

**Government Decree 323/2007. (XII. 11.) Korm.
on the implementation of Act LX of 2007
on the implementation framework of
the UN Framework Convention on
Climate Change and the Kyoto Protocol thereof**

Acting within its original legislative competence conferred under paragraph (1) of Article 35 of the Constitution, and pursuant to the authorization conferred under paragraphs *b)-e)* and *i)* of subsection (5) of Section 14 of Act LX of 2007 on the implementation framework of the UN Framework Convention on Climate Change and the Kyoto Protocol thereof, the Government has adopted the following Decree:

Scope of the Decree

Section 1

(1) The Decree shall apply to:

- a)* legal persons taking part in project activities implemented through international co-operation as defined in subsection (8) of Section 2 of Act LX of 2007 on the implementation framework of the UN Framework Convention on Climate Change and the Kyoto Protocol thereof (hereinafter: *Éhvt.*),
- b)* legal persons trading in emission reduction units as defined in subsection (15) of Section 2 of *Éhvt.* and certified emission reductions as defined in subsection (17) of Section 2 of *Éhvt.*,
- c)* account holders of the accounts in the national transaction registry as defined in Section 5 of *Éhvt.*.

(2) In matters not regulated under Sections 3-6 and 20-21 of this Decree, Government Decree 254/2007. (X. 4.) Korm. (hereinafter: *Ávr.*) on the management of state property shall apply.

(3) In matters not regulated under Sections 20-35 of this Decree, Government Decree 217/1998. (XII. 30.) Korm. on state financial procedures shall apply.

I. General provisions

Definitions

Section 2

For the purposes of this Act:

- 1) fundamental research:* experimental or theoretical work undertaken primarily to acquire new knowledge of the underlying foundations of phenomena and observable facts, without any direct practical application or use in view;
- 2) industrial or applied research:* systematic study and investigation that is conducted primarily to obtain specific, new practical knowledge that can be used for the development of new products, techniques and services, or for the substantial improvement of existing products, techniques and services;

- 3) *state aid*: any aid as defined in subsection (1) of Section 87 of the Treaty Establishing the European Community (hereinafter: EC Treaty) and the *de minimis* aid as defined in subsections (1) and (5) of Section 1 of Government Decree 85/2004. (IV. 19.) Korm. on procedures related to State aid under subsection (1) of Section 87 of the Treaty Establishing the European Community and the map for the grant of regional aid (hereinafter: Government Decree 85/2004);
- 4) *Investor*: a Party included in Annex I of the UN Framework Convention on Climate Change (hereinafter: Framework Convention) promulgated by Act LXXXII of 1995, which has ratified the Kyoto Protocol (hereinafter: Protocol) and in accordance with the international commitments is eligible to acquire verified emission reduction units from joint implementation projects, and any legal entity authorised by such a Party to acquire emission reduction units;
- 5) *independent joint implementation project verifier*: a legal person with a registered office either in Hungary or abroad that is accredited to verify joint implementation projects pursuant to a separate legal instrument;
- 6) *initial investment*: an investment in material and immaterial assets relating to the setting up of a new establishment, the extension of an existing establishment, diversification of the output of an establishment into new additional products or a fundamental change in the overall production process of an existing establishment, or the acquisition of such establishment;
- 7) *small and medium sized enterprises* (hereinafter: SMEs): enterprises as defined in subsection (1) of Section 3 of Act XXXIV of 2004 on Small and Medium-sized Enterprises and the Support Provided to Such Enterprises;
- 8) *experimental development*: the acquiring, combining, shaping and using of existing scientific, technological, business and other relevant knowledge and skills for the purpose of producing plans and arrangements or designs for new, altered or improved products, processes or services. These may also include, for example, other activities aiming at the conceptual definition, planning and documentation of new products, processes and services. The activities may comprise producing drafts, drawings, plans and other documentation, provided that they are not intended for commercial use;
- 9) *direct emission reduction with double counting impact*: a joint implementation project realised in Hungary is considered to have direct double counting impact if compared to the baseline emissions of the installation, the project results in the reduction or limitation of the emission of greenhouse gases specific for that installation, and the installation or in case of more than one installation, the installations that can be individually identified fall under the scope of Annex I of Act XC of 2005 on the trade of greenhouse gas emission allowances (hereinafter: Üht.);
- 10) *indirect emission reduction with double counting impact*: a joint implementation project realised in Hungary is considered to have indirect double counting impact, if it results in the reduction or limitation of the emission of greenhouse gases concerning a group of installations under the scope of Annex I of Üht. that cannot be individually identified;
- 11) *research and development*: research and development as defined in paragraph b) of Section 12 of Act XC of 2003 on the Research and Technological Innovation Fund;
- 12) *research and development project grant*: aid granted to projects aiming at fundamental research, industrial or applied research or experimental development;
- 13) *large investment project*: an initial investment in capital assets with an eligible expenditure of above EUR 50 million calculated in HUF at present value; a large investment project will be considered to be a single investment project when the initial investment is undertaken within a period of three years by the same undertaking or

undertakings and consists of fixed assets combined in an economically indivisible way. To assess whether an initial investment is economically indivisible, the technical, functional and strategic links and the immediate geographical proximity shall be taken into account. The economic indivisibility will be assessed independently from ownership. For the conversion to euros the prices and exchange rates on the date when the aid is granted shall apply; in case of large investment projects which are notified individually according to Government Decree 85/2004, the prices and exchange rates on the date of the date of notification shall be applied;

- 14) *international commitments*: the Framework Convention, the Protocol promulgated by Act IV of 2007 on the promulgation of the Kyoto Protocol adopted in 1997 at the 3rd Conference of the Parties to the UN Framework Convention on Climate Change and the decisions qualifying as international agreements adopted by the Parties;
- 15) *own resources*: financial contribution by the beneficiary to the development project that does not involve resources originating from state aid;
- 16) *project developer*: a legal person with registered office in Hungary that carries out the emission reduction activity in a joint implementation project realised in Hungary, or in case of more than one project developer, the legal person acting as a representative authorised by such project developers;
- 17) *account holder*: the account holder of an operator holding account or a person holding account created in accordance with Articles 15 and 19 of Commission Regulation (EC) No 2216/2004 of 21 December 2004 for a standardised and secured system of registries pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council (hereinafter: Regulation 2216/2004/EC);
- 18) *aid intensity*: the ratio of the aid content and the discounted value of eligible costs, expressed as a percentage;
- 19) *aid content*: the value of the aid granted to the beneficiary calculated based on the methodology provided in Annex 2 of Government Decree 85/2004;
- 20) *Buyer*: a Party taking part in international emissions trading or a legal person that is authorised to trade in assigned amount units by a Party.

Asset management of assigned amount units

Section 3

The National Treasury Asset Management Private Limited Company (hereinafter: MNV Zrt.) shall enter into an asset management contract, as defined in Ávr., with the Minister responsible for environmental protection (hereinafter: Minister), who acts as the legal trustee of the units, within 15 days after the communication prescribed in subsection (7) of Section 9 of Éhvt.

Section 4

In addition to the obligatory elements prescribed by Ávr., the asset management contract – in view of the specific nature of assigned amount units – shall include in particular:

- a) definition of the given commitment period;
- b) the total amount of assigned amount units generated for the commitment period;
- c) the identification codes connected to the assigned amount units;
- d) the date when the assigned amount units have entered into the Treasury's assets;

- e) the information obligation towards the MNV Zrt. about the retreat and cancellation of Kyoto units; and
- f) the contents of the reporting obligation according to Section 5.

