



## Annex 1

### RECOMMENDATION TO THE CMP:

#### MODALITIES AND PROCEDURES FOR THE IMPLEMENTATION OF ARTICLE 6 OF THE KYOTO PROTOCOL

(Version 01.0)

##### I. Background

1. The Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP), at its seventh session, requested the Joint Implementation Supervisory Committee (JISC) to draft a revised set of key attributes and transitional measures dealing with the possible changes to the joint implementation (JI) guidelines and to present them for discussion to the CMP at its eighth session, with a view to developing revised JI guidelines for adoption at its ninth session.
2. The recommendation contained in this document responds to this request by presenting the revised set of key attributes in the form of draft modalities and procedures for JI and setting out a number of transitional steps to manage the transition of JI from the current JI guidelines to the new JI modalities and procedures recommended by the JISC.

##### II. Recommendation

3. The JISC recommends that the CMP, at its eighth session:
  - (a) Consider and adopt the draft modalities and procedures contained in the appendix as a revision of the annex to decision 9/CMP.1;
  - (b) Elect members of the governing body, in order that the governing body may begin elaborating the standards and procedures for JI referred to in paragraph 5(b) of the appendix as early as possible, with a view to it completing the priority areas of these standards and procedures during 2013;
  - (c) Decide on the following steps to manage the transition of JI from the current JI guidelines to the new JI modalities and procedures:
    - (i) The new JI modalities and procedures shall become effective on 1 January 2014, in order that new activities may be submitted for registration as soon as possible after this date;
    - (ii) All JI projects registered prior to 1 January 2014 shall be deemed registered under, and governed by, the new JI modalities and procedures from that date;
    - (iii) All accredited independent entities (AIEs) accredited prior to 1 January 2014 shall be deemed accredited under, and governed by, the new JI modalities and procedures from that date;
    - (iv) The JI projects and AIEs referred to in paragraphs 3(c)(ii) and 3(c)(iii) above shall be brought fully into accordance with the new JI modalities and procedures, and any further guidance elaborated by the governing body, by 31 December 2014;



- (v) The JISC shall continue to operate until the new JI modalities and procedures become effective;
- (d) Decide that the funds available to the JISC shall also be used for the purpose of supporting the governing body in its initial work and that remaining funds of the JISC shall be transferred to the governing body when the new JI modalities and procedures become effective;
- (e) Consider the implications of the new JI modalities and procedures on other decisions by the CMP, in particular:
  - (i) Decision 27/CMP.1 on the procedures and mechanisms relating to compliance under the Kyoto Protocol;
  - (ii) Decision 9/CMP.1 on the modalities for the accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol;
- (f) Invite Parties to make contributions to support the initial work of the governing body and the operation of JI definitions.



## Appendix

### RECOMMENDATION TO THE CMP:

#### MODALITIES AND PROCEDURES FOR THE IMPLEMENTATION OF ARTICLE 6 OF THE KYOTO PROTOCOL

##### I. Definitions

1. For the purposes of these draft modalities and procedures, the definitions contained in the Kyoto Protocol shall apply. Furthermore, an “emission reduction unit” or “ERU” is a unit issued pursuant to Article 6 of the Kyoto Protocol and requirements under the Kyoto Protocol, including the relevant provisions in these modalities and procedures as amended or replaced from time to time, and is equal to one metric tonne of carbon dioxide equivalent.
2. “Joint implementation” refers to the mechanism defined in Article 6 of the Kyoto Protocol.
3. A joint implementation activity is a project pursuant to Article 6 of the Kyoto Protocol that reduces anthropogenic greenhouse gas emissions by sources or enhances anthropogenic removals of greenhouse gases by sinks.

##### II. The role of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol

4. The Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP) shall have authority over and provide guidance to the governing body on joint implementation (hereinafter referred to as the governing body).

