

UK Guidance on project approval and authorisation to participate in Clean Development Mechanism

April 2011

Introduction

This guidance applies to the approval and authorisation of clean development mechanism (CDM) projects under Article 12 of the Kyoto Protocol¹. The Secretary of State for Energy and Climate Change acts as the Designated National Authority for the CDM (DNA) and may approve projects in accordance with International and EU requirements. These requirements are set out in various documents at international, EU and national levels including:

- Article 12 of the Protocol is supplemented by Decisions 15/CP.7 and 17/CP.7, which form part of in the Marrakech Accords²;
- Directive 2004/101/EC ('the Linking Directive') amending Directive 2003/87/EC³ establishing a scheme for greenhouse gas emission allowance trading within the Community, in respect of the Kyoto Protocol's project mechanisms implements and supplements these project approval and authorisation requirements; and
- The Greenhouse Gas Emissions Trading Scheme (Amendment) and National Emissions Inventory Regulations 2005⁴ ('the Implementing Regulations') implement EU requirements in the UK.

¹ Text of Kyoto Protocol can be found at <http://unfccc.int/resource/docs/convkp/kpeng.html>

² Available at <http://unfccc.int/resource/docs/cop7/13a02.pdf>

³ O.J. L No. 338, 13/11/2004, p18

⁴ SI 2005/2903 as amended by The Greenhouse Gas Emissions Trading Scheme (Amendment) (Fees) and National Emissions Inventory Regulations 2011 (SI 2011/727)

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2. CDM glossary of terms and abbreviations

Acquis Communautaire	The entire body of European Union laws is known as the Acquis Communautaire. This includes all the treaties, regulations and directives passed by the European institutions as well as judgements laid down by the Court of Justice.
Annex I Party / Non-Annex I Party	An Annex I Party is a country which is a Party to the UNFCCC and which is listed in its Annex I. Annex I Parties include the 24 original OECD members, the European Union, and the 14 countries with economies in transition. Countries not listed in Annex I are known as Non-Annex I Parties (those eligible for hosting CDM project activities).
Assigned amount	The amount of greenhouse gases which each Annex I country is allowed to emit during the first commitment period (2008-2012).
Assigned Amount Unit (AAU)	A unit of assigned amount equivalent to one tonne of CO ₂ .
Baseline	The baseline is the scenario that describes the situation that would occur in the absence of a proposed project activity. This is used as the basis for establishing emission reductions or removals attributable to the project. CDM projects must use a baseline derived using a baseline methodology approved by the CDM Executive Board.
Baseline methodology	A methodology for establishing the baseline for a CDM project activity. CDM projects must use a methodology approved by the CDM Executive board.
CDM registry	A UN registry into which CERs are initially issued. Non-Annex I Parties and companies wishing to receive CERs must have an account in the CDM registry. CERs intended for Annex I Parties and companies will be forwarded to accounts in national registries.
Certification	Certification is the written assurance provided by a verifying Designated Operational Entity that the verified emission reductions or removals associated with a project activity have been achieved.

Certified Emission Reductions (CERs)	Kyoto units issued for emissions reductions or removals resulting from CDM projects. 1 CER is issued for reductions or removals equivalent to 1 tonne of CO ₂ .
Clean Development Mechanism (CDM)	The project mechanism provided for under Article 12 of the Kyoto Protocol – CDM projects can be undertaken in non-Annex I countries to reduce emissions of greenhouse gases or enhance sinks.
Clean Development Mechanism Executive Board (CDM EB)	The UN body responsible for supervising the CDM including registration of projects and issuance of Certified Emission Reductions.
COP	The Conference of the Parties to the UNFCCC – the supreme body of the UNFCCC, comprised of countries that have ratified or acceded to the UNFCCC. The COP meets annually.
COP/MOP	The Conference of the Parties (to the UNFCCC) serving as the Meeting of the Parties to the Kyoto Protocol – the Meeting of the Parties (MOP) is the supreme body of Parties to the Kyoto Protocol and meets annually.
Designated National Authority (DNA)	An office, ministry, or other official entity appointed to review and give national approval of voluntary participation in projects proposed under the CDM. DECC has been appointed the UK's DNA.
Designated Operational Entity (DOE)	A private entity accredited by the CDM Executive Board to validate proposed CDM project activities and to verify and certify emission reductions or removals.
Environmental Impact Assessment (EIA)	A formal assessment of the environmental impacts of a project, required in the case of projects likely to have significant environmental impacts. All projects require some form of assessment of environmental impacts including transboundary impacts, in accordance with the requirements of the host country.
EU ETS	European Union Emission Trading Scheme.
European Union Allowance (EUA)	The unit traded within the EU ETS.
Executive Board	See <i>“Clean Development Mechanism Executive Board”</i> .
Host Party	A (non-annex I) country in whose territory a CDM project activity is physically located.

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Implementing Regulations	The Greenhouse Gas Emissions Trading Scheme (Amendment) and National Emissions Inventory Regulations 2005 which implement the provisions of the Linking Directive in the UK.
International Transaction Log (ITL)	The ITL performs checks on all issuance and trading transactions to ensure compliance with UN rules.
Issuance	The act of crediting registry accounts with CERs.
Joint Implementation (JI)	The project mechanism provided for under Article 6 of the Kyoto Protocol - JI projects can be undertaken to reduce emissions of greenhouse gases or enhance sinks in Annex I countries with a Kyoto target.
Kyoto Protocol	The Kyoto Protocol to the UNFCCC. Amongst other things, this Protocol sets binding targets for the reduction of greenhouse-gas emissions by industrialised countries.
Letter of Approval / Authorisation (LoA)	A letter from a DNA approving / authorising voluntary participation of a company in a CDM project activity. All companies wishing to participate in a CDM project activity need a LoA before they can be issued with credits.
Linking Directive	Directive 2004/101/EC of the European Parliament and of the Council, amending the EU Emissions Trading Directive in respect of the Kyoto Protocol's project mechanisms. The Linking Directive provides for use of credits from CDM and Joint Implementation projects in the EU ETS.
LULUCF (projects)	Land use, land use change and forestry (projects).
Marrakech Accords	Agreements reached at COP-7 which set out detailed rules and procedures, building on the provisions of the Kyoto Protocol. The Accords include modalities and procedures for a CDM as defined in Article 12 of the Kyoto Protocol, and guidelines for the implementation of Article 6 of the Kyoto Protocol.
Methodology	See " <i>baseline methodology</i> " and " <i>monitoring methodology</i> "
Monitoring methodology	A methodology for establishing the monitoring requirements for a CDM project activity. CDM projects must use a methodology approved by the CDM Executive board.