Section 5

The contents of the asset management contract under Ávr. are determined by the Parties to the contract in a way that

- a) the amount and the change in the amount of assigned amount units that belong to the Treasury's assets can be established,
- b) the Minister sends the National Emission Inventory and the forecasts to be provided for the National Registration System to MNV Zrt. annually,
- c) the value of the assigned amount units does not form part of the inventory, and
- d) MNV Zrt. is authorised to acquire information about the account holding assigned amount units belonging to the Treasury's assets through the operator of the national transaction registry.

Section 6

- (1) Kyoto units, being limitedly transferable intangible assets, can be freely transferred once having ceased to belong to the Treasury's assets.
- (2) The date when Kyoto units cease to belong to the Treasury's assets and the title of ownership is gained by the new holder is the date of registration in the transaction registry.

National transaction registry

Section 7

- (1) A Kyoto unit can only be held on one account of the national transaction registry at a given point of time.
- (2) The account holder is authorised to hold emission reduction units and certified emission reductions on his operator holding account.
- (3) On a person holding account emission reduction units and certified emission reductions can only be held by legal persons having authorisation pursuant to Sections 17-18.
- (4) Account holders of operator holding accounts and person holding accounts are hereby authorised to acquire and sell the allowances defined in Üht. and to hold them on their accounts.

Account maintenance fee

Section 8

(1) The amount of maintenance fee that shall be paid for the authentic registration and management of Kyoto units (hereinafter: account maintenance fee) is stipulated in Annex 1.

(2) The account maintenance fee shall be paid to the special appropriation account Nr. 10032000-00287261-00000000 of the Treasury. The account maintenance fee is the revenue of the operator of the national transaction registry that it shall be expended on the operation thereof.

(3) In matters not regulated under this Decree, such as the rules of paying the account maintenance fee and the legal consequences of non-performance, Government Decree 213/2006. (X. 27.) Korm. on the implementation of Act XC of 2005 on the trade of greenhouse gas emission allowances shall apply.

II. Rules of procedure of project activities implemented through international co-operation

Section 9

Legal persons with registered office in Hungary may apply for the endorsement and approval of a joint implementation project to be realised in Hungary, and for the approval of their participation in a joint implementation project or a clean development mechanism project to be realised outside the territory of Hungary.

*Rules of procedure for the approval of joint implementation projects to be realised in the
territory of the Republic of Hungary*

Section 10

(1) Application for the endorsement of a joint implementation project to be realised in Hungary shall be submitted both electronically and in writing to the Ministry of Environment and Water (hereinafter: Ministry) according to the Project description prescribed in Annex 2 (hereinafter: Project description). In the application the applicant shall declare that the joint implementation project will not have direct double counting impact pursuant to subsection (9) of Section 2 or indirect double counting impact pursuant to subsection (10) of Section 2, or that the project is included in the reserve established in the National Allocation Plan for the period of 2008-2012.

(2) Within 8 days after the submission of the complete application, the Ministry registers the joint implementation project. If the application does not conform to the requirements prescribed in subsection (1), the Ministry calls the applicant to complete the documentation with a deadline of 15 days.

(3) The Ministry publishes on its official website the title of the joint implementation project and the project data in subparagraphs 1.1, 1.2 and 5-7 of Annex 2.

(4) Within 30 days after the submission of the complete application, the Minister sends the Project description to the Ministers responsible for agriculture and rural development, economic affairs and transport, foreign affairs, local government and regional development,

financial affairs, and to the Minister leading the Prime Minister's Office (hereinafter: the ministers concerned) with a deadline for comments of 10 days. If no comment is given within the deadline, it shall be assumed that it supports the Minister's view.

(5) Within 45 days after the submission of the complete application, the Minister – taking into account the comments provided by the ministers concerned – shall issue a Letter of Endorsement based on the Project description for the joint implementation project, or shall reject the project.

(6) The Project developer shall be notified of the decision within 8 days. The rejection of the project shall be accounted for in the notification.

(7) In order to be endorsed, a joint implementation project shall fulfil the following criteria:

- a) it shall contain all data prescribed in Annex 2,
- b) the greenhouse gas emissions to be reduced or limited by the project shall be included in the National Registration System and the preliminary greenhouse gas calculations shall conform to the calculation methods and emission factors applied in the National Registration System,
- c) it shall be in accordance with the requirements prescribed by the international commitments,
- d) according to the preliminary calculations provided, the project shall lead to the net emission reduction of emissions of anthropogenic origin calculated in carbon dioxide equivalent (environmental additionality),
- e) according to the preliminary calculations provided, it cannot be realised in an economically sound way without the transfer of the generated emission reduction units (financial additionality),
- f) the realisation of the project is not prescribed by any act or legal instrument in force (legal additionality),
- g) if it involves hydroelectric power production project activities with a generating capacity exceeding 20 MW, it shall respect the 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";
- h) the planned emission reduction of the project can be compensated for from the reserve established by the National Allocation Plan for the period of 2008-2012 pursuant to Section 16 and the rules of the National Allocation Plan,
- i) the Project developer is not under insolvency, liquidation or dissolution proceedings and it does not have public debts overdue by more than 90 days,
- j) it shall not aim at the establishment or development of facilities using nuclear energy,
- k) if the project involves reforestation or afforestation, it shall be conducted pursuant to Act LIV of 1996 on forests and the protection of forests and the principles and requirements adopted by the Forest Stewardship Council, duly observing the ecological capacity of the given area,
- l) it shall not have direct or indirect double counting impact on the European Union greenhouse gas emissions trading system unless the accounting performed is in accordance with Section 16, and
- m) the realisation of the project has not started before the issuance of the Letter of Endorsement unless evidence is provided that the project would not be completed without the additional financial resources originating from the project due to a

substantial change in circumstances which has arisen after the starting of the realisation of the project.

- (8) The Minister shall make the decision defined in subsection (5) based on:
- a) the requirements set forth in subsection (7),
 - b) the considerations set forth in subsections (1)-(2) of Section 20, and
 - c) the compatibility of the project with the National Environmental Protection Programme, the National Climate Change Strategy and the professional strategies in accord therewith.

Section 11

(1) The Project design document of the joint implementation project shall be submitted to the Ministry pursuant to Annex 3 within 6 months after the issuance of the Letter of Endorsement for approval. It shall be submitted both electronically and in writing.

(2) The Project developer shall attach a Determination Report prepared by an independent joint implementation project verifier to the Project design document, according to which the project fulfils all criteria laid down in subsection (8).

(3) If the Project design document does not conform to the requirements prescribed in subsections (1)-(2), the Ministry calls the Project developer to complete the documentation with a deadline of 15 days.

(4) The complete Project design document shall be published on the official website of the Ministry.

(5) Within 90 days after the submission of the complete application, the Minister sends the Project description to the concerned ministers with a deadline for comments of 30 days. If no comment is given within the deadline, it shall be assumed that it supports the Minister's view. In case of disagreement, a meeting shall be held within 5 days with the invitation of all concerned ministers.

(6) Within 130 days after the submission of the complete application, the Minister – taking into account the comments provided by the concerned ministers – shall issue a Letter of Approval based on the Project design document for the joint implementation project, or shall reject the Project design document.

