



Draft Modalities and procedures for the implementation of Article 6 of the Kyoto Protocol

A. Definitions

1. For the purpose 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 thereunder, as well as 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 project is an activity 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.

B. 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).

C. Functions of the governing body

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 and non-mandatory best practice guidelines for joint implementation projects, as well as for implementation by host Parties, in collaboration with host Parties and stakeholders, including in relation to:
 - (i) Registration of joint implementation projects;
 - (ii) Issuance of ERUs;
 - (iii) Baselines, demonstration of additionality, and validation of joint implementation projects;
 - (iv) Monitoring, reporting and verification of reductions in anthropogenic emissions by sources or enhancements of anthropogenic removals by sinks;
 - (v) Collection of fees to cover administrative costs for the functioning of the governing body and its support structure;
 - (c) Setting mandatory standards and procedures for accrediting independent entities that validate joint implementation projects and/or verify reported reductions in anthropogenic emissions by sources or enhancements of anthropogenic removals by sinks;



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- (d) Accrediting independent entities;
 - (e) Issuing ERUs;
 - (f) Assessing the conformity of the processes implemented for joint implementation in host Parties and joint implementation projects with the mandatory standards and procedures referred to in paragraph 5(b) above, by way of:
 - (i) Assessing the host Party's implementation of its national process for joint implementation;
 - (ii) Assessing selected joint implementation projects;
 - (g) [Suspending issuance of ERUs for projects hosted by a Party] [Informing the Compliance Committee of the non-conformities of a Party], where the Party has been found, based on the assessment referred to in paragraph 5(f) above, to not conform with the mandatory standards and procedures of joint implementation;
 - (h) Promoting awareness of joint implementation [as a climate change mitigation tool];
 - (i) Reporting on its activities to each session of the CMP;
 - (j) Performing any other functions assigned to it by the CMP through the decisions of the CMP.
6. Decisions by 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 by all UNFCCC admitted observer organizations and stakeholders, except where otherwise decided by the governing body.
11. As needed, the governing body may draw on technical expertise necessary to perform its functions by establishing panels.
12. The secretariat shall service the governing body and its panels.

D. Membership of the governing body

13. The governing body shall comprise 16 members from Parties to the Kyoto Protocol, as follows:
- (a) [10][12] members nominated by Parties¹ with quantified emissions reduction limitation commitments as set out in Annex B to the Kyoto Protocol [for the [relevant] [second] commitment period];
 - (b) [Six][Four] members nominated by Parties not referred to in subparagraph (a) above.

¹ In the context of this annex, "Party" refers to a Party to the Kyoto Protocol, unless otherwise specified.



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14. Members of the governing body shall be nominated by the relevant constituencies [and UNFCCC admitted non-governmental observer organizations] referred to in paragraph 14 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 eight members for a term of two years and the other eight members for a term of one year. Thereafter, the CMP shall elect, every year, eight new members for a term of two years. Members shall remain in office until their successors are elected.
15. Members of the governing body 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, unless decided otherwise.
18. Each member of the governing body shall:
- (a) Serve in her/his personal capacity and have experience and competence in developing policy and strategy frameworks 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;
 - (b) 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 projects;
 - (c) 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;
 - (d) Be bound by the rules of procedure of the governing body;
 - (e) 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 costs of travel and daily subsistence allowance for members of the governing body shall be covered from the part of the Trust Fund for Supplementary Activities dedicated to funding work on joint implementation, subject to the availability of funding resources exclusively sourced from the fees referred to in paragraph 5(b)(v) above.
20. The governing body may suspend and recommend to the CMP the termination of the membership of a particular member of the governing body on grounds including, inter alia, breach of the conflict of interest provisions, breach of the confidentiality provisions, or failure to attend two consecutive meetings of the governing body without proper justification.
21. 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.
22. At least two-thirds of the members of the governing body must be present to constitute a quorum.

E. Host Party participation requirements

23. A Party involved in a joint implementation project shall make publicly available and maintain up to date all of the following:



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- (a) The contact details of the designated focal point responsible for approving and registering joint implementation projects hosted by the Party;
- (b) Its national standards, procedures and guidelines for approving and implementing joint implementation projects [and the timelines in which decisions are taken by the designated focal points];
- (c) Its national procedures for challenging decisions by the designated focal point;
- (d) An annual summary of its activities in relation to joint implementation.

24. A Party involved in a joint implementation project shall provide the information specified in paragraph 25 above to the secretariat in English [within 90 days of the development, revision or update thereof] [without delay].

25. A Party hosting a joint implementation project shall make publicly available, through the secretariat, information on the project in accordance with the mandatory procedures established by the governing body as referred to in paragraph 5(b) above.

26. A Party that authorizes legal entities to participate in joint implementation projects 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.

F. Host Party eligibility requirements

27. A Party is eligible to transfer [and/or acquire] ERUs issued in accordance with these modalities and procedures if it has accepted a legally binding quantified greenhouse gas emission limitation or reduction commitment in accordance with decision - /CMP.8.