Monitoring plan	A monitoring plan should set out the arrangements, in accordance with an approved baseline and monitoring methodology, for collecting all the relevant information needed to determine the emissions generated in the baseline, measure the emissions generated by the project, leakage (emissions impacts outside the project) and finally, the emission reductions or removals achieved by the project. A monitoring plan must be included in the PDD for a CDM project.
OECD	The Organisation for Economic Co-operation and Development - a grouping of 30 (largely developed) member countries, working together on a range of economic and social issues (including climate change through the Annex I Expert Group).
Official Development Assistance (ODA)	ODA, or foreign aid, consists of loans, grants, technical assistance and other forms of cooperation extended by governments to developing countries. ODA is usually aimed at promoting sustainable development.
Operator Holding Account (OHA)	An account in the UK Registry held by an operator of an installation covered by the EU ETS. The account can be used for trading and compliance within the EU ETS.
Person Holding Account (PHA)	An account in the UK Registry which can be used for holding CERs by those without Operator Holding Accounts.
Project Design Document (PDD)	A PDD is a key element in the CDM project cycle, providing the basis for validation. It should set out a description of the project activity, the proposed baseline methodology, planned emission reductions or removals, a monitoring plan and other evidence needed to show that the project activity meets the requirements of the CDM.
Project mechanisms	The collective term for the two Kyoto mechanisms whereby emission reduction or removal projects may be undertaken: CDM and JI.
Project Participant	In accordance with the use of the term project participant in the CDM modalities and procedures, a project participant is (a) a Party involved, or (b) a private and/or public entity authorized by a Party involved to participate in a CDM project activity.
Registration	Registration is the formal acceptance by the Executive Board of a validated project as a CDM project activity. Registration is a prerequisite for the

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	verification, certification and issuance of CERs related to that project activity.
Registry	A registry is an application that records allowances and credits held by operators (e.g. under the EU ETS), Parties or project participants and tracks transactions. All Annex I countries participating in emissions trading or the project mechanisms need to have a national registry.
Removal Unit (RMU)	A Kyoto unit covering removal of greenhouse gases from the atmosphere through LULUCF activities. 1 RMU is equivalent to 1 tonne of CO ₂ removed.
Sink	A sink is any process or activity or mechanism which removes a greenhouse gas from the atmosphere.
UNFCCC	United Nations Framework Convention on Climate Change – the international treaty signed by 189 countries around the world sets goals and rules for confronting climate change. The UNFCCC has an ultimate objective of stabilising greenhouse gas emissions “at a level that would prevent dangerous anthropogenic (human induced) interference with the climate system.”
Validation	Validation is the process of independent evaluation of a project activity by a Designated Operational Entity against the requirements of the CDM.
Verification	Verification is the process of independent determination by a Designated Operational Entity of emission reductions or removals resulting from a project activity.
WCD	World Commission on Dams – an independent, international, multi-stakeholder process addressing controversial issues relating to large dams.

3. UK Project Authorities

3.1 The Designated National Authority

The Designated National Authority (DNA) for the Clean Development Mechanism (CDM) is the national authority responsible for approval of voluntary participation in CDM project activities. In April 2004 the Department of Environment, Food & Rural Affairs (Defra) was established as the UK's DNA for the Clean Development Mechanism (CDM). From October 2008 the Department for Energy and Climate Change (DECC) took over this role. For projects involving Scottish, Welsh or Northern Irish companies, DECC will ensure the relevant Devolved Administration agrees with project decisions. To contact the DNA please email dna@DECC.gsi.gov.uk.

For further information on the opportunities and how to get involved in the international carbon market please contact www.businesslink.gov.uk

3.2 Making payments for applications for letters of approval

With effect from 6 April 2011, the UK Government has introduced charges for applications received in respect to CDM/JI projects.

The charging scheme would require each applicant to pay an administrative fee before their application is assessed by the DNA & DFP. The fees (exempt of VAT) have been agreed at:

- £250 per CDM (excluding large hydro) application
- £700 per CDM large hydro (over 20MW) application
- £700 per JI application

In line with our policy to support better equitable distribution of finance from the carbon market, DECC will offer letter of approvals free of charge for projects in Least Developed Countries (LDC's). The fees are set out in the Greenhouse Gas Emissions Trading Scheme (Amendment) (Fees) and National Inventory Regulations 2011⁵. Please see the schedule to the regulations for a list of those countries.

Please download and fill out the payment form (DNADFP1) with your company details and payment information and send with your application to dna@decc.gsi.gov.uk. We will then issue you with an invoice. Once payment has been received by DECC we will process your application. The DNADFP1 Payment form can be downloaded from the DECC website at http://www.decc.gov.uk/en/content/cms/what_we_do/change_energy/tackling_clima/intl_strat/mechanisms/clean_developm/clean_developm.aspx

⁵ <http://www.legislation.gov.uk/ukxi/2011/727/contents/made>

4. Letters of approval or authorisation

4.1 Why do I need a letter of approval?

Participation in CDM project activities is voluntary and requires written approval of participation from all Parties involved via each Party's designated national authority for the CDM⁶. In the UK the application for approval is made to the Secretary of State who acts as UK DNA⁷.

4.2 Who can receive a letter of approval ?

We can accept applications from companies irrespective of their location. The only exception to this concerns companies based in the UK's Crown Dependent and Overseas territories.

DECC, acting in its capacity as the UK's DNA, can only issue a Letter of Approval to entities based in the UK's overseas and Crown Dependent territories when a) they have joined the UK ratifications of the Kyoto Protocol; and b) the UK has an agreement in place with that country. Therefore the UK can issue a LOA to entities based in the following territories:

- the Cayman Islands
- the Isle of Man
- Jersey
- Guernsey

Due to the absence of agreements, with the other overseas territories, we cannot issue LOA to entities based there unless the application is made by a branch/office of the company based outside of the territory in question. For further information on obtaining a LOA for an entity based in one of the UK's Overseas or Crown Dependent Territories please e-mail; dna@DECC.gsi.gov.uk.

4.3 When should I apply for a letter of approval?

You may apply for a letter of approval either before or after a project has been registered by the CDM Executive Board, following receipt of host government approval⁸.

⁶ Article 12 of the Kyoto Protocol

⁷ See regulation 5(1) of the Implementing Regulations.

⁸ The CDM EB decided at its 18th Meeting (paragraph 57) that post-registration is permissible.

4.4 How do I apply for a letter of approval?

Applications should be made electronically to the Designated National Authority for the CDM. These should be sent to dna@decc.gsi.gov.uk.

4.5 How long should it take to get a letter?

On receipt of the relevant documents/information (see 5.2 below), DECC may issue a letter of approval of a project activity and / or authorisation of participation in that project activity. DECC will aim to make a decision as soon as possible and, in any event a final decision will be taken within 2 weeks in most cases. In some more complex cases, for example hydro-electric generation facilities with a capacity of over 20MW, it may take longer to consider applications⁹.³³

⁹ See regulation 7(3) of the Implementing Regulations.

5. General requirements for approval and authorisation

5.1 What do I need to get a letter of approval?

Regulations 7(6) and 7(7) of the Implementing Regulations provide that the Secretary of State may only approve a project activity if he/she is satisfied that International and European requirements have been met. In order to make this judgment the Implementing Regulations provide that:

- Applications shall contain such information as the Secretary of State may reasonably require¹⁰;
- The Secretary of State may request further information to enable her to make a decision on approval¹¹; and
- The Secretary of State may require information to be independently verified.¹²

The basic format of the application is the same for all applications, although specific information requirements vary according to the project type and legal requirements. In particular:

- Where the project is undertaken within the EU¹³ baselines must comply with EU requirements; and
- Where the project involves hydro-electric generation facilities with a capacity of over 20MW WCD guidelines and criteria must be complied with.

5.2 Information required for approval and authorisation

To issue a UK letter of approval for a CDM project we require the following:

- **Host Country Letter of Approval (LOA)**; A copy of the letter from the host country DNA, confirming that the project assists in achieving sustainable development¹⁴;
- **A copy of the Project Design Document (PDD)**; for a CDM project to be registered with the Executive Board, project participants must prepare a PDD which provides evidence that the project activity meets the requirements of the CDM¹⁵;

¹⁰ See regulation 5(4) of the Implementing Regulations.

¹¹ See regulation 6 of the Implementing Regulations.

¹² See regulation 5(5) of the Implementing Regulations.

