

## Annex 4

**INFORMATION NOTE ON OPTIONS FOR ISSUES OF ACCOUNTABILITY  
IN THE JI POA****A. Introduction**

1. At the roundtable discussion of the implementation of Joint Implementation programmes of activities (JI PoAs), certain independent entities (IEs) noted that, under the CDM procedures on programmes of activities, if, as the result of a review, the CDM Executive Board (EB) decides to exclude a CDM programme activity (CPA) forwarded by a designated operational entity (DOE), the procedures require the DOE to acquire, within 30 days of the exclusion of the CPA, an amount of reduced tonnes of carbon dioxide equivalent to the amount of CERs issued to the PoA as a result of the CPA having been included. Taking this into account, the JISC requested the secretariat to prepare an information note suggesting an approach for limiting an IE's accountability for the erroneous inclusion of a new JI programme activity (JPA) to a "deemed final" JI PoA.

**B. CDM Background****1. Relevant text in the CDM Modalities and Procedures**

2. Paragraphs 21-22 of the CDM Modalities and Procedures (M&P) state:

The EB may recommend to the COP/MOP to suspend or withdraw the designation of a designated operational entity if it has carried out a review and found that the entity no longer meets the accreditation standards ... Registered project activities shall not be affected by the suspension or withdrawal of designation of a DOE unless significant deficiencies are identified in the relevant validation, verification or certification report for which the entity was responsible. In this case, the EB shall decide whether a different DOE shall be appointed to review, and where appropriate correct, such deficiencies. If such a review reveals that excess CERs were issued, the designated operational entity whose accreditation has been withdrawn or suspended shall acquire and transfer, within 30 days of the end of review, an amount of reduced tonnes of carbon dioxide equivalent equal to the excess CERs issued, as determined by the EB, to a cancellation account maintained in the CDM registry by the EB.

3. In addition, paragraph 65 of the CDM M&P limit the reviews of proposed issuance of CERs to "issues of fraud, malfeasance or incompetence" of the DOE.

**2. What the relevant text in the CDM Modalities and Procedures means**

4. The CDM M&P limit the reviews of proposed issuance of CERs to issues of fraud, malfeasance or DOE incompetence and require a DOE to acquire and transfer, at its own cost, an amount of reduced tonnes of carbon dioxide equivalent equal to the excess CERs issued if the following occur:

- (a) The designation of the DOE has been withdrawn or suspended;
- (b) Significant deficiencies are identified in the relevant validation, verification or certification report for which the entity was responsible; and
- (c) A review reveals that excess CERs were issued.

**C. The current CDM EB approach regarding the consequences of erroneous inclusion of a CPA**

5. In accordance with its general mandate to supervise the CDM, the CDM EB's current procedures address the consequences of a DOE's erroneous inclusion of a proposed CPA in a registered PoA even though the CDM M&P do not address such a situation. The "Procedures for review of an erroneous inclusion of a CPA" state:

- (a) To include an additional CPA in a registered PoA, the coordinating entity shall forward its specific CDM-CPA-DD to any DOE for consistency checking;
- (b) The DOE shall scrutinize the CDM-CPA-DD against the PoA and, if consistency/integrity is confirmed, include the proposed CPA in the registered PoA by forwarding the CDM-CPA-DD to the CDM EB;
- (c) The CDM-CPA-DD will be automatically included in the registered PoA and the DOE, the coordinating entity and the DNA will be automatically notified;
- (d) If a DNA involved in the PoA or an EB member identifies any error, within one year after the inclusion of CPA into a registered PoA or renewal of the crediting period of the CPA, or six (6) months after the issuance of CERs for that CPA, whichever is later, that disqualifies a CPA from inclusion in the PoA or renewal of the crediting period, the Secretary of the EB shall be notified by means of a request for review;
- (e) The EB shall decide whether to initiate a review of the inclusion of the CPA and may decide to exclude the CPA from the PoA with immediate effect. A DOE that has not performed validation, registration, inclusion or verification functions with regard to this PoA, shall conduct the review by assessing a random sample of 10% of all CPAs currently included and submitting a report to the EB.
- (f) If, as a result of a review, the EB decides to exclude a CPA, then the "DOE that included the CPA, shall acquire and transfer, within 30 days of the exclusion of the CPA, an amount of reduced tonnes of carbon dioxide equivalent to the amount of CERs issued to the PoA as a result of the CPA having been included, to a cancellation account maintained in the CDM registry by the EB."