##### III. Governing body

###### A. Functions

5. The governing body shall supervise joint implementation, under the authority and guidance of the CMP, and be fully accountable to the CMP. In this context, the governing body shall be responsible for, inter alia:
  - (a) Elaborating its rules of procedure for consideration by the CMP and subsequently recommending to the CMP any revisions to such rules;
  - (b) Setting mandatory standards and procedures for joint implementation, including for implementation by host Parties, including in collaboration with host Parties and stakeholders, in relation to, inter alia:
    - (i) The approval of baselines and registration of joint implementation activities;
    - (ii) Baselines, the demonstration of additionality, including through positive lists as set out in paragraph 32 below, and validation of joint implementation activities;
    - (iii) The monitoring, reporting and verification of reductions in anthropogenic emissions by sources or enhancements of anthropogenic removals by sinks;
    - (iv) The accreditation of independent entities to validate joint implementation activities and/or verify reported reductions in anthropogenic emissions by sources or enhancements of anthropogenic removals by sinks;
    - (v) The issuance of ERUs;



- (vi) The collection of fees to cover the administrative costs of the governing body and its support structure;
  - (c) Setting non-mandatory guidelines for joint implementation in relation to, inter alia, the items referred to in paragraph 5(b) above, as appropriate;
  - (d) Accrediting independent entities;
  - (e) Establishing and administering a joint implementation registry for the purpose of issuing and transferring ERUs;
  - (f) Assessing the conformity of the processes implemented for joint implementation in host Parties with these modalities and procedures and the mandatory standards and procedures referred to in paragraph 5(b) above, through initial assessments of the implementation by Parties followed by regular assessments to monitor ongoing implementation, and informing the Compliance Committee of any non-conformities found;
  - (g) Suspending the issuance of ERUs for activities hosted by a Party, where, having considered the information received from the governing body in accordance with subparagraph (f) above, the Compliance Committee finds that the Party does not comply with these modalities and procedures or the mandatory standards and procedures of joint implementation and instructs the governing body to suspend the issuance of ERUs;
  - (h) Undertaking reviews of selected activities as set out in paragraph 48 below and, where appropriate, withholding the issuance of ERUs;
  - (i) Promoting awareness of joint implementation;
  - (j) Reporting on its activities to each session of the CMP;
  - (k) Performing any other functions assigned to it by the CMP.
6. Decisions of the governing body shall be taken by consensus, whenever possible. If all efforts to reach a consensus have been exhausted and no agreement has been reached, decisions shall as a last resort be adopted by a two-thirds majority vote of the members present and voting at the meeting. Members abstaining from voting shall be considered as not voting.
7. The full text of all decisions of the governing body shall be made publicly available.
8. The working language of the governing body shall be English.
9. The governing body shall conduct its work in such a way as to ensure the transparency and impartiality of its processes and decision-making and to safeguard itself from any conflict of interest.
10. Meetings of the governing body shall be open to attendance, as observers, by all Parties and UNFCCC-admitted observer organizations and stakeholders, except where otherwise decided by the governing body on the grounds of confidentiality.
11. The governing body may delegate functions to the secretariat and to panels, set up by the governing body to support its work, and otherwise draw on technical expertise to perform its functions.
12. The secretariat shall service the governing body and its panels.

### **B. Membership**

13. The governing body shall comprise 14 members from Parties to the Kyoto Protocol, as follows:



- (a) Ten members nominated by Parties to the Kyoto Protocol included in Annex I [with quantified emission limitation or reduction objectives inscribed in Annex B to the Kyoto Protocol for the relevant commitment period];
  - (b) Four members nominated by Parties to the Kyoto Protocol not included in Annex I.
14. Members shall be nominated by the relevant constituencies referred to in paragraph 13 above and be elected by the CMP. For the first year of operation of the governing body, the CMP shall elect to the governing body seven members for a term of two years and seven members for a term of one year. Members for the initial one-year terms shall be selected proportionately from the two groups referred to in paragraph 13 above. Thereafter, the CMP shall elect, every year, seven new members for a term of two years. Members shall remain in office until their successors are elected.
15. Members shall be eligible to serve a maximum of three consecutive terms.
16. The governing body shall elect annually a chair and vice-chair from among its members.
17. The governing body shall meet at least two times each year.
18. Each member shall:
  - (a) Serve in her/his personal capacity;
  - (b) Have experience and competence in developing policy and strategy within regulatory processes, including in the development or implementation of greenhouse gas market mechanisms, and possess an understanding of business perspectives regarding investment in the environmental field;
  - (c) Refrain from participating in the consideration and decision-making on subjects where she/he has a real or perceived conflict of interest, including in relation to specific host Parties or joint implementation activities;
  - (d) Subject to her/his responsibility to the governing body, not disclose any confidential or proprietary information coming to her/his knowledge by reason of her/his duties for the governing body, either during or after her/his term of office on the governing body;
  - (e) Be bound by the rules of procedure of the governing body;
  - (f) Take a written oath of service witnessed by the Executive Secretary of the UNFCCC or her/his authorized representative before assuming her/his duties.
19. The governing body may suspend and recommend to the CMP the termination of the membership of a member on grounds including, inter alia, breach of conflict of interest provisions, breach of confidentiality provisions, and failure to attend two consecutive meetings of the governing body without proper justification.
20. If a member of the governing body resigns or is otherwise unable to complete the assigned term of office or to perform the functions of that office, the governing body may, bearing in mind the proximity of the next session of the CMP, appoint another member nominated by the same constituency to replace the said member for the remainder of that member's term.
21. At least two-thirds of the members of the governing body must be present to constitute a quorum.