¹³ CDM project activities can only be undertaken in non-Annex I countries CDM projects within the EU are limited to Cyprus, Malta

¹⁴ See paragraph 40(a) of Decision 17/CP.7.

¹⁵ See Annex B to Decision 17/CP.7.

- **A signed declaration of compliance with the CDM rules and procedures** (see Annex B for proforma). Please note as a rule two signatures are required, however the DNA will accept one signature where the person signing possesses Power of Attorney (evidence must be provided).

To issue a UK Letter of Approval to a CDM hydro-electric project greater than 20MW, we require in addition to the above:

- **a hydro-electric compliance report** (the compliance report)
- **a pre-validation report of the CDM project**

Please note further details relating to approval of hydroelectric projects at Annex C.

6. Approval and authorisation requirements – ensuring participation is in accordance with the Marrakech Accords

Para 33 of the CDM Decision, as implemented in paragraph 11b(5) of the Linking Directive¹⁶, requires Parties authorising participation in projects to ensure an entity's participation is in accordance with the relevant procedures and requirements.

The participation of project participants in CDM project activities is subject to the guidance of the CDM Executive Board¹⁷. The CDM Board has not, at time of writing, elaborated further guidance on legal entities' participation in the CDM

6.1 What are the UN participation requirements for project participants?

Decision 17/CP.7 describes the role of CDM project participants. The requirements laid down in this Decision are summarised in the table below:

Paragraph	Requirement	Further Guidance
37	Select a Designated Operational Entity (DOE) to validate the project activity	A list of DoEs is available from the CDM website
37 (c.)	Submit to the DOE documentation on the analysis of the environmental and transboundary impacts of the project activity and carry out an environmental impact assessment (EIA) if the project participants or the host party consider that the impacts are likely to be significant	Further Guidance can be obtained from the CDM Executive Board or the Host DNA
38	Revise the methodology if the COP/MOP requests its revision	Further Guidance can be obtained from the CDM Executive Board
40 (a)	Submit to the DOE written approval of voluntary participation from the DNA of each party involved, including confirmation by the host party that the project activity will help it to achieve sustainable development	This guidance covers UK approval and further Guidance may be optioned from the Host Party DNA

¹⁶ See regulation 7(7) of the Implementing Regulations.

¹⁷ See article 12(9) of the Kyoto Protocol and paragraph 5 of Decision 17/CP.7.

45 (a)	Establish a baseline in accordance with provisions for the use of approved and new methodologies	Methodologies and the Process for Approval of New Methodologies is available from the CDM Executive Board Website
48	In choosing a baseline methodology, select the approach deemed most appropriate with provisions for the use of approved and new methodologies and justify the appropriateness of the choice	Further Guidance can be obtained from the CDM Executive Board and its website
49	Select a crediting period for a proposed project activity	Further Guidance can be obtained from the CDM Executive Board
53	Include a monitoring plan as part of the PDD	For Guidance on Monitoring please refer to the CDM Executive Board and its website
56	Implement the monitoring plan	Further Guidance can be obtained from the CDM Executive Board
57	Justify any revision to the monitoring plan and submit it to the DOE for validation	Further Guidance can be obtained from the CDM Executive Board and its website
60	Provide the DOE with a monitoring report	
62 (g)	Address any concerns arising from the conformity of the actual project activity and its operation with the registered PDD	Project Participants should ensure the project activity conforms with the registered PDD

In addition to the above requirements, in order to receive written approval from the UK DNA UK project participants must submit the documentation detailed above (see section 5.2).

6.2 What is the UK Government's role in projects?

Decision 17/CP.7 describes the role of Parties involved in a project. The principle functions of a Party involved are to designate a national authority (paragraph 29), to authorise public/private entities to participate (paragraph 33), to issue letters of approval (paragraph 40(a)), to request reviews of registration and issuance (paragraphs 41 and 65), and to participate in issuance instructions (paragraph 66).

This role is set out in the table below:

Paragraph	Host Non Party	Party/ Host	Requirement	Further Guidance
29	HP/ non-HP		Designate a national authority for the Clean Development	Secretary of State acts as DNA for the

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		Mechanism (CDM)	UK. A list of DNAs is available on the CDM website
33	HP/ non-HP	Authorise public/private entities to participate in CDM projects and ensure that such participation is consistent with the relevant annex to Decision 17/CP.7	See section 6 of this guidance.
37(g)	HP	Request EIA of project if effects considered significant	See host government guidance
40(a)	HP/non-HP	Give written approval of voluntary participation in CDM	See sections 3.1, 4 and 6 of this guidance.
40 (a)	HP	Confirm that the project activity assists in achieving sustainable development	See host government guidance
41	HP/ non-HP	May request a review	See section 6.5 of this guidance
62(h)	HP/ non-HP	Receive a copy of the verification report from the DOE	This should be submitted to the DNA email address.
63	HP/ non-HP	Receive certification report from DOE	This should be submitted to the DNA email address
65	HP/ non-HP	May request a review of proposed issuance of Certified Emission Reductions (CERs)	See section 6.5 of this guidance
66	HP/Non-HP	Participate in issuance instructions	UK does not intend to participate in issuance

6.3 How does the UK Government ensure our participation is in accordance with the Marrakech Accords?

The UK Government ensures participation is in accordance with the Marrakech Accords¹⁸:

- At the point of approval, by requiring:
 - project participants to confirm that information supplied in the application is correct; or
 - verification of information by an independent verifier;
- At the point of registration through the potential for a request for review¹⁹;
- At the point of issuance, through the potential for a request for review of issuance²⁰.

¹⁸ See paragraph 33 of Decision 17/CP.7; article 11b(5) of the Linking Directive; and regulation 7(7) of the Implementing Regulations.

¹⁹ See paragraph 41 of Decision 17/CP.7

²⁰ See paragraph 65 of Decision 17/CP.7

6.4 Role on approval

The UK Government ensures participation is in accordance with the Marrakech Accords by requiring a declaration to this effect by the project participant, and may require independent verification of information supplied²¹.

The project participant is accordingly responsible for ensuring that the information contained in the PDD and other documentation such as the Compliance Report for large hydro applications is accurate. It is a criminal offence to knowingly make a false or misleading statement; or to recklessly make a statement which is false or misleading²².

The DNA may consider alternatives to criminal proceedings, including a refusal to issue further Letters of Approval, whilst still retaining the right to take criminal proceedings.

For project participants wishing to satisfy their legal obligations, it is good practice that project participants:

- Wait until the PDD has been validated before declaring that it is correct; and/or
- Seek to ensure conformity of the project with the PDD through contractual or other arrangements with other project participants.

6.5 Role after approval

a. Request for review of registration

There is a period of 8 weeks from the request for registration to final registration during which 3 board members or a party involved may request a review of registration. Requests for registration are publicised on the [CDM website](#).

For CDM projects the grounds on which a review of registration can be requested are limited to issues associated with the validation requirements²³. The UK Government as party involved will not duplicate the functions of the host Party, the Designated Operational Entities or the Executive Board.

b. Request for review of issuance

There is a period of 15 days from the date of request for issuance during which 3 Executive Board Members or a party involved may request a review of issuance. Request for issuance are publicised on the [CDM website](#).

²¹ See regulations 5(4) and 5(5) of the Implementing Regulations.

²² See regulation 13(1)(b) of the Implementing Regulations.

²³ See paragraph 41(a) of Decision 17/CP.7

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Information in respect of validation or verification may be communicated electronically to the dna@DECC.gsi.gov.uk.

