and revising proposals for the operational rules and procedures

for CDM project activities.

Article 16. The National Development and Reform Commission is the Chinese government authority in charge of CDM project activities. Its main duties and responsibilities are set forth below:

- (1) accepting applications for CDM projects;
- (2) in consultation with the Ministry of Science and Technology and the Ministry of Foreign Affairs, approving CDM projects, based on the examination results of the Project Examination Board;
- (3) issuing CDM project approval documents on behalf of the Chinese government;
- (4) exercising supervision over, and administration of, CDM projects;
- (5) consulting with relevant authorities on the establishment of a body responsible for the administration of CDM projects; and
- (6) handling other relevant foreign-related matters.

Article 17. The term "Project Implementing Organization" means an enterprise that is wholly Chinese-owned or one in which the Chinese party/parties has/have a controlling interest that implements CDM projects in China. Its duties and obligations are set forth below:

- (1) undertaking negotiations with foreign parties on CDM projects;
- (2) being responsible for the development of CDM projects and regularly reporting on such development to the

National Development and Reform Commission;

- (3) implementing CDM projects, preparing and implementing self-monitoring plans for CDM project greenhouse gas emission reductions and ensuring that such greenhouse gas emission reductions are real, measurable, long term and additional, and subjecting itself to the supervision of the National Development and Reform Commission;
- (4) accepting verification of the compliance and emission reduction of projects by the operating entities, providing necessary information and monitoring records and submitting the same to the National Development and Reform Commission for the record; in the course of information exchanges, protecting national secrets and maintaining the confidentiality of legitimate trade secrets in accordance with the law;
- (5) reporting the certified greenhouse gas emission reductions resulting from CDM projects to the National Development and Reform Commission;
- (6) assisting the National Development and Reform Commission and the State Board for the Examination of Clean Development Mechanism Projects in investigating relevant issues and answering inquiries addressed to it; and
- (7) Bearing other obligations that it is required to perform.

## **CHAPTER 4. IMPLEMENTATION PROCEDURES**

Article 18. The application and the examination and approval procedures for CDM Projects are set forth below:

- (1) the enterprise that is wholly Chinese-owned or in which the Chinese party/parties has/have a controlling interest and the foreign partner that are applying to implement a CDM project in China shall submit an application to the National Development and Reform Commission (relevant authorities and local governments may organize enterprises to submit such applications) and the project documents specified in Article 12;
- (2) the National Development and Reform Commission will entrust the relevant authority to arrange to have experts evaluate the project application, which evaluation should be completed within 30 days;
- (3) if the project passes the evaluation by the experts, the National Development and Reform Commission will submit it to the Project Examination Board for examination;
- (4) if the project passes the examination by the Project Examination Board, the National Development and Reform Commission, in consultation with the Ministry of Science and Technology and the Ministry of Foreign Affairs, will carry out the approval procedures;
- (5) the National Development and Reform Commission will render its decision on whether or not to approve

the project within 20 days from the date of acceptance of the application for the project (excluding the time for evaluation by the experts); if a decision cannot be rendered within 20 days, the period can be extended by 10 days, subject to the approval of the person in charge of the administrative authority, and the applicant will be informed of the reason for the extension;

- (6) the implementing organization will invite the operating entity to carry out an independent assessment of the project design documents and, if the project passes the assessment, will submit it to the Board for the Implementation of the Clean Development Mechanism for registration;
- (7) after receiving the notice of approval from the Board for the Implementation of the Clean Development Mechanism, the implementing organization shall report the approval by the implementation board to the National Development and Reform Commission within 10 days.

Article 19. The specific construction project examination and approval procedures and authority shall be handled in accordance with relevant state regulations.

Article 20. The procedures for the implementation, supervision and examination of CDM projects are set forth below:

- (1) in accordance with relevant regulations, the implementing organization is responsible for

submitting project implementation and monitoring reports to the National Development and Reform Commission and the operating entity;

- (2) in order to ensure the quality of implemented CDM projects, the National Development and Reform Commission has the authority to supervise the implementation of such projects;
- (3) the operating entity will verify and document the emission reductions resulting from the CDM project and report the certified greenhouse gas emission reduction and other relevant information to the Board for the Implementation of the Clean Development Mechanism; after issuance of its approval, the Board for the Implementation of the Clean Development Mechanism will register and effect the transfer of certified greenhouse gas emission reductions, and will inform the participants in the CDM project;
- (4) the National Development and Reform Commission or an organization entrusted by it will register the certified greenhouse gas emission reductions resulting from the CDM projects registered by the Board for the Implementation of the Clean Development Mechanism.

## **CHAPTER 5. MISCELLANEOUS PROVISIONS**

Article 21. The term “developed country Parties” herein means the countries listed in Annex I of the Convention.

Article 22. The term “Board for the Implementation of the Clean Development Mechanism” herein means the administrative body specially established for the purpose of implementing CDM projects under the Protocol.

Article 23. The term “operating entity” herein means a review and verification organization designated by the Board for the Implementation of the Clean Development Mechanism.

Article 24. As greenhouse gas emission reduction resources vest in the Chinese government and specific greenhouse gas emission reductions generated by a CDM project vest in the developer, the benefits derived from a CDM project through the transfer of greenhouse gas emission reductions shall vest in the Chinese government and the enterprise which implemented such project. Such benefits shall be shared in the following percentages:

- (1) with respect to hydrofluorocarbon (HFC) and perfluorocarbon projects, the state shall exact 65 percent of the transfer amount derived from the transferred greenhouse gas emission reductions;
- (2) with respect to nitrous oxide (N<sub>2</sub>O) projects, the state shall exact 30 percent of the transfer amount derived from the transferred greenhouse gas emission reductions;
- (3) with respect to CDM projects such as those in the priority areas specified in Article 4 hereof and

small reforestation projects, the state shall exact 2 percent of the transfer amount derived from the transferred greenhouse gas emission reductions.

The fees imposed by the Chinese government on CDM projects shall be used to support climate change related activities. The specific fees to be imposed and the measures for the use of the same shall be formulated separately by the Ministry of Finance in consultation with the National Development and Reform Commission and other relevant authorities.

- (4) This Article shall not apply to projects for which the Chinese government issued approval letters before October 12, 2005.

Article 25. The National Development and Reform Commission in consultation with the Ministry of Science and Technology and the Ministry of Foreign Affairs shall be in charge of interpreting these Measures.

Article 26. These Measures shall be implemented from October 12, 2005. The *Provisional Measures for the Administration of the Operation of Clean Development Mechanism Projects* implemented from June 30, 2004 shall be repealed simultaneously.

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