

> Clean Development Mechanism (CDM) and Joint Implementation (JI) Projects

Criteria for approving participation. A communication of the FOEN in its capacity as enforcement authority of the CO₂ Ordinance



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Legal status

This publication is a communication of the FOEN as an enforcement authority. It is intended for letter of approval (LoA) applicants that require LoAs from Switzerland so that they can participate in a clean development mechanism (CDM) or joint implementation (JI) project set out in the Kyoto Protocol to the United Nations Framework Convention on Climate Change (UNFCCC). The purpose of this publication is to explain the FOEN's actual formal (conditions, procedure and documents that must be provided as part of an application) and material (requirements that projects must meet so that a letter of approval can be issued) practices in its capacity as an enforcement authority. Applicants that comply with the information contained in this publication can consider their application complete. This publication is subject to change at any time, especially whenever new market mechanisms are introduced under the Convention.

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> Abstracts

The clean development mechanism (CDM) and joint implementation (JI) are two flexible mechanisms set out in the Kyoto Protocol to the United Nations Framework Convention on Climate Change (UNFCCC). They are intended to help industrialised countries achieve their emissions reduction targets and promote sustainable development in the host countries by encouraging investment in greener technologies. For that purpose, the Kyoto Protocol and subsequent related decisions set general requirements in these areas. More specifically, an entity or a person participating in a CDM or JI project is required to obtain a letter of approval from the host country in which the project is being carried out, as well as a letter of approval from the so-called investor country, i.e. the country that will enter the first transaction involving emission reduction certificates generated by the project in its national registry. However, every investor country is free to set its own criteria for issuing letters of approval. In Switzerland, the CO₂ Act and CO₂ Ordinance set out the quality requirements for participating in these projects. This publication is meant to establish the national criteria for approving participation in a CDM or JI project. It explains the FOEN's practices in its capacity as an enforcement authority.

Clean Development Mechanism (CDM) und Joint Implementation (JI) sind zwei flexible Mechanismen, die im Protokoll von Kyoto zum Rahmenübereinkommen der Vereinten Nationen über Klimaänderungen (*United Nations Framework Convention on Climate Change*, UNFCCC) verankert sind. Sie sollen den Industrieländern dabei helfen, ihre Emissionsreduktionsziele zu erreichen. Gleichzeitig unterstützen sie einen nachhaltigen Fortschritt in den Gastländern, indem sie Investitionen in umweltfreundlichere Technologien fördern. Die allgemeinen Anforderungen sind im Kyoto-Protokoll sowie den darauf bezogenen späteren Entscheidungen festgelegt. Insbesondere benötigen Unternehmen und Personen, die an einem CDM- oder JI-Projekt teilnehmen, je ein Genehmigungsschreiben des Gastlandes, in dem das Projekt durchgeführt wird, und des Investorlandes, d. h. von jenem Staat, der in seinem nationalen Register die erste Transaktion der Emissionsminderungszertifikate aus dem Projekt verbucht. Jedes Investorland kann jedoch seine eigenen Kriterien für die Ausstellung von Genehmigungsschreiben aufstellen. Die in der Schweiz geltenden Qualitätsanforderungen für die Teilnahme an diesen Projekten sind im CO₂-Gesetz und in der dazugehörigen Verordnung festgelegt. Vorliegende Mitteilung hält die nationalen Genehmigungskriterien für die Teilnahme an einem CDM- oder JI-Projekt fest. Sie konkretisiert die Praxis des BAFU als Vollzugsbehörde.