(7) The Project developer shall be notified within 8 days after the issuance of the Letter of Approval or the rejection of the Project design document. The rejection of the Project design document shall be accounted for in the notification.

- (8) In order to be approved, a joint implementation project shall fulfil the following criteria:
- a) it shall comply with the requirements laid down in paragraphs c) and f)-m) of subsection (7) of Section 10,
 - b) based on the detailed calculations submitted in the Project design document, it shall be in accordance with the criterion of environmental additionality,
 - c) based on the detailed financial calculations and cash-flow data submitted in the Project design document, it shall be established that the project is in line with the Information Note on financial additionality published by the Minister, and

d) the greenhouse gas emissions to be reduced or limited by the project shall be included in the National Registration System and the greenhouse gas calculations submitted in the Project design document shall conform to the calculation methods and emission factors applied in the National Registration System.

(9) By the Letter of Approval the Minister confirms that the joint implementation project is in accordance with Article 6 of the Protocol.

(10) The Letter of Approval is issued for the period requested by the applicant, but at longest until 31 December 2012.

(11) Based on the Letter of Approval emission reduction units can only be generated for verified emission reductions realised after 1 January 2008.

(12) The Letter of Approval does not exempt the Project developer from the obligation of obtaining the necessary permissions for the realisation of the joint implementation project.

Submission of the emission reduction purchase agreement

Section 12

(1) Within 90 days after the receipt of the Letter of Approval, the Project developer shall submit the emission reduction purchase agreement concluded with the Investor.

(2) In the emission reduction purchase agreement the maximum amount of emission reduction units to be transferred shall be determined in a way that the amount of the emission reduction units transferred cannot exceed 90% of the verified net emission reduction achieved by the joint implementation project and the value of the emission reduction units transferred cannot exceed 130% of the total cost of the joint implementation project.

*Monitoring joint implementation projects realised
in the territory of the Republic of Hungary*

Section 13

(1) The Project developer shall submit an annual report on the realisation and operation of the approved joint implementation project until 31 March every year; in addition, in exceptional cases the Minister may call the Project developer to submit an extra report within 30 days. The contents of the annual report are prescribed by Annex 4. The report shall be submitted both electronically and in writing.

(2) To the annual report the Project developer shall attach a verification report prepared by an independent joint implementation project verifier (hereinafter: Joint Implementation Verification Report), the contents of which are prescribed by a separate legal instrument. The Verification Report validates the emission reduction achieved by the project in the given period and confirms that the project has been carried out in conformity with the Project design document.

(3) If the Project developer fails to meet the deadline defined in subsection (1), the Minister calls him to comply with the reporting obligation with a deadline of 15 days.

(4) Pursuant to the international commitments, the Minister prepares an annual report about the project activities implemented through international co-operation.

(5) The Project developer shall report to the Minister a change in the data supplied in the course of the approval procedure within 10 days after the change has taken place.

(6) The report defined in subsection (1) – except for the financial report and the results of internal audits – and the Joint Implementation Verification Report defined in subsection (2) shall be published on the official website of the Ministry.

Withdrawal of the Letter of Approval

Section 14

The Minister shall withdraw the Letter of Approval if the Project developer

- a) withholds an important fact, data or circumstance or reports an untruthful fact or supplies false data in the course of the procedure laid down in Sections (10)-(11) in order to obtain the Letter of Endorsement or the Letter of Approval, within 8 days after having come to the knowledge of such occurrence;
- b) fails to submit to the Ministry the emission reduction purchase agreement concluded with the Investor within 90 days after the receipt of the Letter of Approval, or if the agreement fails to comply with the requirements set down in subsection (2) of Section 12;
- c) in spite of the call for compliance, he fails to observe the reporting obligation pursuant to Section 13 within the deadline;
- d) fails to comply with the obligation of paying the supervisory fee defined in Section 13 of Éhvt. within the deadline and pursuant to the provisions set forth in a separate legal instrument.

Transfer of the emission reduction units generated by joint implementation projects realised in the territory of the Republic of Hungary

Section 15

(1) The joint implementation project results in the generation of emission reduction units in accordance with the international commitments. The amount of emission reduction units generated shall be in conformity with the verified net emission reduction realised by the project and shall not exceed the limits set down in subsection (2) of Section 12.

(2) The requirements for the transfer of the emission reduction units are the following:

- a) valid Letter of Approval,
- b) valid emission reduction purchase agreement, and
- c) the submission of the Joint Implementation Verification Report defined in subsection (2) of Section 13 attached to the annual report defined in subsection (1) of Section 13 with a non-negative verification clause, and
- d) if the Investor is not a Party included in Annex I of the Framework Convention, a valid authorisation by a Party provided to the Investor.

(3) The Project developer shall apply to the Ministry for the transfer of the emission reduction units by submitting a request pursuant to the requirements of subsection (2).

(4) The Minister shall make a decision in writing on the transfer of emission reduction units within 30 days after the submission of the application. If the application fails to comply with the requirements of subsection (2), the Minister shall reject it. The rejection of the application shall be accounted for.

(5) Based on the Minister's decision, the operator of the national transaction registry shall perform the transfer of the emission reduction units pursuant to the limits set down in subsection (2) of Section 12 and in accordance with the emission reduction purchase agreement to the account of the Investor if the Investor is a Party or to the account specified by the Investor having valid authorisation until 31 May of the year following the given year of the commitment period.

Accounting the emission reduction achieved by a joint implementation project having direct or indirect double counting impact realised in the territory of the Republic of Hungary within the European Union greenhouse gas emission allowance trading scheme

Section 16

(1) Emission reduction units generated by joint implementation projects of direct or indirect double counting impact between 1 January 2008 and 31 December 2012 in the territory of the Republic of Hungary can only be transferred if the same amount of allowances defined in Üht. are cancelled simultaneously from the reserve for joint implementation projects specified in a separate legal instrument. The decision on the transfer of emission reduction units and the cancellation of allowances shall be made by the Minister.

(2) Based on the decision defined in subsection (1), the operator of the national transaction registry shall perform the transfer of emission reduction units to the account specified by the Investor at the same time as the cancellation of the same amount of allowances from the reserve specified in subsection (1).

Regulation on joint implementation projects and clean development mechanism projects realised outside the territory of the Republic of Hungary

Section 17

(1) Legal persons with registered office in Hungary may apply to the Minister for the approval of acting as Investor in joint implementation projects and clean development mechanism projects to be realised outside the territory of the Republic of Hungary and of acquiring a percentage of the emission reduction units or certified emission reductions generated by such projects pursuant to the provisions made by the contracting parties and observing the legislation of the foreign State.

(2) The application defined in subsection (1) shall be submitted to the Ministry both electronically and in writing with the contents specified in Annex 2, and it shall be certified that the applicant is not under insolvency, liquidation or dissolution proceedings and it does not have public debts overdue by more than 90 days.

(3) Within 8 days after the submission of the complete application the Ministry registers the project. If the application does not conform to the requirements prescribed in subsection (1), the Ministry calls the applicant to complete the documentation with a deadline of 15 days.

(4) The Ministry publishes on its official website the title of the project and the project data specified in subparagraphs 1.1, 1.2 and 5-7 of Annex 2.

(5) If the project complies with the international commitments, within 45 days after the submission of the complete application the Minister shall approve the participation in the joint implementation project or clean development mechanism project; otherwise, the Minister shall reject the application.

