

Supplementary Notes on the Implementation of Projects under the Clean Development Mechanism by Hong Kong Enterprises in the Mainland

I. Introduction

The implementation of projects under the Clean Development Mechanism (CDM) in the Mainland is required to comply with the “Measures for Operation and Management of CDM Projects in China” (the “Measures”) issued on 12 October 2005 by the Central Government, including the eligibility requirement of enterprises.

Enterprises which have obtained a “Letter of Certification for Hong Kong enterprises under the “Measures” issued by the Environmental Protection Department (EPD) of the HKSAR Government would be recognized as a Chinese enterprise for the purpose of applying to the National Development and Reform Commission (NDRC) for undertaking CDM projects.

II. Requirements for the application of a Letter of Certification for Hong Kong enterprises under the “Measures for Operation and Management of CDM Projects in China”

Enterprises meeting the following three criteria are eligible to apply to the EPD for a Letter of Certification for Hong Kong enterprises under the “Measures”:-

1. The concerned company should be registered and set up in Hong Kong, and its principal location of business operation or its headquarters should be situated in Hong Kong;
2. The executive director of the concerned company should be a PRC

national or a holder of Hong Kong Permanent ID Card; and that more than half of the board members should be PRC nationals or holders of Hong Kong Permanent ID Card if a board of directors has been set up for the company; and

3. The ratio of non-tradable shares should be over 50% if the concerned company is listed.

III. Application process for a Letter of Certification for Hong Kong enterprises under the “Measures for Operation and Management of CDM Projects in China”

Companies meeting the above requirement should engage Hong Kong lawyers, who are qualified China Appointed Attesting Officers, for making declaration and submission of the required documentary proof. A list of China Appointed Attesting Officers is available at the homepage of the Association of China Appointed Attesting Officers (<http://www.caa.org.hk>) and that of The Law Society of Hong Kong (<http://www.hklawsoc.org.hk>).

The required documents include:

1. For an applicant company formed and registered under the Companies Ordinance (Cap 32) of the HKSAR: a certified true copy or photocopy of the valid Certificate of Incorporation including a Certificate of Incorporation on Change of Name (if applicable) of the company;
2. A certified true copy or photocopy of the company’s latest annual report (Form AR1) submitted to the Company Registry under S107(1) of the Company Ordinance as well as the Notification of Change of Particulars of Secretary and Director (if any);
3. A certified true copy or photocopy of the valid Business Registration Certificate of the company;

4. A certified true copy or photocopy of the resolutions of directors/ extract of resolutions of directors of the company;
5. A photocopy of the Business Licence of the enterprise intending to apply to the National Development and Reform Commission for CDM projects.
6. A photocopy of the document of identity of the declarant;
7. A photocopy of the written undertaking signed by the executive directors/ directors on behalf of the company (sample at [Appendix 1](#));
8. A photocopy of the written undertaking of the equity shareholders (applicable to ‘listed companies’); and
9. Photocopy of the Hong Kong Identity Card (or PRC Passport or National Identity Card of the PRC) of the company directors who are “Chinese citizens and/ or Permanent residents of Hong Kong”

Applicant companies should submit the following to EPD:- deeds notarized by China Appointed Attesting Officers (format of document at [Appendix 2](#)) and declaration made in the presence of Hong Kong lawyers, who are qualified China Appointed Attesting Officers (format of document at [Appendix 3](#)). A reply will be sent to the applicant by EPD within 10 days upon receipt of the documents, and successful applicant will be issued with a Letter of Certification for Hong Kong enterprises under the “Measures for Operation and Management of CDM Projects in China” (sample at [Appendix 4](#)).

IV. Handling of Personal Data

EPD is committed to ensuring all personal data provided in the applications for Letter of Certification for Hong Kong enterprises under the “Measures” and in all accompanying supporting documents (including statutory declarations) are handled in accordance with the provisions of the Personal Data (Privacy)

Ordinance (Cap. 486) of the Hong Kong Special Administrative Region (HKSAR). In this regard, the personal data provided in the above documents will be used by EPD or its authorized persons/institutions for the purpose of processing and verification of applications for Letter of Certification for Hong Kong enterprises under the “Measures”, and related statistical and research work.

EPD will keep the personal data provided in the applications and their accompanying documents in strict confidence. However, EPD may disclose such data to other government departments, or to third parties within or outside Hong Kong, if such disclosure is necessary to facilitate the relevant Mainland authorities to verify the applications and related matters.

Applicants and data subjects whose data are collected by EPD may request access to such data under the Personal Data (Privacy) Ordinance of the HKSAR. Such requests should be made on the Data Access Request Form [Form-OPS003 (revised 1/2008)] issued by the Privacy Commissioner, which is available at the Information Counter of EPD or can be downloaded from the homepage of Office of the Privacy Commissioner for Personal Data (<http://www.pcpd.org.hk/english/publications/files/Dforme.pdf>). The completed form should be sent to the Access to Information Officer, Environmental Protection Department, 33/F, Revenue Tower, 5 Gloucester Road, Wan Chai, Hong Kong. There will be a charge to cover the cost of photocopying the personal data. In addition, if the data subject considers that the data supplied to EPD is inaccurate, a request for correction of the data may be made in writing after the data has been accessed.

V. Important Notes

It is the responsibility of the applicant to fully and truthfully provide the necessary application information and supporting documents as required

(including statutory declaration). Failure to provide accurate and complete information may affect the processing of the applications by EPD, and may result in the applications being deferred or rejected.

After granting of a Letter of Certification for Hong Kong enterprises under the “Measures”, if there is any change in the information contained in the documents for the application of certification or in the relevant accompanying documents that would affect the eligibility of the “Hong Kong enterprise” under the Supplementary Notes on the Implementation of Projects under the CDM by Hong Kong Enterprises in the mainland and other relevant documents, the applicant must immediately notify EPD in writing of such change(s). If it is found that the applicant obtained a Letter of Certification for Hong Kong Enterprises under the “Measures” as a result of any omission or misrepresentation of information, or by any other fraudulent means, or in the case that the applicant no longer fulfils the eligibility criteria for “Hong Kong enterprise” as stipulated in the Supplementary Notes on the Implementation of Projects under CDM by Hong Kong Enterprises in the Mainland and other relevant documents, EPD reserves at all times the absolute right to cancel the concerned application or revoke any letter of certification already issued to the company. The National Development and Reform Commission reserves at all times the absolute right to cancel or revoke the approval or decision made regarding the applications for CDM projects by the company concerned.

According to the Crimes Ordinance (Cap. 200) of the HKSAR, any person who knowingly and wilfully makes (otherwise than on oath) a statement false in a material particular, such statement being made in a statutory declaration shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for two years and to a fine.

If the supporting documents and/or the attested copy of the statutory declaration are submitted by post, EPD will not accept responsibility for any loss of documents in transit.

VI. Enquiries

For enquiries on the application for a Letter of Certification for Hong Kong enterprises under the “Measures”, please contact the Environmental Protection Department at:-

Address: 33/F, Revenue Tower, 5 Gloucester Road, Wan Chai,
Hong Kong

Tel: 2594 6521

Fax: 2838 2155

Email: climatechange@epd.gov.hk

Environmental Protection Department

Government of the Hong Kong Special Administrative Region

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