Keywords:

Clean Development Mechanism (CDM), Joint Implementation (JI), Flexible mechanisms, Kyoto Protocol, United Nations Framework Convention on Climate Change (UNFCCC), Letter of approval (LoA), CO₂ Act, CO₂ Ordinance

Stichwörter:

Clean Development Mechanism (CDM), Joint Implementation (JI), Flexible Mechanismen, Kyoto-Protokoll, Rahmenübereinkommen der Vereinten Nationen über Klimaänderungen (UNFCCC), Genehmigungsschreiben, CO₂-Gesetz, CO₂-Verordnung

Le mécanisme de développement propre (MDP) et la mise en œuvre conjointe (MOC) sont deux mécanismes de flexibilité établis dans le cadre du Protocole de Kyoto à la Convention-cadre des Nations Unies sur les changements climatiques (CCNUCC). Ils sont destinés à aider les pays industrialisés à atteindre leurs objectifs de réduction des émissions tout en favorisant le développement durable des pays hôtes en promouvant les investissements dans des technologies plus écologiques. Le Protocole de Kyoto ainsi que les décisions ultérieures y afférentes définissent les exigences générales en la matière. Il s'agit notamment de l'obligation, pour une entité ou une personne participant à un projet MDP ou MOC, d'obtenir d'une part une lettre d'approbation de l'Etat hôte dans lequel le projet est réalisé, et d'autre part une lettre d'approbation de l'Etat dit investisseur, c'est-à-dire l'Etat qui accueillera dans son registre national la première transaction des certificats de réduction des émissions issus du projet. Chaque Etat investisseur est cependant libre d'édicter ses propres critères en matière de délivrance de lettres d'approbation. En Suisse, la loi sur le CO₂ et son ordonnance définissent les exigences de qualité pour la participation à ces projets. La présente communication sert à établir les critères nationaux d'approbation pour la participation à un projet MDP ou MOC. Elle concrétise la pratique de l'OFEV en sa qualité d'autorité d'exécution.

Il Clean Development Mechanism (CDM) e il Joint Implementation (JI) sono due meccanismi flessibili stabiliti nel quadro del Protocollo di Kyoto alla Convenzione quadro delle Nazioni Unite sui cambiamenti climatici (UNFCCC). Tali meccanismi sono stati creati per aiutare i Paesi industrializzati a raggiungere gli obiettivi di riduzione delle emissioni favorendo al contempo lo sviluppo sostenibile dei Paesi ospitanti promuovendo gli investimenti nelle tecnologie più ecologiche. Il Protocollo di Kyoto e le relative ulteriori decisioni definiscono i requisiti generali in materia. Si tratta in particolare dell'obbligo, per ogni ente o persona che partecipi a un progetto CDM o JI, di ottenere l'approvazione del Paese ospitante nel quale il progetto è realizzato e l'approvazione del Paese detto «investitore», ossia lo Stato che riporterà nel suo registro nazionale la prima transazione di certificati di riduzione delle emissioni relativo al progetto. Ogni Stato investitore è tuttavia libero di definire criteri propri per l'approvazione. In Svizzera, la legge sul CO₂ e la relativa ordinanza definiscono i requisiti di qualità per la partecipazione ai progetti. Il presente documento stabilisce i criteri nazionali di approvazione per la partecipazione a progetti CDM o JI e concretizza il lavoro dell'UFAM in qualità di autorità esecutiva.

Mots-clés:

Mécanisme de développement propre (MDP), Mise en œuvre conjointe (MOC), Mécanismes de flexibilité, Protocole de Kyoto, Convention-cadre des Nations Unies sur les changements climatiques (CCNUCC), Lettre d'approbation, Loi sur le CO₂, Ordonnance sur le CO₂

Parole chiave:

Clean Development Mechanism (CDM), Joint Implementation (JI) Meccanismi flessibili, Protocollo di Kyoto, Convenzione quadro delle Nazioni Unite sui cambiamenti climatici (UNFCCC), Autorizzazione, Legge sul CO₂, Ordinanza sul CO₂

> Foreword

Switzerland has an active greenhouse gas emissions reduction policy, which contributes to the achievement of the internationally recognised 2-degree target. It ratified the United Nations Framework Convention on Climate Change (UNFCCC) in 1993 and its Kyoto Protocol in 2003 and committed to a reduction target for the 2008–2012 period. New emission reduction objectives were agreed at the 18th climate conference in Doha for a second commitment period, from 2013 to 2020. Switzerland has set a reduction target for this period and intends to ratify the Doha Amendment to the Protocol.