#### IV. Host Parties

22. A Party participating in joint implementation shall make publicly available and maintain up-to-date all of the following:

- (a) The contact details of the designated focal point responsible for approving baselines and registering joint implementation activities hosted by the Party;
- (b) Its national standards, procedures and guidelines for all aspects of its implementation of joint implementation and the timelines in which decisions are to be taken by the designated focal point;
- (c) Its national procedures for appealing decisions by the designated focal point regarding the registration of JI activities;
- (d) An annual summary of its activities in relation to joint implementation.

23. A Party participating in joint implementation shall provide the information specified in paragraph 22 above to the secretariat in English within 90 days of the adoption, revision or update thereof.

24. A Party participating in joint implementation shall make publicly available, through the secretariat, information on all baselines it has approved and activities it has registered, or has under consideration for approval or registration.

25. A Party identified by the governing body to be not in conformity with the mandatory standards and procedures of joint implementation in accordance with paragraph 5(f) above shall immediately take action to rectify identified non-conformities and shall provide written evidence to the governing body to demonstrate that the identified non-conformities have been addressed. Such evidence shall be made publicly available by the secretariat. The governing body shall forward such evidence to the Compliance Committee, which shall consider the information and determine whether to suspend the issuance of ERUs from activities hosted by that Party or to lift a previously imposed suspension.

26. A Party may authorize legal entities to participate in joint implementation activities. The Party shall remain responsible for the fulfilment of its obligations under the Kyoto Protocol and shall ensure that such participation is consistent with these modalities and procedures. Legal entities may only transfer or acquire ERUs if the authorizing Party is eligible to do so at that time.

#### V. Eligibility to transfer

27. A Party is eligible to transfer and acquire ERUs, and use ERUs for compliance purposes, where it has [*insert here the general eligibility requirements agreed for the use of the mechanisms in the second commitment period*].

#### VI. Design, validation and registration

28. Activity participants shall prepare and submit to an accredited independent entity an activity design document that contains all information needed for validating that the activity:

- (a) Has an appropriate baseline and monitoring plan in accordance with the criteria set out in paragraphs 29 and 30 below and further elaborated by the governing body and, as applicable, by the host Party;
- (b) Would result in a reduction of anthropogenic emissions by sources or an enhancement of anthropogenic removals by sinks that is additional to any that would otherwise occur, in

accordance with paragraphs 31 and 32 below and further elaborated by the governing body and, as applicable, by the host Party;

- (c) Has been made publicly available for local stakeholder inputs and such inputs have been taken into account in accordance with requirements elaborated by the governing body and, as applicable, by the host Party.

29. The baseline for a joint implementation activity is the scenario that reasonably represents the anthropogenic emissions by sources or anthropogenic removals by sinks of greenhouse gases that would occur in the absence of the proposed activity. A baseline shall cover emissions from all gases, sectors and source categories listed in Annex A to the Kyoto Protocol, and anthropogenic removals by sinks, within the activity boundary.

30. A baseline shall be established:

- (a) On an activity-specific, programmatic or sectoral basis;
- (b) In a transparent manner with regard to the choice of approaches, assumptions, methodologies, parameters, data sources and key factors;
- (c) Taking into account relevant national and/or sectoral policies and circumstances, such as sectoral reform initiatives, local fuel availability, power sector expansion plans, and the economic situation in the activity sector;
- (d) In such a way that ERUs cannot be earned for decreases in activity levels outside the activity or due to force majeure;
- (e) Taking account of uncertainties and using conservative assumptions.