5. EU requirements

The EU Linking Directive not only transposes project approval requirements set out in the Marrakech Accords, but also introduces further requirements, specifically related to approval by EU Member States. These relate to:

- Baselines for projects carried out in countries which have signed a Treaty of Accession with the EU; and
- Projects involving hydro-electric facilities with a generating capacity greater than 20MW.

7.1 Baselines of projects

In addition to the international requirements, EU Member States are required to ensure that the baselines for project activities undertaken in countries that have signed a treaty of accession with the EU fully comply with all Community legislation (the *Acquis Communautaire*), including the temporary derogations set out in the relevant Treaty of Accession²⁴.

This requirement is intended to ensure that the reductions credited through the mechanism are additional to the reductions which are required by Community law.

In order for the Government to be satisfied that these requirements are met, the UK DNA will require a statement to this effect from the project participant or in the PDD of the project, in information supplied from the relevant Designated Operational Entity²⁵.

7.2 What are the requirements for hydro-electric facilities with a generating capacity greater than 20MW?

The Linking Directive provides that in the case of hydro electric projects with a generating capacity exceeding 20MW, Member States when approving such projects must take into account relevant criteria, including those set out in the World Commission on Dams (WCD) November 2000 Report “Dams and Development – A New Framework for Decision-Making”. This includes projects that do not incorporate a dam in their design, and also bundled projects, which cumulatively exceed 20 MW²⁶.

²⁴ See article 11b(1) of the Linking Directive and regulation 7(6)(a) of the Implementing Regulations. NB CDM project activities can only be undertaken in non-Annex I countries.

²⁵ See regulations 5(4) and 5(5) of the Implementing Regulations.

²⁶ See article 11b(6) of the Linking Directive and regulation 7(6)(b) of the Implementing Regulations.

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The UK DNA will consider each project on a case by case basis. We cannot approve until the UK DNA is satisfied that the World Commission on Dams criteria have been met. We will require additional evidence that the criteria have been met through additional documentary evidence to the PDD – specifically a hydro-electric facility compliance report.

We will also only approve participation in projects that are at a late stage in the CDM project cycle. To do this we require the almost complete validation report for the project which only requires the UK Letter of Approval for the validation to be finally completed. The UK DNA will refer to the version number and date of the validation report and of the PDD in issuing its Letter of Approval and the Letter of Approval is only valid for that version of the PDD. If further changes are made to the PDD or the validation report a new request for an LoA will need to be made.

The UK DNA recognizes the distinct types of large hydro electric projects (for example projects involving dams, run of river projects, and improvements to existing facilities), and our assessments will take this into account. The WCD Report specifies that its guidelines are “advisory tools” and “not a blueprint”. The UK DNA therefore appreciates that some guidelines may not be relevant for all hydroelectric projects or are necessarily designed to be applied in full. Project participants and/or Designated Operational Entities are therefore expected to make a judgment as to which elements of the guidance is applicable to a particular case, and how each requirement is to be substantiated. Further information on hydro-electric facilities is contained in Annex C

For further information on the WCD report please go to www.dams.org.

6. Appeals

8.1 What if I disagree with your decision?

There is a right of appeal to the Secretary of State under Regulation 9 of the Implementing Regulations.

Appeals should be made in writing and submitted to the Appeals Officer within 6 months of the date of the letter notifying the project participant of the Secretary of State's decision. Appeals should be submitted electronically to the CDM appeals mailbox (cdmappeals@DECC.gsi.gov.uk) copied to the DNA mailbox (dna@DECC.gsi.gov.uk).

In case of appeals in respect of project participants in Scotland, Wales and Northern Ireland a copy of the appeal should be sent to the relevant Devolved Administration.

The closing date for appeals is 6 months from the date of the letter notifying the project participant of the Government's approval decision. Any appeals received after this period will not be processed. For further details on the appeals procedure please see Annex A.

7. Issuance - how do we get our credits?

CDM credits are issued into a registry account. Details of the CDM Executive Board's procedures for issuance of Certified Emission Reductions (CERs) can be found in the Marrakech Accords²⁷.

The Executive Board will issue CERs equivalent to the emissions reductions or removals achieved, within 15 days of the receipt of the verification and certification report of the project from the Designated Operational Entity, unless it or a Party involved decides to request a review²⁸.

CERs are forwarded to the accounts of project participants and Parties involved in accordance with their instructions²⁹. A project participant should be appointed to manage communication with the Executive Board in respect of this instruction.

9.1 How do I get a UK registry account?

To receive CERs in the UK Registry, you will require a Person Holding Account (PHA)³⁰. There is a small charge for opening an account (for details please refer to the Registry's website, linked below)

You can apply for an account online at the Registry website (<http://emissionsregistry.gov.uk>), where you will be prompted to send certain information to the Environment Agency for checking. Full details of how to open a registry account can be found on the Environment Agency's website³¹.

²⁷ See section J of Decision 17/CP.7 *Issuance of certified emission reductions* (paragraphs 64-66)

²⁸ See paragraph 65 of Decision 17/CP.7

²⁹ See paragraph 66(b) of Decision 17/CP.7

³⁰ The other major type of account is Operator Holding, but this is for those who have compliance targets within the EU emissions trading scheme.

³¹ See http://www.environment-agency.gov.uk/business/444217/590750/590838/1009544/1009655/1009773/?lang=_e&theme=®ion=&subject=&searchfor=account+representatives&any_all=&choose_order=&exactphrase=&withoutwords=

ANNEX A: APPEAL PROCEDURES

An 'Appeals Officer' who will review all appeals against the application of the relevant CDM rules will be appointed. The Appeals Officer will be somebody who has not been involved in the original project decision and will work separately from the DNA team. The appeals officer will not discuss appeals with the DNA team.

The DNA/DFP team has 10 working days from the date of receipt of an appeal to submit in response written representations to the Appeals Officer. These representations must be copied to the appellant and, where an appeal relates to a project participant in Scotland, Wales or Northern Ireland, to the relevant Devolved Administration.

The appellant will have 5 working days from the date of submission of those representations from the DNA team to submit to the Appeals Officer any further representations in response. Any such further representations must be copied to the DNA team and where an appeal relates to a project participant in Scotland, Wales or Northern Ireland, to the relevant Devolved Administration.

If he considers it necessary, the Appeals Officer may set alternative time limits to those mentioned above and/or may require further exchanges of representations between the appellant and the DNA team. There is no provision for oral hearings.

The Appeals Officer shall give notice to the appellant of his determination of the appeal and shall give reasons for his decision. A copy of the determination shall be given to the DNA team and where an appeal relates to a project participant in Scotland, Wales and Northern Ireland, to the relevant Devolved Administration.

The Appeal Officer's decision will be incorporated into the final decision on approval which may include such additional conditions and requirements as the Appeals Officer considers necessary.

If you have any questions about the appeals process, please email the CDM appeals mailbox: cdmappeals@DECC.gsi.gov.uk.

If you have any questions about the decision but do not wish to appeal, please email these to the DNA mailbox: dna@DECC.gsi.gov.uk.

ANNEX B: DECLARATION

FORM FOR DECLARATION OF COMPLIANCE WITH THE RULES AND PROCEDURES OF THE CLEAN DEVELOPMENT MECHANISM (D1/04)

On behalf of *[insert name of company]*, I confirm that *[insert name of company]* is a project participant in “*[insert name of project activity]*” in *[insert name of host country]*, and is requesting written approval from the UK’s Designated National Authority of voluntary participation in the Clean Development Mechanism in respect of this project activity.