Switzerland is demonstrating its renewed international commitment at the national level with the revised CO₂ Act, which has been in effect since 1 January 2013, and its CO₂ Ordinance, which has been in effect since 1 December 2014. The CO₂ Act is aimed at reducing domestic greenhouse gas emissions by at least 20% under their 1990 level by 2020. In absolute figures, this target corresponds to a decrease of approximately 10.6 million tonnes of CO₂ equivalent. To achieve this, the legislation provides for measures in the areas of transport, construction and industry.

The emission reduction target set by the CO₂ Act must be achieved in Switzerland. However, companies that have made a commitment to reduce their greenhouse gases, companies participating in the emissions trading scheme, and fossil thermal power plants subject to the compensation requirement can count emission reductions achieved abroad, within specific limits, provided the emission reduction certificates satisfy certain quality requirements.

The Kyoto Protocol has established two instruments for issuing foreign emission reduction certificates with the goal of giving governments more flexibility in achieving their target: the clean development mechanism (CDM) and joint implementation (JI). These instruments make it possible to add emission reductions achieved outside the national borders to those achieved within them. Where the emissions are avoided is not critical to the pursuit of the global environmental goal, which is to stabilise greenhouse gas levels. The result is a certificate market that is playing an increasingly greater role in helping industrialised countries achieve their reduction targets under the Kyoto Protocol, as well as interesting prospects for extending these instruments to other actors.

The Parties to the Protocol must designate a national authority responsible for implementing and monitoring the flexible mechanisms. The Federal Office for the Environment (FOEN) is in charge of these tasks for Switzerland. It is specifically delegated to approve CDM and JI projects and provide written approvals to Swiss or foreign project initiators for the voluntary participation of Switzerland. This publication explains the FOEN's actual letter of approval issuance practices in its capacity as enforcement authority.

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Federal Office for the Environment (FOEN)

> Introduction

This publication is a communication of the FOEN in its capacity as enforcement authority of the CO₂ Ordinance. The FOEN is granted this authority by Article 6 of the CO₂ Act and Article 4a of the CO₂ Ordinance. It is therefore authorised to approve CDM and JI projects and provide written approvals to project initiators for the voluntary participation of Switzerland. Accordingly, this publication serves as the basis for implementing international and national legislation. It is a standard and clear tool that letter of approval applicants can use to submit their application. For that purpose, it contains the following:

- > general information about the flexible mechanisms;
- > an explication of Switzerland's role as national enforcement authority;
- > an explication of the steps in the process of submitting an application;
- > the material requirements that projects must meet so that a letter of approval can be issued;
- > a description of the documents that must be provided as part of the application and;
- > a brief explanation of the internal procedure.

1 > The Flexible Mechanisms of the Kyoto Protocol

1.1 The clean development mechanism (CDM)

Set out in Article 12 of the Kyoto Protocol¹, the clean development mechanism (CDM) offers industrialised countries the possibility of investing in climate protection projects in developing countries. Industrialised countries may then count the certificates generated by these projects (known as certified emission reductions, or CERs) in addition to emission reductions achieved domestically. The CDM should also facilitate the transfer of green technologies to developing countries and contribute to their sustainable development.

The validity and quantity of the certificates generated by CDM projects are supervised by a body of the United Nations Framework Convention on Climate Change, the CDM Executive Board (EB).

Each CDM project requires a letter of endorsement or approval from the host country in which it is being carried out. That country must confirm that the activity involved in the project will help its sustainable development. Furthermore, it requires a letter of approval (LoA) from the investor country, i.e. the country that will enter the first transaction involving the CERs generated by the project in its national registry. Thus, the letter of approval from the investor country is a written authorisation allowing the entity or the person that requires it to participate in a project. In CDM terminology, the written authorisation is issued by the designated national authority (DNA). It is the subject of this publication.

A detailed description of the project development and participation procedure can be found on the UNFCCC Web site: <http://cdm.unfccc.int/index.html>.