**D. JI Background****1. Relevant text in the JI guidelines**

6. Paragraphs 42-43 of the annex to decision 9/CMP.1 (JI guidelines) have language parallel to that in the CDM M&P regarding the acquisition of equivalent amount of AAUs and ERUs:

The JISC shall suspend or withdraw the accreditation of an independent entity if it has carried out a review and found that the entity no longer meets the accreditation standards ... Verified projects shall not be affected by the suspension or withdrawal of the accreditation of an AIE unless significant deficiencies are identified in the determination referred to in paragraph 33 or 37 (of the JI guidelines) for which the entity was responsible. In this case, the JISC shall decide whether a different AIE shall be appointed to assess and, where appropriate, correct such deficiencies. If such an assessment reveals that excess ERUs have been transferred as a result of the deficiencies identified in the determination referred to in paragraph 33 or 37 (of the JI guidelines), the independent entity whose accreditation has been withdrawn or suspended shall acquire an equivalent amount of AAUs and ERUs and place them in the holding account of the Party hosting the project within 30 days from the assessment mentioned above.



## 2. What the relevant text in the JI guidelines means

7. The JI guidelines do not limit the review of determinations regarding emission reductions or enhancements of removals (verifications) to “issues of fraud, malfeasance or incompetence” but require an AIE to acquire AAUs and ERUs at its own cost if the following occur:

- (a) The AIE’s accreditation has been withdrawn or suspended;
- (b) Significant deficiencies are identified in the determination for which the AIE was responsible; and
- (c) An assessment of the deficiencies reveals that excess ERUs have been transferred as a result of the deficiencies.

### **E. Variables to be considered for the inclusion of a proposed JPA in a “deemed final” JI PoA**

8. Like the CDM EB, the CMP has given the JISC the mandate to supervise the verification generated by JI projects. In accordance with this mandate, the JISC may adopt one of several possible approaches to address the consequences of the erroneous inclusion of a proposed JPA in a “deemed final” JI PoA, depending on how it decides the following issues:

- (a) Will the coordinating entity submit new JPAs to be added to a “deemed final” JI PoA to the JISC directly or through an AIE?
- (b) Regardless of whether the coordinating entity submit new JPAs to be added to a “deemed final” JI PoA directly or through an AIE, will there be a review process at the time the new JPA is added -- i.e., a request for review by a DFP involved in the PoA or [one], [two] [three] JISC members?
- (c) Will there be a review process at the verification stage?
- (d) Will the AIE continue to be accountable for its performance in the same way that it is currently accountable for other JI projects under the JI guidelines (i.e., acquire AAUs and ERUs at its own cost if its accreditation has been withdrawn or suspended, significant deficiencies are identified in the determination for which the AIE was responsible and an assessment of the deficiencies reveals that excess ERUs have been transferred as a result of these deficiencies)?

### **F. Suggested approach<sup>1</sup>**

9. Under the following approach, the responsibility for adding new JPAs to a “deemed final” JI PoA remains with the coordinating entity and the verification stage includes new safeguards for PoAs that use a sample-based approach:

- (a) The coordinating entity submits additional JPAs to a “deemed final” JI PoA directly to the JISC by updating the JPA table in the JI project design document (JI PoA-DD).
- (b) New JPAs that are added to a “deemed final” JI PoA are subject to review procedures at the time of submission -- i.e., a DFP involved in the PoA or [one], [two] [three] JISC members may request a review in the same way as they can during the determination stage for other JI projects.
- (c) The IE’s verification also is subject to review procedures.

<sup>1</sup> The procedures applicable to this suggested approach are in the current draft of the “Procedures for programmes of activities under the verification procedure under the Joint Implementation Supervisory Committee.”



- (d) If the AIE finds a sample-based approach appropriate for the JPAs being verified, the AIE submits to the JISC for pre-approval a verification plan including a list of sites selected for onsite inspections, if any.

- - -