[Further detailed eligibility requirements to be elaborated jointly for the clean development mechanism and emissions trading by the CMP.]

G. Validation process

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

- (a) Has an appropriate baseline and monitoring plan in accordance with the criteria set out in the appendix below and further elaborated by the governing body and, as applicable, also by the host Party, regarding the implementation of the project;
- (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 criteria set out in the appendix 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 in accordance with requirements by the host Party.

29. An independent entity accredited by the governing body shall validate that a project 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 by the governing body and the host Party, as applicable.



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30. The accredited independent entity shall make the project design document publicly available through the secretariat, subject to confidentiality provisions set out in paragraph 40 below, and receive comments from Parties and stakeholders on the project design document and any supporting information for 30 days from the date the project design document is made publicly available.

31. 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.

32. The host Party may register the project 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 whether to register the project within 30 days of receiving the validation report and supporting project information from the accredited independent entity and shall make its decision publicly available through the secretariat.

33. Upon receipt of the notice of registration from the host Party, the secretariat shall give the project a unique and publicly available identifier through the international transaction log.

H. Verification and issuance process

34. Project 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 project and shall prepare a monitoring report.

35. Project 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.

36. The accredited independent entity shall, upon receipt of the monitoring report, verify the reductions in anthropogenic emissions by sources or enhancements of anthropogenic removals by sinks reported by the project participants in accordance with the appendix below and further elaborated by the governing body and, as applicable, by the host Party, provided that they were monitored and calculated in accordance with the monitoring plan.

37. The accredited independent entity shall make its verification publicly available through the secretariat together with an explanation of its verification opinion.

38. The governing body shall issue ERUs based on the verification of reductions in anthropogenic emissions by sources or enhancements of anthropogenic removals by sinks, 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 at its next meeting or 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 its review within 30 days following its decision to conduct the review;
- (c) Inform the project participants of the outcome of the review, and make its decision public, including an explanation of the reasons for the decision.

39. 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.

40. 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 for the project. Any such limitations shall be elaborated at the time of registration of the project, be



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identified as a condition for the project's approval, be made public through the secretariat and be taken into account and explained by the accredited independent entity during the verification.

41. Information obtained from project 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.

42. [Any provisions relating to the commitment period reserve or other limitations to transfers under Article 17 of the Kyoto Protocol shall not apply to the first transfer of an ERU out of a Party's national registry.]

43. The issuance of ERUs shall be subject to appeal:

- (a) In accordance with provisions for appeal in the relevant procedure developed and implemented by the governing body; and/or
- (b) Where the CMP establishes a body entitled to hear appeals against the decisions of the governing body, in accordance with the rules of that body.

I. Accreditation of independent entities

44. The governing body, in elaborating standards and procedures for accrediting independent entities, should take into account and seek to align its standards and procedures with those under Article 12 of the Kyoto Protocol, and shall ensure that the standards and procedures for accreditation 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;
- (f) Impartiality and prevention of conflict of interest;
- (g) Safeguarding confidentiality;
- (h) Appeals and complaint processes.

45. 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 is 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 projects 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.



APPENDIX

Criteria for baseline setting, additionality and monitoring**I. BASELINE SETTING**

1. The baseline for a joint implementation project 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 project. 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 project boundary.
2. A baseline shall be established:
 - (a) On a project-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 project sector;
 - (d) In such a way that emission reduction units (ERUs) cannot be earned for decreases in activity levels outside the project or due to force majeure;
 - (e) Taking account of uncertainties and using conservative assumptions.
3. The baseline shall be approved by the host Party no later than during the registration of the project and shall be reviewed and, if necessary, updated at regular intervals that shall not exceed [five] [10] years.
4. To the extent possible, each host Party shall establish common baselines for projects within the same sector in order to ensure that projects in the same sector also achieve comparable reductions in anthropogenic emissions by sources or enhancements in anthropogenic removals by sinks.

II. ADDITIONALITY

5. A project is additional if:
 - (a) The project participant can demonstrate that joint implementation was seriously considered in the decision to implement the project;
 - (b) The greenhouse gas emissions from the project are lower or the removals from the project are higher than the baseline;
 - (c) The project participants provide evidence that demonstrates that the project would not have been implemented in the absence of joint implementation.
6. Host Parties may utilize positive lists of project types that are automatically deemed additional as long as the other criteria for baseline setting and additionality set out in this appendix are fulfilled.



III. MONITORING

7. Project participants shall include, as part of the project 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 project 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 project 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 project boundary that are significant and reasonably attributable to the project during the crediting period. The project boundary shall encompass all anthropogenic emissions by sources and/or removals by sinks of greenhouse gases under the control of the project participants that are significant and reasonably attributable to the project;
- (d) The collection and archiving of information on environmental impacts, in accordance with procedures as required by the host Party, where applicable;
- (e) Quality assurance and 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 project, 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 project boundary and is measurable and attributable to the project;
- (g) Documentation of all steps involved in the calculations referred to in subparagraphs (b) and (f) above.