(6) The applicant shall be notified of the decision within 8 days. The rejection of the project shall be accounted for in the notification.

Approval of trading in emission reduction units or certified emission reductions

Section 18

(1) Legal persons with registered office in Hungary may submit an application to the Minister for the approval of purchasing and selling emission reduction units, certified emission reductions and to hold such units on a person holding account in the national transaction registry. Legal persons with an authorisation defined in Section 17 shall submit the application pursuant to Section 19.

(2) The application defined in subsection (1) shall be submitted to the Ministry both electronically and in writing and it shall contain the following:

- a) name, registered office, address, telephone number and electronic address of the applicant, and
- b) name, address, telephone number and electronic address of the contact person appointed by the applicant;

and it shall be certified that the applicant is not under insolvency, liquidation or dissolution proceedings and it does not have public debts overdue by more than 90 days.

(3) Within 8 days after the submission of the complete application the Ministry registers the application. If the application does not conform to the requirements prescribed in subsection (2), the Ministry calls the applicant to complete the documentation with a deadline of 15 days.

(4) Within 30 days after the submission of the complete application, the Minister approves or rejects the application. Approval on the first occasion is valid for one year.

(5) The applicant shall be notified of the decision within 8 days. The rejection of the project shall be accounted for in the notification.

(6) The name of registered applicants and the fact of approval or rejection shall be published on the official website of the Ministry.

(7) Legal persons whose application was approved pursuant to subsection (4) shall submit an annual report with the contents specified in Annex 5. The annual report shall be submitted both electronically and in writing.

(8) At the submission of the annual report defined in subsection (7) the legal person may request the extension of the authorisation period defined in subsection (4) until 31 December 2012. The procedure for the approval or rejection of the request shall be conducted pursuant to subsections (3)-(6).

Section 19

(1) Legal persons with an authorisation defined in Section 17 may submit an application for the approval of trading in the emission reduction units and certified emission reductions originating from the projects realised and to hold such units on a person holding account in the national transaction registry. The application shall be submitted to the Ministry both electronically and in writing pursuant to Annex 6.

(2) In case of clean development mechanism projects the applicant shall also submit

- a) the Project design document in Hungarian or English containing the elements specified Annex 2,
- b) the Letter of Approval issued by the host country, and
- c) the Validation Report prepared by a Designated Operational Entity as defined in subsection (5) of Article 12 of the Protocol.

(3) The procedure for the approval or rejection of the application shall be conducted pursuant to subsections (3)-(6) of Section 17; the deadline of the procedure, however, may be extended by 15 days in cases where such extension is justified and the approval by the Minister shall be valid until 31 December 2012.

III. Regulation of international emissions trading conducted by the Hungarian State

Conditions for selling assigned amount units

Section 20

(1) The decision proposal by the Minister on the sale or purchase of assigned amount units shall be based on the following:

- a) the communication published pursuant to subsection (6) of Section 9 of Éhvt.,
- b) the National Emission Inventory,
- c) the summary of the forecasts prepared pursuant to subsection (3) of Section 4 of Éhvt.,
- d) the expected performance of the international commitments undertaken by Hungary, including the obligation defined in subsection (4) of Section 9 of Éhvt.,
- e) market mechanisms and price levels in the field of international emissions trading, and
- f) the principle of the cost-effective realisation of emissions reductions.

(2) The Minister may sell assigned amount units based on his decision proposal, with the assent of the Minister of Finance.

(3) The Minister of Finance shall give his assent to the decision proposal defined in subsection (2) within 15 days. It shall be assumed that the Minister of Finance has given his assent if he does not propose an amendment based on professional considerations to the decision proposal within 15 days after the receipt thereof.

Contract on the transfer of assigned amount units

Section 21

(1) If the Minister - based on the considerations laid down in subsection (1) of Section 20 and the highest available price amongst the given market conditions - accepts the purchase offer made by the Buyer, and the Minister of Finance has given his assent, the Minister shall conclude the contract on the transfer of assigned amount units.

(2) Assigned amount units may be transferred to the Buyer at the date of the financial performance of the purchase price.

(3) Within 30 days after the financial performance, the Minister shall inform the Minister of Finance about:

- a) the fact of the sale,
- b) the amount of assigned amount units sold,
- c) the purchase price of the assigned amount units, and
- d) pursuant to subsection (3) of Section 10 of Éhvt., his proposal on the use of revenues generated by the sale.

IV. Green Investment Scheme

Objectives of the Green Investment Scheme

Section 22

(1) The revenue originating from the financial performance of the sale of assigned amount units pursuant to Section 20 shall be used by the Ministry to operate a Green Investment Scheme.

(2) Within the framework of the Green Investment Scheme, based on the invitation for applications in accordance with this Decree, financial support may be granted in order to promote the objectives defined in subsection (3) of Section 10 of Éhvt.

(3) To a maximum of 5% of the resources at disposal the Minister may decide to make expenditure on operational costs in connection with the operation of the Green Investment Scheme.

(4) The tasks of management, decision drafting and supervision of the funds defined in this Decree are carried out by the Ministry.

Requirements for funding

Section 23

(1) Pursuant to this Decree, the following aids falling under the scope of subsection (1) of Article 87 of the EC Treaty may be granted:

- a) *de minimis* aid;
- b) training aid;
- c) research and development aid; and
- d) regional investment aid.

(2) Aid defined in subsection (1) may be

- a) grant, within that
 - aa) grant,
 - ab) interest rate subsidy,
- b) refundable aid,
- c) other payment.

(3) Within the framework of the Green Investment Scheme – unless otherwise regulated in an international agreement - aid may be given to legal persons with registered office in Hungary, organisations without legal personality, business associations without legal personality, Hungarian branches of a foreign company, licensed private entrepreneurs and natural persons.

(4) Interest rate subsidy may be provided for the term defined in the credit agreement between the beneficiary and the financial institution, but for no more than a maximum of 2 years after the given year. The extent of interest grant may be up to 100% of the interest to be paid, taking into account the aid intensity defined in Government Decree 85/2004.

(5) Depending on the nature of the objective supported, pursuant to the conditions laid down in the invitation for applications, advance payment may be provided.

(6) The Minister shall publish in the invitation for applications and shall inform the beneficiary of the aid (hereinafter: beneficiary) in writing in the aid contract about the type of aid he receives from among the types defined in subsection (1). The information provided by the Minister shall explicitly refer to the European Commission Regulation that applies to the given aid type, by stating its exact title and the promulgation in the Official Journal of the European Communities, and it shall state the exact amount of aid expressed in grant equivalent.

De minimis aid

Section 24

(1) Aid provided under paragraph a) of subsection (1) of Section 23 falls under the scope of Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to *de minimis* aid (HL L 379/5. 2006. 12. 28.).

(2) As a prerequisite of receiving *de minimis* aid, the beneficiary shall make a declaration about the grant equivalent of other *de minimis* aids received during the three previous fiscal years.

(3) At each decision concerning the grant of *de minimis* aid, the total amount of *de minimis* aids granted in the fiscal year concerned and during the two previous fiscal years shall be taken into account.

Training aid

Section 25

(1) Aid provided under paragraph *b*) of subsection (1) of Section 23 falls under the scope of Commission Regulation (EC) No 68/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to training aid (HL L 10/20. 2001. 1. 13.).

(2) Training aid may be granted for general training and specific training.

(3) The detailed rules for granting training aid are defined in Annex 7.