31. An activity is additional if the following conditions are met:

- (a) The greenhouse gas emissions from the activity are lower or the removals from the activity are higher than the baseline;
- (b) The activity participants provide evidence that demonstrates that the activity would not have been implemented in the absence of joint implementation.

32. Host Parties may utilize positive lists of activity types that are automatically deemed additional. Such lists shall be made publicly available by the host Party through the secretariat and shall be kept up-to-date.

33. The baseline shall be validated by an accredited independent entity and shall be approved by the host Party prior to the registration of the activity. The baseline shall be reviewed at regular intervals that shall not exceed five years and, if necessary, updated.

34. To the extent possible, each host Party shall establish common baselines for activities within the same sector in order to ensure that activities in the same sector also achieve comparable reductions in anthropogenic emissions by sources or enhancements in anthropogenic removals by sinks.

35. Activity participants seeking to register an activity after 31 December 2012 for emission reductions after the first commitment period shall select a crediting period for the activity that shall not exceed 10 years. The crediting period shall not start earlier than the submission of activity documentation to the secretariat in accordance with paragraph 36 below. The crediting period may be renewed for periods of up to 10 years, provided that, for each renewal, an accredited independent entity validates that the activity baseline is still valid or has been updated taking account of new data where applicable.



36. The accredited independent entity shall make the activity design document publicly available through the secretariat, subject to confidentiality provisions set out in paragraph 51 below, and receive comments from Parties and stakeholders on the activity design document and any supporting information for 30 days from the date the activity design document is made publicly available.

37. An independent entity accredited by the governing body shall validate that an activity and the ensuing reductions of anthropogenic emissions by sources or enhancements of anthropogenic removals by sinks meet the relevant requirements of Article 6 of the Kyoto Protocol, these modalities and procedures and additional guidance provided by the governing body and the host Party, as applicable.

38. The accredited independent entity shall make its validation report publicly available through the secretariat, together with an explanation and justification of its findings, including a summary of stakeholder comments received and a report of how due account was taken of these.

39. The host Party may register the activity if it meets all requirements set out in these modalities and procedures and any additional or elaborated standards developed by the governing body and, as applicable, by the host Party. The host Party shall decide, within 30 days of receiving the validation report and supporting activity information from the accredited independent entity whether to register the activity, and shall make its decision publicly available through the secretariat. If the host Party declines to register an activity, it shall make the reasons for its decision publicly available through the secretariat.

40. Upon receipt of the notice of registration from the host Party, the secretariat shall issue the activity with a unique and publicly available identifier through the international transaction log.

## **VII. Monitoring, verification and issuance**

41. Activity participants shall include, as part of the activity design document, a monitoring plan that provides for:

- (a) The collection and archiving of all relevant data necessary for estimating or measuring anthropogenic emissions by sources and/or anthropogenic removals by sinks of greenhouse gases occurring within the activity boundary during the crediting period;
- (b) The collection and archiving of all relevant data necessary for determining the baseline of anthropogenic emissions by sources or anthropogenic removals by sinks of greenhouse gases within the activity boundary during the crediting period;
- (c) The identification of all potential sources of, and the collection and archiving of data on increased anthropogenic emissions by sources and/or reduced anthropogenic removals by sinks of greenhouse gases outside the activity boundary that are significant and reasonably attributable to the activity during the crediting period. The activity boundary shall encompass all anthropogenic emissions by sources and/or removals by sinks of greenhouse gases under the control of the activity participants that are significant and reasonably attributable to the activity;
- (d) The collection and archiving of information on environmental impacts;
- (e) Quality assurance and quality control procedures for the monitoring process;
- (f) Procedures for the periodic calculation of the reductions of anthropogenic emissions by sources and/or enhancements of anthropogenic removals by sinks by the activity, and for leakage effects, if any. Leakage is defined as the net change of anthropogenic emissions by sources or removals by sinks of greenhouse gases, which occurs outside the activity boundary and is measurable and attributable to the activity.