1.2 Joint implementation (JI)

Unlike CDM projects, joint implementation (JI) projects are emission reduction projects carried out in industrialised countries or transition countries (Annex I Parties to the Kyoto Protocol) with emission reduction targets. They are defined in Article 6 of the Kyoto Protocol. Certificates issued as part of JI projects are known as emission reduction units (ERUs).

¹ Kyoto Protocol: <http://unfccc.int/resource/docs/convkp/kpeng.pdf>

Emission reductions can be achieved by converting assigned amount units (AAUs) from the host countries into ERUs, which are then transferred to the investor country. As a result, the total emissions of the countries concerned do not change (this is a zero-sum operation, unlike the CDM, where additional certificates are generated).

The JI Supervisory Committee (JISC) oversees JI projects. In general, the control procedures are less strict than for CDM. JI projects should also result in the transfer of modern technologies to host countries. A Party included in Annex I² may therefore authorise legal entities to participate, subject to its control, in measures specifically leading to the production, transfer or acquisition of emission reduction units. This is the subject of this publication.

There are two procedures for developing and/or participating in JI projects: Parties that fulfil all the eligibility criteria listed in paragraph 21 of the JI³ guidelines may choose a simplified approach known as track 1. The host country can then determine the procedures. It is not required to have validation or verification according to UNFCCC rules. The track 2 approach is similar to the approach for CDM projects and includes the project design document (PDD), which can be accessed and commented on by the public, determination by an accredited independent entity (AIE) and the possibility of review by the JI Supervisory Board.

More information can be found on the UNFCCC Web site:

<http://ji.unfccc.int/index.html>.

² Industrialised countries with a greenhouse gas emission reduction target under the Kyoto Protocol

³ <http://unfccc.int/resource/docs/2005/cmp1/eng/08a02.pdf#page=2>

2 > Switzerland as an Enforcement Authority

The Federal Office for the Environment (FOEN) is the authority responsible for implementing the legal requirements for flexible mechanisms under the Kyoto Protocol in Switzerland. For that purpose, a national Secretariat, known as SwissFlex, was created within the Climate Division of the FOEN. It is the designated national authority (DNA) for CDM projects and the designated focal point (DFP) for JI projects.

SwissFlex, an interdepartmental working group, coordinates the activities involved in implementing the flexible mechanisms and reviewing and approving projects. It is comprised of representatives from the FOEN, the Swiss Federal Office of Energy (SFOE), the State Secretary for Economic Affairs (SECO) and the Swiss Agency for Development and Cooperation (SDC).

3 > Obtaining a Letter of Approval

3.1 Why is a letter of approval necessary?

Certified emission reductions (CERs) generated by CDM projects are first issued into a pending account in the CDM registry, which is administered by the UNFCCC Secretariat. To transfer these CERs to the participant's (operator or person) holding account in the Swiss registry, a letter of approval for the project generating the CERs is required. Once the CERs are in a holding account in the national registry, a letter of approval is not required for subsequent transactions.

CDM

For more information about transferring CERs, the Swiss registry and the forms for opening an account, go to www.bafu.admin.ch/emissionsregistry.

Emission reduction units (ERUs) generated by JI projects can be transferred from the national registry of the host country to the participant's (operator or person) holding account in the Swiss registry. A letter of approval from Switzerland is required for that purpose. Once the ERUs are in a holding account in the national registry of a country other than the host country, a letter of approval is not required for subsequent transactions.

JI

3.2 Who can request a letter of approval?

Only authorised companies and persons under the CO₂ Ordinance (Articles 40 and following, 66 and following, and 80 and following), as well as companies domiciled in Switzerland that wish to participate in a CDM project and transfer the generated CERs from the CDM registry to a Swiss registry account, may apply for a **letter of approval (LoA)** from SwissFlex. They are issued as long as the project is not registered with the UNFCCC.

CDM

As soon as the registration with the UNFCCC is carried out, private or public entities may apply for a **letter of authorisation** from SwissFlex so that they can transfer CERs from the CDM registry to a Swiss registry account.