(4) The intensity of all aids originating from State resources provided for individual projects (having the same eligible costs), including *de minimis* aid, shall not exceed the limits defined in Annex 7.

Research and development aid granted for small and medium-sized enterprises

Section 26

(1) Aid provided under paragraph *c*) of subsection (1) of Section 23 for research and development (hereinafter: R+D) projects, the preparation of technical feasibility studies and patent costs falls under the scope of Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises (HL L 10/33. 2001. 1. 13.).

(2) The detailed rules for granting R+D aid are defined in Annex 8.

(3) The intensity of any aid granted for R+D projects concerning the same eligible costs cannot exceed the limits defined in Annex 8.

Regional investment aid

Section 27

(1) Aid provided under paragraph *d*) of subsection (1) of Section 23 for regional investment falls under the scope of Commission Regulation (EC) No 1628/2006 of 24 October 2006 on the application of Articles 87 and 88 of the EC Treaty to national regional investment aid (HL L 302/29. 2006. 11. 01.).

(2) Regional investment aid can only be granted for an initial investment that leads to a net reduction of greenhouse gas emissions by the beneficiary.

(3) Pursuant to this Decree regional investment aid may only be granted if the beneficiary submits the application before starting the investment, and the Ministry confirms in writing

that the project – in principle, and subject to further, detailed examination – fulfils the criteria defined in this Decree for receiving aid.

(4) The aid can only be granted if the beneficiary assumes the obligation of maintaining the investment in the recipient region for at least five years, or three years in the case of SMEs (obligatory operational period), after the completion of the investment (the date of starting the operation).

(5) The requirement in subsection (4) shall not prevent the replacement of plant or equipment which has become out-dated within the period referred to due to rapid technological change, provided that economic activity is retained in the region concerned for the minimum period. During the obligatory operational period the replacement of the out-dated plant or equipment and after its replacement the beneficiary cannot receive aid for the replacement of the plant or the development.

(6) Material assets purchased by using a grant may only be used in accordance with the objectives determined in the invitation for applications and the grant agreement until the completion of the closing records (end of the maintenance period). Property created by the investment supported by the scheme – if it becomes the property of the beneficiary – can only be transferred or hired out with the preliminary approval of the Minister until the expiry of the obligations prescribed in the grant agreement. If the Minister gives his approval to the transfer, the beneficiary is exempted from the obligation of repaying the grant. In the absence of such approval, the beneficiary shall repay the part of the grant equivalent to the value of the material asset and the interests accumulated from the disbursement of the grant until the repayment, multiplied by the twofold value of the prevailing central bank base rate at the time of the transfer of the property.

(7) Under this Decree, investment grant cannot be provided to:

- a)* projects where costs (except for preliminary studies) have arisen before the publication of the programme on the website of the Ministry pursuant to subsection (1) of Section 28,
- b)* steel industry activities,
- c)* shipbuilding, repair or remodelling of ships,
- d)* coalmining,
- e)* activities in the synthetic fibres sector,
- f)* investments in fisheries and aquaculture activities pursuant to Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of markets in fishery and aquaculture products and investments in the processing and trade of fishery products,
- g)* the transport sector, to the purchase of transport equipment (movable assets),
- h)* the primary production of agricultural products,
- i)* an organisation under insolvency, liquidation or dissolution proceedings, and
- j)* firms in difficulty that fit one of the criteria below:
 - ja)* according to the last report available at the date of the submission of the application, the own funds of the company does not amount to half of the subscribed capital due to losses,
 - jb)* in case of a company functioning under the limited liability of its members, the initial capital has decreased by more than 50%, and more than 25% of the reduction took place during the previous 12 months,

- jc)* in case of a company where at least some of the members' liability is unlimited, the capital stated in the company books has decreased by more than 50%, and more than 25% of the reduction took place during the previous 12 months,
 - jd)* the company fits the criteria for collective insolvency procedures prescribed in a separate legal instrument, or
 - je)* the company is insolvent, or collective insolvency proceedings has been started against the company pursuant to a separate legal instrument.
- (8) The starting date of work of the projects receiving a grant shall be the date of:
- a)* in case of a project involving construction activities:
 - aa)* the first entry in the construction records (certified by the construction records),
 - ab)* at such construction activities where the keeping of construction records is not obligatory, the date submitted in a declaration by the subcontractor – based on the construction contract – concerning the start of construction works;
 - b)* placing an order for the first machine, equipment, material, product, etc. in case of projects involving the purchase thereof,
 - c)* in case of projects involving other activities, placing an order prior to the conclusion of the contract or in the absence of a previous order, the date of concluding the first contract for the implementation of the project,
 - d)* if the project receiving the grant involves several areas (construction, purchase of machinery, etc.), the earliest starting date of any of the activities corresponding to the target areas.
- (9) Ordering and preparing preliminary studies shall not be considered as the starting of work pursuant to subsection (8).
- (10) The detailed rules for granting regional investment aid are prescribed in Annex 8.
- (11) The aid intensity of regional investment aid cannot exceed the rates defined in Annex 9.

Application procedure

Section 28

- (1) The Minister shall publish the invitation for applications on the website of the Ministry and in the official journal of the Ministry. The fact of publication, with reference to the place of publication, shall be published in two national dailies as well.
- (2) The application shall be submitted to the Ministry within the deadline and with the format and contents determined in the invitation for applications.
- (3) The applicant shall dispose of own resources to the extent defined in the invitation for applications and shall provide it according to the conditions determined therein.

Section 29

- (1) The applicant - unless otherwise prescribed by the invitation for applications – shall pay a non-recurring application fee at the submission of the application, which is
- a) HUF 5 000 at grant requests equal to or being less than HUF 1 000 000,
 - b) HUF 10 000 at grant requests between HUF 1 000 001 and 5 000 000,
 - c) HUF 25 000 at grant requests between HUF 5 000 001-10 000 000,
 - d) HUF 50 000 at grant requests between HUF 10 000 001-50 000 000,
 - e) HUF 100 000 at grant requests equal to or being more than HUF 50 000 001.
- (2) The mode of payment of the application fee shall be determined by the invitation for applications.
- (3) The application fee defined in subsection (1) does not have to be paid again if the application that did not correspond to the prescribed criteria is re-submitted within 10 working days after the receipt of the application.

Decision on the applications

Section 30

- (1) The applications are admitted by the Ministry continually. The applicant shall be informed about the admission of the application.
- (2) By opening the admitted applications, the Ministry verifies whether they correspond to the prescribed criteria within 15 working days. Applications that do not correspond to the prescribed criteria shall be sent back to the applicant; applications fitting the criteria shall be registered by the Ministry.
- (3) The Ministry shall evaluate the applications – taking into account the objectives of the application and with the participation of external experts, if necessary - fitting the criteria prescribed in the invitation for applications within 20 working days after the deadline defined in subsection (2). The evaluation deadline may be extended by 30 days by the decision of the Minister in case of applications that are considered as complex based on the invitation for applications. As a part of the evaluation, on-site examination may be held.
- (4) The Ministry shall rank the evaluated applications.

Section 31

- (1) The Minister shall make a decision on the submitted applications in writing.
- (2) The Minister shall send his proposal on the decision concerning the grant to the concerned ministers with a deadline for comments of 8 days.
- (3) The Minister shall make the decision defined in subsection (1) – taking into account the comments provided by the concerned ministers – within 90 working days after the submission of the complete application.