In doing so I declare on behalf of *[insert name of company]* that:

- Participation in the project activity complies with the internationally agreed rules governing the Clean Development Mechanism as laid out in the Marrakech Accords and subsequent relevant decisions.
- **Delete as appropriate:** [where the project has not been registered: *[insert name of company]* will inform the Designated National Authority when the validated project is registered].
- **Delete as appropriate:** [where the project has been registered: *[insert name of project]* was registered by the CDM Executive Board on *[insert date of registration]*.]
- The project design document (PDD) is attached.
- The information supplied in the PDD is correct.
- **Delete as appropriate** [Where the host party is an accession country - the baseline for this project activity fully complies with the *acquis communautaire*, including the temporary derogations set out in the Treaty of Accession]
- **Delete as appropriate** [where the project is a hydro electric generation activity with a generating capacity of more than 20 MW: the development of the proposed project activity will respect the criteria and guidelines identified in the Report produced by the World Commission on Dams “Dams and Development. A compliance report is attached.

- *[Insert name of company]* agrees that it is responsible for the performance of any functions that fall to it as a project participant pursuant to the Marrakech Accords and any additional requirements imposed by and in accordance with the law of the Host Party

- *[Insert name of company]* understands that in granting approval the UK's Designated National Authority will not consider those matters that fall within the competence of:
 - a *[insert name of host party]* acting as Host Party in respect of this project;
 - b *[insert name of DOE]*, appointed by the project participants as Designated Operational Entity in respect of this project; or
 - c the CDM Executive Board.

On behalf of (insert company name).....

Signed

Director

Name (in capitals)

Date

Signed

Director / Company Secretary

Name (in capitals)

Date

CDM Approval and Authorisation Guidance

ANNEX C: APPROVAL OF HYDRO-ELECTRIC FACILITIES >20MW

This is the UK DNA guidance for approval of voluntary participation in CDM hydro-electric projects > 20MW subject to receipt of a hydro-electric Compliance Report.

This guidance replaces our previous guidance on hydro-electric projects >20MW which required completion of a WCD “checklist”.

We will only approve participation in projects that are at a late stage in the CDM project cycle. To do this we require the almost complete **DOE validation report** which only requires the UK Letter of Approval for the validation to be finally completed. The UK DNA will refer to the version number and date of the validation report and of the PDD when in their Letter of Approval and the Letter of Approval is only valid for that version of the PDD. If further changes are made to the PDD or the validation report a new request for an LoA will need to be made.

Compliance Report

As of 01 July 2009, large hydro applications should include the harmonised EU Compliance Report in Annex D. This new Report has been negotiated and agreed upon by an Ad Hoc Working Group of Member States and builds upon the existing UK and Swedish Compliance Reports. We will accept completion of the Report by either the Project Participants or an assessment by an Accredited Independent Entity;

- **Project Participant:** Where a project participant completes the report, the PP remains responsible for ensuring statements in the report are correct. This self assessment is in line with our current approach.
- **Designated Operational Entity:** Where a DOE completes the report, the DOE is responsible for the statements made in the report and for other supporting documentation relating to that report. This is a new approach.

Attached at annex E are the guidelines produced by the Ad hoc Working Group to assist with using the template.

If you have any queries with regard to the new procedure please contact the DNA mailbox DNA@decc.gsi.gov.uk

Case specific examples to the application of WCD to hydro-electric project activities

The UK DNA will aim to offer best practice guidance for gaining UK approval for these projects. However, you may wish to note the following points when approaching the UK DNA for approval.

Retrofit activities

The UK DNA considers that for projects activities in the case of improvements/extensions to pre-existing installation, Article 11(b)(6) of the EU Linking Directive applies only where the CDM project activity which is the subject of the application exceeds 20 MW. The capacity of the pre-existing facilities is not relevant. Therefore, in the case of improvements and extensions to existing facilities, if the improvement or extension itself exceeds 20MW, then WCD criteria must be respected.

Bundled projects

The CDM Executive Board has rules on bundling CDM projects. If the bundled project involves small scale projects where the aggregate is over 20MW – we consider the bundled application to be the project activity and therefore the World Commission on Dams must be respected.

Aggregate of smaller projects

Article 11(b)(6) is not relevant where several project activities are located in close proximity, but are not “bundled” according to CDM rules and are of capacity of 20MW or less.



**ANNEX D; COMPLIANCE REPORT ASSESSING APPLICATION OF ARTICLE 11 b (6) OF EMISSIONS TRADING DIRECTIVE
TO HYDROELECTRIC PROJECT ACTIVITIES EXCEEDING 20 MW**

(Final Version of 17 November 2008)

Section 1: Description of the project

1: Summary description of the CDM project activity	Please complete
Name of the project	
Project ID Number	
Location	
Name of the watercourse	

<p>Date of completion of the Compliance Report</p>	
<p>1.1. Project area</p>	
<p>1. Description of the watershed:</p> <ul style="list-style-type: none"> - Political and administrative boundaries - Communities located along - Principal land use patterns - Existing and planned river flow modifications - Average annual runoff (m³) 	
<p>2. Average annual river flow (m³/s)</p>	
<p>3. Average annual river runoff before and after project's implementation (m³)</p>	
<p>4. State briefly what impacts other hydrological projects have had on the river basin within 50 km (untouched, affected, significantly affected by other activities).</p>	

5. Ecological description of the surroundings (forest, cultivated land, wasteland, cultural heritage sites etc.) conservation value	
1.2. Project-related activities	
1. Type of water infrastructure (i.e. storage reservoir, run-of-river, other)	
2. Related infrastructure being built as part of the project (i.e. roads, transmission lines, bridges)	
3. Installed generation capacity (MW)	
4. Load factor	

<p>5. Average annual energy production (MWh)</p>	
<p>6. What role does the project play in the national/regional electricity supply (base load, peak load, load balancing services for the grid, support for intermittent renewables, etc.)?</p>	
<p>7. Estimated annual emission reduction potential (tCO₂e)</p>	
<p>8. At what stage is the project's construction at the time of this application?</p>	
<p>9. What other direct purposes does the project serve (irrigation, flood control, water storage for drought protection, water-based transport, leisure facilities, aquaculture, industrial and municipal water supply, etc)?</p>	
<p>1.3. Project components</p> <p>Water-flow: structures and changes</p>	

1. Production capacity-submerged area (W/m^2)	
2. Retention structure/retarding structure (if present)	
3. Type of water diversion	
4. Length of diversion	
5. Type of water inlet	
6. Reservoir (if present)	
7. Dam height (from the foundation)	
8. Crest length	
9. Reservoir area at average water level	

10. Total reservoir capacity (m ³)	
11. Backwater length	
12. Submerged area in total	
13. Submerged residential area	
14. Submerged farmland/grassland	
15. Number of displaced inhabitants	
16. Production capacity/submerged area(W/m ²)	

Section 2: Assessment of compliance with the WCD criteria

Please complete this form with full explanations for all items. If a criterion is not relevant to the project, please explain why.

CRITERIA			
1. Gaining Public Acceptance	Description	Sources ³²	Validator's Assessment
<p>1.1. Stakeholder consultation</p> <p>1. Describe how the relevant stakeholders were identified.</p> <p>2. Are any of these people minority groups, especially indigenous people and if so, what special efforts were taken to identify and meet their needs?</p> <p>3. How many people have to be resettled due to the project?</p>			

³² Such as process documentation, stakeholders and issues identification, consultation strategies, resources planning, compensation plans, timetables, information sharing, written agreements with stakeholders, records of interviews, results of surveys/polls, minutes of meetings of the Stakeholders Forum, project documentation, Environmental Impact Assessments, documents related to local spatial planning, government and local authorities permits and agreements, description of methodologies used, decommissioning plans (where appropriate), other related environmental impact and social impact studies, etc.