Only authorised companies and persons under the CO₂ Ordinance (Articles 40 and following, 66 and following, and 80 and following), as well as companies domiciled in Switzerland that wish to participate in a JI project and transfer the generated ERUs to a Swiss registry account, may apply for a **letter of approval (LoA)** from SwissFlex. Letters of approval for JI projects are issued once the host country has provided written approval (i.e. a letter of endorsement or approval). SwissFlex does not issue letters of authorisation for JI projects.

JI

3.3 What is the process for applying for a letter of approval?

Applications for letters of approval or authorisation must be submitted electronically to the designated national authority or designated focal point. They must be sent to swissflex@bafu.admin.ch.

SwissFlex does not charge any fees for issuing letters of approval or authorisation.

3.4 How much time does it take to receive a letter of approval?

Letters of approval or authorisation are issued once per month. SwissFlex reviews applications that are submitted by the 10th of each month and contain all the required documents (see Chapter 4.2) and provides project participants with its conclusions at the end of the same month, informing if a letter of approval or authorisation can be issued.

4 > Approval Criteria

4.1 What are the conditions for obtaining a letter of approval or authorisation?

SwissFlex accepts all types of projects that comply with:

- > Article 12 of the Kyoto Protocol, decision 3 / CMP.1 and the related subsequent decisions, for **CDM** projects;
- > Article 6 of the Kyoto Protocol, decision 9 / CMP.1 and the related subsequent decisions, for **JI** projects;

In addition, all projects must meet the requirements of the CO₂ Act (Art. 5 and 6) and CO₂ Ordinance (Art. 4, 4a and Annex 2). The criteria that are set out in Annex 2 of the CO₂ Ordinance are the following:

1. The following emission reduction certificates are not taken into account:

- a) certificates for emission reductions that were not achieved in one of the least developed countries (Least Developed Countries) on the list of the United Nations;
- b) certificates for emission reductions that were achieved from projects for biological CO₂ sequestration or geological CO₂ capture and CO₂ sequestration;
- c) certificates for emission reductions that were achieved through the use of hydro power plants with installed production capacity of over 20 MW;
- d) other certificates for emission reductions that were not achieved through the use of renewable energy, the end user's improved energy efficiency, methane flaring and avoidance of methane emissions at landfills, municipal waste recycling or waste incineration plants, recycling of agricultural waste, waste water treatment or through composting;
- e) already used emission reduction certificates.

2. In addition, emission reduction certificates are not taken into account if:

- a) the emission reductions were achieved in violation of human rights;
- b) the emission reductions were achieved under conditions that had significant negative social or ecological effects;
- c) their counting would contravene Swiss foreign and development policy (e.g. in the case of international sanctions against a host country of a project).

The current version of the CO₂ Ordinance can be found on the FOEN's Web site: www.bafu.admin.ch/emissionshandel/05570/index.html?lang=en

Examples of eligible projects:

- > end users' energy efficiency: agriculture, households, industry (only in the case of end use), services, transport;
- > renewable energy: biomass, geothermal, hydro power plants with installed production capacity of no more than 20 MW, landfill gas, avoidance of methane emissions (except for coal bed/methane mines), use of various renewable resources, such as solar, tidal or wind energy.

4.2 Which documents are required?

To obtain a **letter of approval under the CDM regime**, the following documents must be sent in electronic format to SwissFlex (swissflex@bafu.admin.ch):

- > the most recent version of the project design document (PDD);
- > the draft final validation report⁴ of the designated operational entity (DOE) (including the draft validation protocol / detailed validation checklist);
- > the duly completed Excel sheet entitled "Request for LoA" (downloaded from the FOEN's Web site: www.bafu.admin.ch/CDM-e).

The following additional documents may be sent, if they are available:

- > the letter of approval from the host country;
- > a letter of non-objection from the project owner.