Section 32

(1) The Ministry shall regularly prepare an information brochure on the decisions within the framework of the Green Investment Scheme; the brochure shall be published on the website of the Ministry within 10 working days after the date of the decision and in the official journal of the Ministry published after the date of the decision.

(2) The information brochure shall contain the name of the beneficiary, the object of the grant, the place of the realisation of the project and the amount of the grant.

The grant agreement and its modification

Section 33

The grant agreement with the beneficiary – if all criteria for the conclusion of the contract have been fulfilled – shall be concluded by the Minister or by the person appointed by the Minister to conclude the contract on the Minister's behalf. The beneficiary shall conclude the contract within the deadline set by the Ministry, but not later than within 270 days after the receipt of the decision.

Section 34

(1) The grant agreement may be modified due to reasons not imputable to the beneficiary, *vis maior* or a change in data, or if there arises a new fact that was not known at the time of the decision on the application and it represents a substantial change concerning the grant.

(2) The request for the modification of the grant agreement shall be submitted to the Ministry.

(3) The Minister shall evaluate the request and – with his proposal on the decision – shall send it to the concerned ministers with a deadline for comments of 15 days, except for a request for modification due to the change of data and except for the case defined in subsection (4). The Minister or the person appointed by the Minister to act on the Minister's behalf shall take into account the comments provided and shall decide on the modification within 10 days.

(4) The grant agreement may be modified without consulting the concerned ministers if the requested modification is to extend the deadline for termination for the first time and the extension does not exceed 120 days. The deadline for submitting such a request is the 30th day prior to the last day of the deadline for termination.

Supervision of funding

Section 35

(1) The objectives of the supervision of funding provided within the framework of the Green Investment Scheme are the following:

- a) promoting the proper use of funds,
- b) identifying functional problems of the Green Investment Scheme and based on this information, taking the necessary measures,
- c) supervising the emissions reduction realised by the supported investment pursuant to the methods prescribed in the invitation for applications.

(2) The use of funding is supervised by the Ministry and by other organisations defined in separate legal instruments and in the grant agreement. The Ministry may authorise external experts or expert organisations to carry out the supervision.

(3) The supervision shall be carried out at the payment of funding, during the use of the funding and after the termination of funding. As a part of the supervision, on-site supervision may be held.

(4) If the use of funding is not proper, it is contradictory to the grant agreement or it differs from the provisions thereof, it shall be recorded by the supervisory body. The supervisory body shall immediately make a proposal to the Ministry for the necessary arrangements. The beneficiary shall sign the records; the refusal of signing the records shall be noted in the records by the supervisory body.

(5) The Ministry shall conclude the use of funding by an overall analysis on the efficiency, effectiveness and expediency. Within 60 days after its preparation, the analysis – if such claim was stipulated in the contract on the transfer of assigned amount units - shall be sent to the persons appointed by the Buyer.

V. Closing provisions

Section 36

(1) This Decree – except for the provisions of subsection (2) of Section 11 and subsection (2) of Section 13 – shall enter into force on 1 January 2008; it shall also apply to pending cases and procedures.

(2) Subsection (2) of Section 11 and subsection (2) of Section 13 shall enter into force on the day when the legal instrument on the verifiers of joint implementation projects realised in the territory of the Republic of Hungary enters into force.

(3) Project developers who were issued a Letter of Approval before the entry into force of this Decree shall submit the emission reduction purchase agreement concluded with the Investor within 2 months after the entry into force of this Decree. If the Project developer fails to submit it, or the emission reduction purchase agreement concluded after the entry into force of this Decree does not comply with the requirements prescribed in subsection (2) of Section 12, the Minister shall withdraw the Letter of Approval.

(4) In 2012 the Project developer shall comply with the reporting obligation defined in subsection (1) of Section 13 on the implementation and functioning of the joint implementation project until 15 December 2012. The operator of the national transaction registry shall transfer the emission reduction units pursuant to subsection (6) of Section 14 until 31 December 2012.

(5) This Decree serves to comply with the following Community legal acts:

- a) Articles 1-2 of Directive 2004/101/EC of the European Parliament and of the Council of 27 October 2004 amending Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community, in respect of the Kyoto Protocol's project mechanisms,

- b) Articles 1-2 and 5 of Commission Decision of 13 November 2006 on avoiding double counting of greenhouse gas emission reductions under the Community emissions trading scheme for project activities under the Kyoto Protocol pursuant to Directive 2003/87/EC of the European Parliament and of the Council (2006/780/EC),
- c) Article 2, 15 and 19 of Commission Regulation (EC) No 2216/2004 of 21 December 2004 for a standardised and secured system of registries pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council.

Annex 1 to Government Decree 323/2007

The maintenance fee related to the national transaction registry

1. Extent and basis of the maintenance fee defined in subsection (1) of Section 8

Serial number	Accounts in the national transaction registry (amount of Kyoto units/year)	Extent of the maintenance fee (HUF/year)
1.	<i>Operator holding account and person holding account</i>	
1.1	- 10 000	20 000
1.2	10 001-100 000	61 000
1.3	100 001-1 000 000	142 000
1.4	1 000 001-3 000 000	285 000
1.5	from 3 000 001	610 000

2. Basis of the maintenance fee defined in subsection (1) of Section 8

The basis of maintenance fee is the total amount of emission reduction units and certified emission reductions transferred to the account in the year before the year of payment.

Annex 2 to Government Decree 323/2007

Required contents of the Project description

1. General information:

- 1.1 Subject of the project,
- 1.2 Place of implementation,
- 1.3 Information on the Project developer: name, registered office, address, phone number and electronic address,
- 1.4 Information on the contact person appointed by the Project developer: name, address, phone number and electronic address,
- 1.5 Time schedule of the realisation of the project (including the implementation of the investment).

2. Technological and financial information:

- 2.1 Short description of the technology applied,
- 2.2 Preliminary financing plan for the project.

3. Source(s) of the emissions reduction and the expected extent of it:

- 3.1 Cause(s) of environmental and financial additionality, preliminary calculations concerning these requirements, cause of legal additionality and the source(s) of emissions,
- 3.2 Extent of the expected emissions reduction.
- 3.3 In case of projects falling under paragraph *k*) of subsection (7) of Section 10, preliminary calculations on the emission levels for the whole lifecycle of the project (from reforestation/afforestation until the processing of wood after cutting).

4. Monitoring concept:

Main elements of the monitoring process.

5. Estimate of environmental impact:

Initial estimate of the environmental impacts of the project, and the procedure to be followed concerning environmental impact assessment.

6. Planned procedure for stakeholder consultation:

Procedure of the stakeholder consultation in the preparatory phase of the investment, in particular:

- 6.1 Rules on the publication of information concerning the project and on providing access to the project documentation,
- 6.2 Plans for the public hearing or other measures for the sake of stakeholder information.

7. Summary of the project (for non-experts):

- a) description of the project activity;
- b) estimate of the environmental impact;
- c) preliminary management plan for the prevention and mitigation of negative environmental impacts.

Annex 3 to Government Decree 323/2007

Required contents of the Project design document

1. General information:

- 1.1 Subject of the project,
- 1.2 Place of implementation,
- 1.3 Information on the Project developer: name, registered office, address, phone number and electronic address,
- 1.4 Information on the contact person appointed by the Project developer: name, address, phone number and electronic address,
- 1.5 Time schedule of the realisation of the project (including the implementation of the investment).