<p>4. Resettled people/annual energy production (number/GWh).</p> <p>5. How many people were otherwise affected by the project (e.g. through loss of land, reduced productivity of fishing or hunting, etc.)?</p> <p>6. Describe how the affected local people and other relevant stakeholders have been informed and involved in the decision-making process of building the power plant.</p> <p>7. Describe how the affected local people and relevant stakeholders have been informed about the impacts of the project on their quality of life.</p> <p>8. How have the affected local and indigenous communities participated in the decision-making process?</p> <p>9. How will the economic and social impacts of the project on the affected local communities, indigenous people and/or other relevant stakeholders be addressed?</p> <p>10. How do compensation and benefit agreements correspond with the identified needs and rights of the stakeholders negatively affected <u>upstream and downstream</u> due to the project?</p>			
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<p>11. Was a Stakeholders Forum held with a broad local community participation (based on a customary and national law)? Describe the process and its outcome, and the response of project developer, local and national authorities?</p>			
<p>1.2. Transparency.</p> <p>1. Was key project documentation (e.g., social and environmental impact assessments) made publicly available before a decision to start construction was made?</p> <p>2. In what form was project documentation made available to stakeholders? Was it the original EIA etc. or was it in another form e.g. , a summary of positive and negative effects of the hydrological construction.</p> <p>3. How many of the total number of stakeholders have had access to the key documentation and have been actively involved?</p> <p>4. Is there a negotiated agreement between the stakeholders and project owner(s)? If so, is it publicly available?</p>			

<p>Validator's Conclusions concerning Priority 1:</p>			
<p>2. Comprehensive Options Assessment</p>			
<p>2.1 Needs</p>			
<p>1. What priority is given to hydropower in national development or energy planning (e.g. relevant government decisions)?</p> <p>2. What are the needs for hydropower at regional and local level?</p> <p>3. What are the regional/national supply needs of the electric system (renewable base load, peak load or load balancing of the grid, support of intermittent renewables)?</p> <p>4. Describe safeguards for equitable access to water resources. How do hydropower projects contribute to efficient water resources management?</p>			

<p>5. Does this hydropower project provide financial incentives to develop a multi-purpose project?</p>			
<p>2.2. Alternatives</p> <p>1. Describe the examination of alternatives to the project that have been considered (include details of feasibility studies and do-nothing options analysis that have been conducted).</p> <p>2. Have stakeholders been involved in the identification of the options? Describe process and outcome of that involvement.</p> <p>3. What are the main reasons behind the project choice and site selection (social, environmental, economic, and technical)?</p> <p>4. What are the consequences of non-action for the local and global environment?</p> <p>5. On the project assessment level, describe project variants and types of technology considered in comparison with the selected option.</p>			

<p>Validator's Conclusions concerning Priority 2:</p>			
<p>3. Addressing Existing Dams/hydroelectric projects</p>			
<p>1. For hydroelectric projects with dams, please describe the national requirements and routines for monitoring and reporting regarding:</p> <ul style="list-style-type: none"> - emergency warning, - sediment management, - safety system, - maintenance system, - environmental impact, - social impact, - implementation of compensation agreements. <p>2. For non-dam projects, describe details of the continuous monitoring of the</p>			

<p>project (environmental and quality assurance).</p> <p>3. How have relevant outstanding social and environmental issues from existing dams/hydroelectric projects in the river basin been addressed?</p> <p>4. Have national regulations been enforced for existing dams and what can be concluded with regard to compliance?</p> <p>5. Will the implementation of safety measures and evacuation plans be independently audited?</p>			
<p>6. Provisions for maintenance and decommissioning</p> <ul style="list-style-type: none"> - What provisions have been made for maintenance and refurbishment (eg. a maintenance and refurbishment fund)? 			
<ul style="list-style-type: none"> - What arrangements are made for decommissioning at the end of the plant lifetime, if any (e.g. decommissioning set aside fund)? 			

<ul style="list-style-type: none"> - Describe provisions for emergency drawdown and decommissioning. - Are they sufficiently flexible to accommodate changing future needs and values, including ecosystem needs and ecosystem restoration (Guideline 12)? 			
<ul style="list-style-type: none"> - Does the licence for project development define the responsibility and mechanisms for financing decommissioning costs? 			
<ul style="list-style-type: none"> - Describe economic, environmental, social and political factors that may point against future decommissioning, if this has been recognised as the best solution. 			
<p>Validator's Conclusions concerning Priority 3:</p>			

4. Sustaining Rivers and Livelihoods			
4.1. Water use ratio ³³			
<p>Water use ratio (ratio of natural flow, agricultural water, industrial water, domestic water...) including:</p> <ol style="list-style-type: none"> 1. population of the river basin area (10⁶ inhabitants); 2. natural mean flow (km³/year); 3. demand (km³/year); 4. water use ratio (%); 5. comparison of water demand with natural mean flow; 6. storage capacity (km³); 7. annual water consumption by type of users (hm³/year): agricultural and farming, domestic use, industrial use 			
4.2 Impact Assessment (<i>Note: both positive and negative impacts should be included here</i>)			

³³ Water Use Ratio - an environmental indicator which refers to the withdrawal of water for irrigation, industry, household use... A ratio of 25% or higher is generally an indicator of water stress. Important water demanding activities affect seriously its quantity and in consequence the availability of water resources. Some of these driving forces are urbanization, industry and agricultural production. The increase in impervious surface has the effect of reducing water infiltration and aquifer recharge

<p>What Impact Assessments have been carried out and on which regulations were they based on? – Describe the major impacts in each of the following categories and the mitigation measures for negative impacts:</p>			
<p>4.2.1. Environmental Impacts</p> <p>Describe environmental impacts of the project (including impact on water quality (temperature, oxygen, etc.), soil, air quality, GHG emissions, biodiversity, habitats, risk of erosion caused by inundation etc.)</p>			
<p>4.2.2. Environmental Flow Assessment</p> <ol style="list-style-type: none"> 1. Describe how the environmentally safe minimum flow has been determined. 2. Describe the measures taken to minimise the impact of reduced flow in the affected river. 3. Describe the measures taken to maintain ecosystems, productive fisheries and other aqua-cultures 			

downstream and upstream.			
4. Describe the activities the project developer will undertake before flooding the land (e.g. clearing of vegetation or other preparations).			
5. Describe any other compensatory measures addressing environmental impacts of the project			
<p>4.2.3. Social Impact Assessment</p> <p>1. Describe social impacts of the project (including resettlement, impacts on other land or river use e.g. fishing, agriculture, hunting and use of other types of natural resources and including benefits to individuals and communities)</p>			
2. Describe any identified health impacts due to the project.			
3. Describe impacts on religious and			

cultural heritage.			
4. Describe the liability provisions safeguarding the implementation of the planned measures.			
5. Is the project planned in a responsible way in order to sustain livelihoods and the environment?			
4.3 Cumulative Impacts			
<p>Describe the cumulative impacts of all hydrological structures existing in the river basin using variables such as:</p> <ol style="list-style-type: none"> 1. flow regime, 2. water quantity, 3. productivity, 4. water quality species composition of different rivers in the same river basin 			

<p>Validator's Conclusions concerning Priority 4:</p>			
<p>5. Recognising Entitlements and Sharing Benefits</p>			
<p>Are Mitigation, Resettlement and Development Action Plans (where applicable - including commensurate compensation packages) in place? Provide details:</p> <ol style="list-style-type: none"> 1. Demonstrate that the construction of the plant did not lead to worsening of the living conditions of the local residents and resettled families 2. Were compensation and benefit agreements planned in consultation with affected groups? 3. What standards were the measures based on? (e. g. national standards or other) 			