To obtain a **letter of authorisation under the CDM regime**, the following document must be sent in electronic format to SwissFlex (swissflex@bafu.admin.ch):

- > the duly completed Excel sheet entitled "Request for LoA" (downloaded from the FOEN's Web site: www.bafu.admin.ch/CDM-e).

To obtain a **letter of approval under the JI regime**, the following documents must be sent in electronic format to SwissFlex (swissflex@bafu.admin.ch):

- > the most recent version of the project design document (PDD);
- > the preliminary version of the final determination report⁵ by the accredited independent entity (AIE);
- > the letter of approval or letter of endorsement issued by the host country (original version **and** translation into English by a **certified translator**);
- > the duly completed Excel sheet entitled "JI-Request for LoA" (downloaded from the FOEN's Web site: www.bafu.admin.ch/JI-e).

⁴ Given that DOEs do not issue final validation reports until the letters of approval have been issued, SwissFlex requires only a draft final validation report. This means that the report is at a very advanced stage, where almost all corrective action requests (CAR) and clarifications (CL) or forward action requests (FARs) have been resolved.

⁵ Given that AIEs do not issue final validation reports until the letters of approval have been issued, SwissFlex requires a draft final validation report. This means that the report is at a very advanced stage, where almost all corrective action requests (CAR) and clarifications (CL) or forward action requests (FARs) have been resolved.

4.3 **How are applications processed?**

SwissFlex checks the documents received to make sure that they meet the general modalities and guidelines of the Kyoto Protocol, in addition to the abovementioned requirements. SwissFlex does not perform an in-depth evaluation of the projects. In fact, this task is entrusted to the designated operational entity (DOE) and the CDM Executive Board for CDM projects, to the accredited independent entity (AIE) for JI projects, and to the JI Supervisory Committee for track 2 JI projects.

Swiss Flex may refuse to issue a letter of approval or authorisation if it suspects that the work done by the DOE or the AIE is unsatisfactory. If an application for a letter is rejected, a justification for the rejection is provided, along with suggested corrections, where possible.

5 > Contact and Information

For more information about participating in CDM or JI projects, please contact:

Federal Office for the Environment (FOEN)
SwissFlex / Climate Division
CH-3003 Bern
Switzerland

Tel.: +41 (0)58 464 15 67

Fax: +41 (0)58 462 99 81

E-mail: swissflex@bafu.admin.ch

> Glossary

Emission reduction certificates (certificates)

Certificates generated by CDM or JI projects authorising the issuance of the corresponding quantity of CO₂-eq.

CDM registry and registries of industrialised countries

The CDM registry, which is administered by the Secretariat of the United Nations Framework Convention on Climate Change (UNFCCC), is a standardised electronic database that can be used to account the exact quantity of certified emission reductions (CERs) issued, possessed or acquired. Similarly, each industrialised country manages its own national registry, in which project participants can open an account and receive or transfer CERs.

Clean development mechanism (CDM)

It is one of the flexible mechanisms of the Kyoto Protocol. When carrying out CDM projects in developing countries, industrialised countries acquire tradable certified emission reductions (CERs) that are credited toward their national emission targets.

Joint implementation (JI)

It is one of the flexible mechanisms of the Kyoto Protocol. JI projects reduce emissions in industrialised countries or transition economies and generate emission reduction units (ERUs).

Kyoto Protocol

The Kyoto Protocol implements objectives and principles of the United Nations Framework Convention on Climate Change (UNFCCC). It is a regulatory framework that requires industrialised countries and transition economies to lower their greenhouse gas emissions.

Letter of approval (LoA)

Under the Kyoto Protocol and the related subsequent decisions, an entity or a person may participate in a CDM or JI project if it has received both the written approval of the host country in which the project is carried out and the written approval of the investor country. This written authorisation takes the form of a letter of approval and allows the first project certificate transaction in the applicant's account with the national emissions trading registry of the investor country that issued the letter.

Project participant

A project participant is a private or public entity or a person authorised by the national authority responsible for implementing the flexible mechanisms to participate in a specific CDM or JI project.