2. Technological and financial information:

- 2.1 Description of the technology applied,
- 2.2 Financial plan of the project.

3. Baseline study that contains the following in particular:

- 3.1 Verification of additionality: detailed calculations that verify that the development/investment in the framework of the project complies with the requirements of environmental and financial additionality, and the verification of legal additionality;
In case of projects falling under paragraph *k*) of subsection (7) of Section 10, detailed calculations on the emission levels for the whole lifecycle of the project (from reforestation/afforestation until the processing of wood after cutting);
- 3.2 Emissions baseline: determination of the emissions baseline, introduction and verification of the methodology applied; the baseline is the estimate of the emission level without the implementation of the given joint implementation project, which serves as a basis for comparison for determining the emissions reduction realised by the project;
- 3.3 Emissions reduction: the amount of emissions reduction realised by the project (tonne CO₂ eq./year); determination and analysis of the cost-effectiveness of the emissions reduction.

4. Determination Report:

Project design document Determination Report.

5. Monitoring plan:

Plan for the monitoring of the implementation of the project, including information and reports to be submitted for the Minister.

6. Impact assessment:

Results of the impact assessment, or in case of projects subject to the obligation of preparing an environmental impact assessment, results of the environmental impact assessment, including potential changes in emissions beyond the project boundaries that are attributable to the project; local/regional development impacts and impacts concerning labour force, employment and other important economic areas. The impact assessment shall include the other environmental impacts (beyond the project target of producing a net emissions reduction of greenhouse gas emissions) of the activities realised within the framework of the project.

7. Summary of the stakeholder consultations:

Summary of the stakeholder consultations held during the preparation of the project, in particular:

7.1 Information on the publication of information concerning the project and on the access to project documentation,

7.2 Information on the public hearing held or on the other measures taken in order to inform stakeholders,

7.3 Summary of the stakeholder comments, identification of the comments accepted and justification for the refusal of comments.

8. Summary of the project (for non-experts):

a) description of the project activity;

b) introduction of impact areas and impact processes;

c) estimate and evaluation of environmental impacts;

d) description of measures planned or realised for the prevention and mitigation of negative environmental impacts;

e) potential changes in the health, life quality or lifestyle of people affected by the environmental impacts;

f) measures to be taken in order to protect the environment and human health.

Annex 4 to Government Decree 323/2007

Required contents of the annual report on the realisation and operation of an approved joint implementation project

1. General information:

- 1.1 Subject of the project,
- 1.2 Place of implementation,
- 1.3 Information on the Project developer: name, registered office, address, phone number and electronic address,
- 1.4 Information on the contact person appointed by the Project developer: name, address, phone number and electronic address,
- 1.5 Reported period.

2. Baseline information

- 2.1 Baseline determined in the Project design document (in case of any change, detailed description and explanation of the changes)

3. Project emissions

- 3.1 Introduction of project boundaries: emission types reckoned in the emissions of the reported period,
- 3.2 Emissions of the project and detailed description of the calculations confirming it,
- 3.3 Leakage: net change in the emissions level of greenhouse gases attributable to the project beyond the project boundaries.

4. Emissions reduction realised by the project in the reported period

- 4.1 Amount of net emissions reduction in the reported period (tonne CO₂ eq./year)
- 4.2 Time schedule for implementation for the periods following the reported period

5. Description of the technology applied

- 5.1 Summary of the built-in equipment/facilities and of technical data
- 5.2 Detailed description of changes compared to the Project design document
- 5.3 Technical documentation (results of records of performance measurements)

6. Financial report

- 6.1 Investment and operational costs in the reported period
- 6.2 Financial support from state, local government, European Union or other sources used during the reported period and verification that the project still complies with the requirement of financial additionality

7. Verification report:

The Joint Implementation Verification Report.

8. Results of the internal audits of the reported period

Description of results.

9. Other environmental impacts

Description of other environmental impacts with reference to the reports thereof to be submitted to other authorities.

10. Summary (for non-experts)

10.1 Emissions baseline, project boundaries, applied technology

10.2 Emissions reduction in the reported period

Annex 5 to Government Decree 323/2007

Required contents of the report by the holder of a person holding account

1. Information on the commercial activity of the account holder

- 1.1. Amount and price of the purchased emissions reduction units and certified emission reductions;
- 1.2. Amount and price of the sold emissions reduction units and certified emission reductions.

2. Origin of the emissions reduction units and certified emission reductions purchased by the account holder

- 2.1. Identification codes of the emissions reduction units and certified emission reductions purchased by the account holder
- 2.2. Title and place of implementation of the project generating the emissions reduction units and certified emission reductions purchased by the account holder.

Annex 6 to Government Decree 323/2007

Required contents of the application under Section 19 for holding and trading in emissions reduction units and certified emission reductions originating from project activities implemented through international co-operation

- 1.1 Subject of the project, place of implementation,
- 1.2. Information on the applicant: name, registered office, address, phone number and electronic address,
- 1.3. Information on the Project developer in the host country: name, registered office, address, phone number and electronic address of the organisation,
- 1.4 Information on the contact person appointed by the applicant: name, address, phone number and electronic address,
- 1.5 Time schedule of the realisation of the project (including the implementation of the investment).

Annex 7 to Government Decree 323/2007

Conditions for granting training aid

1. The intensity of all aids originating from State resources provided for individual projects (having the same eligible costs), including *de minimis* aid, with the exception defined in paragraph 2, shall not exceed
 - a) in case of general training:
 - aa) 70% in case of SMEs,
 - ab) 50% in case of other enterprises,
 - b) in case of specific training:
 - ba) 35% in case of SMEs,
 - bb) 25% in case of other enterprises.

2. The upper limits specified in paragraph 1
 - a) shall be increased by 10 percentage points in case of trainings for employees who qualify as underprivileged from the aspect of training,
 - b) shall be increased by 5 percentage points for beneficiaries operating in Pest county or Budapest and by 10 percentage points for beneficiaries operating outside Pest county and Budapest.

3. If the project contains both general and specific training elements and these elements cannot be separated for the calculation of training aid intensity, or if the general or specific nature of the training within the framework of the project cannot be established, the specific training aid intensities shall be applied.

4. The eligible costs of a training project shall be:
 - a) trainers' personnel costs,
 - b) trainers' and trainees' travel expenses,
 - c) other current expenses such as materials and supplies,
 - d) depreciation of tools and equipment, to the extent that they are used exclusively for the training project,
 - e) cost of guidance and counselling services with regard to the training project,
 - f) trainees' personnel costs up to the amount of the total of the other eligible costs referred to in subparagraphs a)-e). Only the hours during which the trainees actually participate in the training, after deduction of any productive hours or of their equivalent, may be taken into account.

Annex 8 to Government Decree 323/2007

Conditions for granting R+D aid

1. The intensity of any aid granted for R+D projects (having the same eligible costs), with the exception defined in paragraph 2, shall not exceed:
 - a) 100% in case of fundamental research,
 - b) 60% in case of industrial or applied research,
 - c) 35% in case of experimental development.