<p>4. Were the affected people satisfied with the compensation packages?</p> <p>5. Benefits for the affected people (individuals and communities): In what way will the affected local and indigenous population's livelihoods be improved due to the project?</p>			
<p>Validator's Conclusions concerning Priority 5:</p>			
<p>6. Ensuring Compliance</p>			
<p>6.1. Compliance measures:</p> <p>1. What will be done to ensure that relevant laws, regulations, agreements (including resettlement and compensation agreements) and recommendations are followed?</p> <p>2. Are the compensation agreements legally binding – through treaties, administrative acts or other safeguards?</p> <p>3. Is the cost of the compensation</p>			

<p>package included in the financial plan?</p>			
<p>4. Does the project developer already operate other hydroelectric power stations? If so, have there been any conflicts between the project developer and stakeholders related to the development, operation and compensatory measures related to these projects? If so, describe the cause of the conflict and how it was resolved.</p> <p>6.2. Monitoring and evaluation during crediting period:</p> <p>1. Describe conditions in place for monitoring and evaluation of environmental and socio-economic impacts of the project.</p> <p>2. What provisions have been made to ensure that all measures not yet implemented at the time of validation will be put in place as appropriate, and monitored (for example through an independent auditing panel or auditor, or through self-auditing etc.)?</p>			
<p>Validator's Conclusions concerning Priority 6:</p>			

<p>7. Sharing rivers for peace, development and security.</p>			
<p>Does the project have trans-boundary impacts? - If so, give details of agreement(s) between affected countries, considering international recommendations for trans-boundary water projects and describe how this affects the project.</p>			
<p>Validator’s Conclusions concerning Priority 7:</p>			
<p>Validator’s assessment as to how the project respects the seven strategic priorities outlined in the World Commission on Dams November 2000 Report “Dams and Development – A New Framework for Decision-Making”</p>			

Name:

Function:

Contact details:

Company/validating entity:

Date of validation of the Compliance Report:

ANNEX E; Guidelines on a common understanding of Article 11b (6) of Directive 2003/87/EC as amended by Directive 2004/101/EC

(non-paper)

Objective: To harmonize the procedure in relation to large hydropower projects under Article 11b(6) so as to give the market and the Member States confidence when using and accepting CERs/ERUs under the EU ETS.

I. Introduction

1. This document stems from an attempt to reach an agreement among the Member States and the Commission on the interpretation and application of Article 11b(6) of the Linking Directive.
2. The document establishes a common understanding of the meaning of certain aspects of the text of Article 11b(6) relating to its scope (see Section III.1.: "Scope", below) and on the means whereby project proponents can establish that their projects meet the relevant requirements (see Section III.2.: "Demonstrating Compliance", below). Although the final decision regarding the acceptance of a project as meeting the aforementioned requirements remains the responsibility of the Member State approving the project activity, agreement on these principles ensures that the competent DNAs/DFPs use the same criteria specified in the Compliance Report Template³⁴ when assessing similar hydropower project activities. This is aimed to ensure that project proponents receive fair and equal treatment regardless of which Member State they apply to for approval, thus giving clarity to the carbon market.
3. By adopting these guidelines, and the Compliance Report Template through national procedures by 1 April 2009, Member States aim at creating a level playing field for

³⁴"Compliance Report assessing application of Article 11 b (6) of the Emissions Trading Directive to hydroelectric project activities exceeding 20MW", see Annex 1 to the "Guidelines".

proponents of hydroelectric project activities. The agreement to abide by these guidelines is a voluntary agreement by the Member States. Its purpose is to facilitate a harmonised approach to the implementation of Article 11b (6) across the EU and to give Member States confidence in accepting CERs/ERUs from these projects for use in the EU ETS. It does not compromise the sovereign authority of the DNA/DFP of each Member State to decide which project activities to approve.

4. According to Article 11a of the Directive, “*Member States... may allow operators to use CERs and ERUs from project activities in the Community scheme*”. The Directive stipulates that a decision which CERs and ERUs can be used is left to Member States, with the exception of carbon credits that are excluded from use in the EU ETS.³⁵ Since participation in JI and CDM project activities is voluntary, and the directive ultimately lets Member States decide whether to allow the use of carbon credits from project activities in the Emissions Trading system, “*companies should be encouraged to improve the social and environmental performance of JI and CDM activities in which they participate*”.³⁶ In the case of hydroelectric projects with generating capacity above 20 MW, these requirements are defined in Article 11b(6) which states: “*In the case of hydroelectric power production project activities with a generating capacity exceeding 20 MW, Member States shall, when approving such project activities, ensure that relevant international criteria and guidelines, including those contained in the World Commission on Dams November 2000 Report “Dams and Development – A New Framework for Decision-Making”, will be respected during the development of such project activities.*” The interpretation of this article currently varies among Member States and so has led to fragmentation of the carbon market and uncertainty for its participants.
5. Member States have agreed to accept in principle common guidelines for approval of large hydropower project activities, which may also constitute guidance for Member States on which carbon credits to accept for compliance.
6. A document entitled “Compliance Report Assessing Application of Article 11b(6) of Emissions Trading Directive to Hydroelectric Project Activities Exceeding 20 MW” (further

³⁵ Carbon offsets from nuclear project activities and temporary credits from the LULUCF projects.

referred to as the Compliance Report Template) sets out the assessment criteria selected by Member States. These criteria will be applied by DNAs/DFPs to select large hydro project activities that will generate carbon offsets allowed in the Community trading scheme.

7. Once a project activity has received a Letter of Approval (LoA) from an investor country upon the submission and positive assessment of a validated Article 11b(6) Compliance Report, all Member States agree to accept CERs/ERUs from this project for use in their national registries under the EU ETS.
8. Credits from all hydro project activities approved by Member States before 1 April 2009 can also be surrendered for compliance in the national registries of Member States. In this regard, in line with Article 11a of the Directive, Member States may exercise their sovereign right to decide which carbon offsets to accept for compliance. If so decided by a Member State, the acceptance of those credits for compliance in its National Registry may be conditional on submission to its Registry Administrator of a validated Article 11b (6) Compliance Report, or another validated report accepted by another DNA/DFP in a Member State and demonstrating that 7 strategic priorities set out in the World Commission on Dams November 200 Report "Dams and Development – A New Framework for Decisions-Making" have been respected during development of that project. The validity of CERs/ERUs from such projects for use in the registries of other Member States is not thereby questioned.
9. Taking into account the desired harmonization of procedures, Member States agree to provide publicly accessible information on projects that have been approved as fulfilling the requirements of Article 11(b)(6) as well as indicating the entities accepted to carry out a validation of the Compliance Report³⁷ in each Member State. This is aimed to secure transparency of the procedures and to provide current information on the implementation of this voluntary agreement.

II. Background

³⁶ Recital 15 in the preamble to the Directive 2004/101/EC

³⁷ Compliance Report prepared in line with the Compliance Report Template which constitutes Annex 1 to these "Guidelines".

1. Large hydropower projects can adversely affect development in certain regions and have unwanted social and environmental impacts. On the other hand, they can also do much to promote human development in a way that is socially equitable, environmentally sustainable and economically viable. Deployment of hydroelectric power production, if undertaken in a responsible and equitable way, can significantly contribute to lowering greenhouse gas emissions. However, adverse environmental and social effects of large hydroelectric projects could undermine the positive impacts of these projects. By adopting Article 11 b(6) of Directive 2004/101/EC, the European Union undertook to ensure that development of hydroelectric projects respect relevant international guidelines, including those contained in the World Commission on Dams November 2000 Report “Dams and Development – A New Framework for Decision-Making”.