42. Calculation of baseline emissions, reductions of anthropogenic emissions by sources and/or enhancements of anthropogenic removals by sinks, and leakage, for the activity, should be based on methods that are consistent with the host Party's calculation of its baseline emissions, where applicable.
43. Revisions, if any, to the monitoring plan shall not reduce the accuracy and/or completeness of the monitoring, shall be justified by activity participants and shall be verified by an accredited independent entity in accordance with paragraph 46 below.
44. Activity participants shall monitor reductions in anthropogenic emissions by sources or enhancements of anthropogenic removals by sinks that have already occurred in accordance with the monitoring plan of the registered activity and shall prepare a monitoring report.
45. Activity participants shall submit the monitoring report to an accredited independent entity. The accredited independent entity shall make the monitoring report publicly available through the secretariat.
46. The accredited independent entity shall, upon receipt of the monitoring report, verify that the reductions in anthropogenic emissions by sources or enhancements of anthropogenic removals by sinks reported by the activity participants have been conducted in accordance with these modalities and procedures, as further elaborated by the governing body and, as applicable, by the host Party.
47. The accredited independent entity shall make its verification publicly available through the secretariat together with an explanation and justification of its verification opinion.
48. The governing body shall issue ERUs based on the verification of reductions in anthropogenic emissions by sources or enhancements of anthropogenic removals by sinks by the accredited independent entity, unless the host Party or at least three members of the governing body request a review within 15 days after the verification is made publicly available through the secretariat. If such a review is requested, the governing body shall:
- (a) Decide on its course of action no later than 30 days after the formal request for review. If it decides that the request has merit, it shall conduct a review;
  - (b) Complete the review within 30 days following its decision to conduct the review and decide whether to accept or reject the verification. No issuance of ERUs shall be granted by the governing body based on rejected verifications;
  - (c) Inform the activity participants and the host Party of its decision, and make its decision public, including an explanation of the reasons for the decision.
49. The issuance of ERUs shall be subject to the accounting, issuance and transfer rules and definitions set out in decision 13/CMP.1, as amended or replaced.
50. The host Party may determine that a lower amount of ERUs shall be issued than the actual reductions in anthropogenic emissions by sources or enhancements of anthropogenic removals by sinks achieved by the activity. Any such limitations shall be elaborated in the host Party's national standards and procedures prior to the registration of the activity, be identified as a condition for the activity's registration, be made public through the secretariat and be taken into account and explained by the accredited independent entity during the verification.
51. Information obtained from activity participants marked as proprietary or confidential shall not be disclosed without the written consent of the provider of the information, except as required by applicable national law of the host Party. Information used to determine whether reductions in anthropogenic emissions by sources or enhancements of anthropogenic removals by sinks are additional, to describe the baseline methodology and its application, and/or to support an environmental impact assessment shall not be considered proprietary or confidential.



52. The issuance of ERUs may be subject to appeal in accordance with any provisions for appeal determined by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.

### VIII. Accreditation of independent entities

53. The governing body, in elaborating standards and procedures for accrediting independent entities, shall collaborate with the Executive Board of the clean development mechanism with a view to aligning the accreditation standards and procedures of the two mechanisms and shall ensure that the accreditation standards and procedures cover, inter alia, the areas of:

- (a) The ability of the entity to assume obligations under national or international laws;
- (b) Legal and financial liabilities;
- (c) Management and decision-making structure;
- (d) Competence;
- (e) Validation and verification processes, taking into account principles of materiality;
- (f) Impartiality and prevention of conflict of interest;
- (g) Safeguarding confidentiality;
- (h) Appeals and complaint processes.

54. The governing body shall suspend or withdraw the accreditation of an independent entity that no longer meets the accreditation standards. The accredited independent entity shall have the opportunity of a hearing prior to the suspension or withdrawal of accreditation. The suspension or withdrawal shall be effective immediately and the affected entity shall be notified in writing of the decision immediately. The decision shall be made public. In the case of suspension, the decision shall also explain the reasons for suspension and conditions for reinstating accreditation. Validated activities and verified reductions of anthropogenic emissions by sources or enhancements of anthropogenic removals by sinks shall not be affected by the suspension or withdrawal of the accreditation of an independent entity.

-----

#### History of the document

Version	Date	Nature of revision
DRAFT 01.0	27 September 2012	JISC 30, Annex 1. The JISC agreed to recommend to the CMP at its eighth session to adopt the modalities and procedures for the implementation of Article 6 of the Kyoto Protocol.
<b>Decision Class:</b> Regulatory		
<b>Document Type:</b> Procedure (DRAFT), Recommendation to the CMP		
<b>Business Function:</b> Governance		