2. The upper limits specified in paragraph 1 may be increased to a maximum of 75% aid intensity in case of industrial or applied research and to a maximum of 50% aid intensity in case of experimental development according to the following:
 - a) if the project is implemented outside Budapest and Pest county, maximum aid intensity may be increased by 10 percentage points, if the project is implemented in Budapest or Pest county, maximum aid intensity may be increased by 5 percentage points;
 - b) in case of programmes undertaken under the European Communities Framework Programme for research and development, aid intensity may be increased by 15 percentage points;
 - c) the maximum aid intensity may be increased by 10 percentage points if one of the following conditions is fulfilled:
 - ca) the project involves effective cross-border cooperation between at least two independent partners in two Member States, particularly in the context of coordinating national R+D policies; no SME in the Member State granting the aid may bear more than 70% of the eligible costs,
 - cb) the project involves effective cooperation between an SME and a public research body, particularly in the context of coordinating national R+D policies, where the public research body bears at least 10% of the eligible project costs and has the right to publish the results insofar as they stem from the research implemented by that body,
 - cc) the results of the project are widely disseminated through technical and scientific conferences or published in scientific and technical journals.

3. In case of collaborative projects, the maximum amount of aid for each beneficiary shall not exceed the permitted aid intensity calculated by reference to the eligible costs incurred by the beneficiary concerned.

4. In case of aid for feasibility studies preparatory to applied or industrial research activities or experimental development activities, aid intensity shall not exceed 75%.

5. In case of aid for the costs associated with obtaining and validating patents and other industrial property rights, aid intensity shall not exceed the limits specified in paragraphs 2-3; in such cases, the aid intensity to be taken into account shall be the aid intensity pertaining to the research activity that first leads to the subject of the given patent or other industrial property right.

6. The eligible costs of an R+D project shall be:

- a) personnel costs (researchers, technicians and other supporting staff to the extent they are employed in the research project) in accordance with Act C of 2000 on accountancy (hereinafter: Accountancy Act);
- b) historical cost of new instruments and equipments – pursuant to the Accountancy Act – to the extent and duration they are used in the supported R+D project;
- c) historical value and costs of technical knowledge and patents purchased or leased from third parties pursuant to the Accountancy Act if the transaction was carried out under market conditions; in case of financing by leasing, the leasing fee may only be taken into account to the extent of the repayment of the capital;
- d) direct eligible costs (of material and other expenses) in connection with the R+D activity:
 - da) cost of an R+D work ordered from a third part under market conditions, accounted pursuant to the Accountancy Act,
 - db) cost of consultancy and equivalent services pursuant to the Accountancy Act if they are used exclusively for the R+D activity,
 - dc) costs of materials, similar products and services pursuant to the Accountancy Act, if they are used exclusively for the R+D activity,
- e) those costs from among the general costs that can be indirectly assigned to the R+D project according to the methodology specified in accountancy policies, in the ratio of the projecting basis used for research and development.

7. In case of aid for a technical feasibility study, the costs of preparing the study shall be accounted pursuant to the Act on Accountancy.

8. In case of aid for the costs associated with industrial property rights, the eligible costs shall be the following:

- a) all costs incurring before the granting of the right by the first industrial property rights authority, including the costs in connection with the preparation, submission and examination of the application and the fees incurring during the procedure for obtaining the industrial property right before it is granted;
- b) translation and other costs that incurred in front of an industrial property rights authority other than the authority specified in subparagraph *a)* in connection with obtaining or validating the industrial property right;
- c) costs in connection with proving the conditions for granting or relating to the protection of the validity of the industrial property right during the procedure for obtaining or protecting the right even if these costs incurred after the granting of the industrial property right.

9. Pursuant to the Accountancy Act, the costs of consultancy and equivalent services in connection with ordering studies and analyses shall be direct eligible costs pertaining to the material and other expenses if these studies and analyses are exclusively used for the R+D activity.

10. The aid documentation may specify eligible costs in narrower terms than under paragraphs 6-9.

Annex 9 to Government Decree 323/2007

Conditions for granting regional investment aid

1. Aid intensity for individual projects (having the same eligible costs) shall not exceed the limits defined in subsection (1) of Section 30 of Government Decree 85/2004. (IV. 19.) Korm. on procedures related to State aid under subsection (1) of Section 87 of the Treaty Establishing the European Community and the map for the grant of regional aid.
2. In case of a large investment project, the aid intensity shall be
 - a) up to EUR 50 million calculated in HUF at present value, 100%;
 - b) for aid between EUR 50 and 100 million calculated in HUF at present value, 50%;
 - c) for aid above EUR 100 million calculated in HUF at present value, 34% of the aid intensity specified in paragraph 1.
3. If the applicant at the time of the submission of the application qualifies as
 - a) small-sized enterprise, aid intensity – except for the projects in the transport sector and large investment projects - shall be increased by 20 percentage points compared to the value specified in paragraph 1,
 - b) medium-sized enterprise, aid intensity – except for the projects in the transport sector and large investment projects - shall be increased by 10 percentage points compared to the value specified in paragraph 1.
4. If an enterprise receives risk capital aid under the Community Guidelines on State Aid to Promote Risk Capital Investments in Small and Medium-sized Enterprises (HL C 194/2. 2005.08.18.), within 3 years after providing risk capital aid the aid intensity of investment aid granted to the given enterprise under this Decree shall be decreased by 20%.
5. In case of material or immaterial investment costs or the acquisition of an establishment, aid shall be calculated based on the costs of acquisition.
6. At the purchase of material assets serving the objective of the investment, eligible costs shall be the historical costs, pursuant to the Accountancy Act, of
 - a) the purchase price of the material asset at the acquisition of establishment;
 - b) patent, other industrial property rights, licence and know-how as immaterial assets, in case of large undertakings, up to maximum 50% of the eligible costs (hereinafter: supportable immaterial assets).
7. Except for takeovers, purchase of real estate or support given to SMEs, the assets acquired in connection with the project shall be new. In case of takeover, purchase of real estate or assets acquired by SMEs the transaction or the purchase of the asset shall be realised at market value.
8. Costs related to the acquisition of assets under lease shall only be taken into consideration if the lease takes the form of financial leasing and contains an obligation to purchase the asset at the expiry of the term of the lease. For the lease of land and buildings, the lease must continue for at least five years after the anticipated date of the completion of the investment project or three years in the case of SMEs.

9. The aid can only be granted if the beneficiary provides a financial contribution of at least 25 % of the eligible costs at the acquisition of material assets.

10. Eligible costs shall be taken into account at the usual market price even if they incurred between the beneficiary and an affiliate person under a contract in which the purchase price is different from the usual market price.

11. Immaterial assets shall only be taken into account as eligible costs if

- a) they are used exclusively in the establishment receiving the regional aid,
- b) they can be regarded as amortizable assets,
- c) they are purchased under market conditions from a company in which the beneficiary does not have any direct or indirect influence as defined in a separate legal instrument,
- d) they are included in the assets of the beneficiary and they remain in the establishment receiving the regional aid for at least five years or three years in the case of SMEs.

12. In case of large undertakings, the ratio of immaterial assets shall not exceed 50 % of the eligible costs.

13. Only the purchase of a real estate that is indispensable for the implementation of the project can be taken into account as eligible cost.

14. The following costs shall not be considered as eligible costs:

- a) at the acquisition of establishment, the historical cost or purchase price of material assets for maintenance,
- b) historical costs of material assets that have already been used and for which the beneficiary, another company or a licensed private entrepreneur has already been provided financial support,
- c) historical costs of material assets that were purchased by the beneficiary from a company under insolvency or dissolution proceedings,
- d) costs or expenses incurred before the date of the written confirmation issued by the organisation responsible for the grant programme,
- e) historical costs of passenger vehicles.