2. The World Commission on Dams set two objectives: 1) to review the development effectiveness of large dams and assess alternatives for water resources and energy development; and 2) to develop internationally acceptable criteria, guidelines and standards, where appropriate, for the planning, design, appraisal, construction, operation, monitoring and decommissioning of dams. These objectives comprise, but are not limited to, the following general aspects:
 - avoiding and minimising impacts on ecosystems, livelihoods, health and cultural (and religious) heritage,
 - analysing needs and options on the basis of many different criteria (multi-criteria analysis),
 - improving the livelihoods of people displaced and affected by projects,
 - ensuring compliance with the compensatory measures,
 - applying the principles of corporate environmental and social responsibility and accountability, in accordance with recital 15 of Directive 2004/101/EC.³⁸

A harmonised approach should help ensure the sustainability and environmental integrity of the large hydropower project activities, approved by Member States.

III. Compliance with Article 11 b (6) of the Emissions Trading Directive

1. Scope

1. Article 11b (6) applies to all hydroelectric power production project activities with a generating capacity exceeding 20 MW regardless of whether there is a dam involved or not and regardless of the size of the dam³⁹.
2. When approving project activities, Member States have to ensure that every project involving hydroelectric power production facilities with generating capacity above 20 MW complies with Article 11b (6) during its development.
3. In the case of improvements and extensions to existing installations, Article 11b (6) applies only where the CDM/JI project activity which is the subject of the application includes generating capacity which exceeds 20 MW. The capacity of the existing facilities is not relevant. So in the case of improvements and extensions to existing facilities, it is the improvement or extension which must exceed 20 MW, unless the existing facility is already a CDM/JI project.
4. Article 11b (6) applies to hydropower project activities exceeding 20 MW which consist of two or more smaller projects that are bundled as one project according to the bundling rules of the CDM Executive Board.
5. Where project proponents are applying for approval of several small hydropower project activities in one PDD, which add up to a combined capacity of 20MW or more but there is no technical or environmental link between them⁴⁰, Article 11b(6) should not be taken into account.

³⁸ Since the aim of the Guidelines is both, to safeguard the obligations of MS under the UNFCCC and the Kyoto Protocol AND to reflect the spirit of Article 11b(6) and relevant recitals in the preamble to the Directive 2004/101/EC.

³⁹ Here the "Guidelines" refer to the interpretation of the scope of Article 11b (6). The Directive applies regardless of the definition of a large dam as outlined by the International Commission on Large Dams. According to some stakeholders the WCD could be applied only to projects with a dam and with a dam higher than 15m. Article 11 b (6) sets a different boundary which is defined in the above paragraph.

⁴⁰ As defined in the Environmental Impact Assessment

2. ***Demonstrating Compliance***

1. Article 11b (6) refers to “relevant international criteria and guidelines, including those contained in the” WCD Report. The WCD guidelines were designed to reflect best practice on sustainability assessment. As such the WCD Report can be assumed to be a fair reflection of the “*relevant international criteria and guidelines*”, without prejudging the possibility of considering as well other relevant criteria and guidelines in the future, if such are accepted jointly by the Member States.
2. Entities seeking the approval of a project by Member States should provide evidence demonstrating compliance of the project with the requirements of Article 11b (6).
3. To demonstrate compliance with Article 11b (6), the project proponent should submit a separate Compliance Report with the application documents to the DNA/DFP of the Member State or an entity designated by the Member State to fulfil this function.
4. The Compliance Report (based on documents, visits and interviews and following the outline provided in the Compliance Report Template⁴¹) may be prepared either by one of the participants in the project or by a third party on behalf of the participant (an outside consultant/expert, or a DOE).
5. The Compliance Report should be validated by a Designated Operational Entity (DOE) or an Accredited Independent Entity (AIE) licensed for that particular Sectoral Scope, or other qualified independent third party accepted by the Member State, hereafter referred to as “Independent Validating Entity”.
6. The final decision on whether the project complies with Article 11 b (6) is taken by a Member State DNA/DFP.

⁴¹ See Annex 1 to the "Guidelines".

7. "Development of a project" includes the following stages:

- needs and options assessment,
- project preparation,
and
- project implementation.

The quality standards set out in the World Commission on Dams November 2000 Report "Dams and Development – A New Framework for Decision-Making" can only be verified at a more advanced stage of project development, once the needs and options have been assessed. So a LoA may be issued to a large hydro project as defined in Article 11b (6) at the earliest at the project preparation stage.

8. The compliance in the implementation phase is deemed to have been respected once mitigation and compensatory measures have been put in place and monitored and, where possible, once decommissioning plans have been developed.

9. Where a project is at the preparation or implementation stage, Member States may issue a LoA, with parallel requirements regarding monitoring of the implementation of compensatory measures and other undertakings.

3. Content of the "Article 11b (6) Compliance Report"

1. The Compliance Report Template establishes a standard for presenting the information required to confirm that the relevant international criteria and guidelines were respected during development of project activities.
(See Annex 1)

2. Member States agree to accept the Compliance Report Template as the standard template for providing information necessary for demonstrating compliance with Article 11b (6).
3. The Compliance Report includes an undertaking by an Independent Validating Entity that, in their assessment, the project respects the seven strategic priorities, outlined in the World Commission on Dams November 2000 Report "Dams and Development– A New Framework for Decision-Making "
4. The complexity and level of detail of the Compliance Report should be commensurate with the scale of the project and its impacts.⁴²
5. The Compliance Report is modelled on Chapter 8 of the WCD recommendations, consisting of seven strategic priorities for good practice, as explained in the introduction above.
6. For the purpose of validation, the project proponent should provide for the Independent Validating Entity objective evidence presented according to best auditing practice. Best practice for preparing a Compliance Report and making a legal declaration on compliance with Article 11b (6) involves:
 - *Interviews and public involvement:* Where possible, interviews should be conducted. The key documentation (e.g., social and environmental impact assessments) should be made public/made available to the relevant stakeholders such as the project owner, the technical advisors, the relevant local authorities, and the people affected;
 - *Site observation:* This entails studying the physical location and other activities related to the construction and management of the hydroelectric project activity as defined in Article 11b (6). Site observations should be conducted with the purpose of confirming what is

⁴² The requirements as to the depth and extent of the report should be commensurate to the characteristics of the project in question. For example, a 20MW run-of-river- project that does not include resettlement requires much less attention than a 1000 MW dam project with a large reservoir and 5000 people resettled.

proposed and approved in the design documents and what the DOEs/DFPs/ independent validating entities affirm in the compliance report based on a desk analysis.

- *Document review*: This is essential in order to assess documents such as:
 - the Environmental Impact Assessment,
 - any other supporting material for the information listed under section D of the PDD and approval from the relevant environment authority,
 - planning documents (e.g. feasibility studies),
 - option assessment documents⁴³ ,
 - documents concerning stakeholder consultation.

7. Where applicable, further documents may be requested such as compensation, resettlement, development and financing plans. If is not possible to gather all the documentation required, a site visit is necessary.

8. Member States may jointly assess and modify the content of the Compliance Report Template and the recommendations in these "Guidelines" from time to time to ensure the desired level of harmonisation as regards compliance with Article 11b (6).

⁴³ As specified in the Compliance Report Template

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Department of Energy & Climate Change
3 Whitehall Place
London SW1A 2AW
www.decc.gov.uk

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