



# SUBMISSION ON JOINT IMPLEMENTATION

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CLIMATE ACTION NETWORK

Climate Action Network International (CAN-I) is the world's largest network of civil society organizations working together to promote government action to address the climate crisis, with more than 700 members in over 90 countries. [www.climatenetwork.org](http://www.climatenetwork.org)

## INTRODUCTION

According to Decision 12/CMP.8 paragraph 12 admitted UNFCCC observer organizations are invited to submit further views on how the joint implementation guidelines and other decisions of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol pertaining to joint implementation should be revised. The above mentioned NGOs welcome the opportunity to submit their views.

## OVERALL OBJECTIVE

Paragraph 3 "Stresses the need to ensure the continued success of joint implementation after the first commitment period of the Kyoto Protocol in contributing to the achievement of the objective of the Convention;" ([Doha guidance relating to JI](#)).

CAN welcomes the emphasis of ensuring that JI supports the objectives of the Convention which are: "to achieve [...] stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time-frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner." ([United Nations Framework Convention on Climate Change](#)).

Though JI does not deliver extra reductions beyond those already under an emissions cap, JI in principle can prompt countries to adopt more ambitious overall caps and lead to lower future emissions trends.

**CAN-I welcomes the decision to create one unified track** (para 15a of [Doha guidance relating to JI](#)). 95% of all Emission Reduction Units (ERUs) issued under JI to date originate from track 1 projects which have very limited transparency and environmental integrity. Therefore JI needs to be significantly improved in order to deliver on the objectives of the Convention. **A new single track needs to have more stringent environmental integrity rules and more international oversight, not less than under current track 2 rules**

The insufficient current ambition levels and the large number of ERUs issued have led to a severe price decay in the carbon markets. ERU prices collapsed by more than 95% in 2012. At current prices (below EUR 0.2) it is all but impossible to implement JI projects that are truly additional. **Ongoing reforms must go hand in hand with an increase in ambition and must turn JI into a mechanism capable of delivering real, measurable and additional GHG emission reductions that serve the efforts to mitigate climate change.**

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## No CP1 AAUs for JI Projects during the Transition Period

Para 16c of [Doha guidance relating to JI](#) requests that the Subsidiary Body for Implementation (SBI) addresses how ERUs are to be issued.

For each ERU sold, the host country has to retire one of its Assigned Amount Units (AAUs) to avoid double counting. Since AAUs are tied to the Kyoto commitment period, it is not clear what will happen during the transition period until host countries have received their second commitment period AAUs. In other words, it is unclear how and what types of AAUs will be used to “shadow” ERUs during the transition period, after the end of the first Kyoto commitment period (CP1) and before a second commitment period (CP2) will enter into force and Annex B countries under CP2 have received their AAUs.

In paragraph 21 of the [Joint Implementation Supervisory Committee \(JISC\) annual report to CMP8](#) the JISC recommends that either CP1 AAUs or that CP2 AAUs be deducted from future emission reduction targets adopted by Parties hosting JI project.

**Using AAUs from CP1 is highly problematic**, as current experience under Track 1 shows: Countries with large amounts of AAU surplus have started to use JI Track 1 to convert a significant number of AAUs to ERUs. In other words, countries with a large AAU surplus can use the JI for “hot-air laundering.” This not only undermines environmental integrity but also threatens the viability of carbon markets. Such CP1 AAU laundering is not theoretical, it is ongoing: Total supply of ERUs grew by over 20% to almost 630 million in the last days of 2012, when Ukraine issued 105 million ERUs.

In Doha at COP18, Parties decided to strictly limit the use of CP1 AAUs in CP2. Furthermore, Parties passed paragraph 3.7 ter<sup>1</sup>, which ensures that countries have a reduction target that is not higher than their average emissions between 2008-2010. This provision not only ensures more meaningful pledges and helps minimize the risk of creating new hot air in CP2, it also potentially improves the integrity of JI: Only countries with high ambition levels have an incentive to set their JI baselines realistically and stringently enough. If AAUs do not represent actual emissions reductions (i.e. are surplus “hot air”) then JI credits can be used to launder hot air AAUs. A large supply of non-additional ERUs not only hampers climate goals but also severely undermines carbon markets.

The use of CP1 AAUs for CP2 poses a potential loophole that would undermine the decision 3.7ter. **CAN-I therefore strongly opposes the option of using CP1 AAUs to shadow JI credits during the transition period of CP2.**

**CAN-I recommends to only allow issuance of CP2 ERUs once CP2 AAUs have been issued.** This was also the case in the beginning of CP1 and did not pose significant problems. Also, given the severe oversupply of offset credits, such a “back loading” provision makes sense because it limits credit issuance in the near term. This could help stabilize prices.<sup>2</sup>

## STRENGTHEN ADDITIONALITY REQUIREMENTS

In para 15e of the [Doha guidance relating to JI](#) Parties reaffirmed the requirement of Article 6 of the Kyoto Protocol and agreed that the new unified JI track should have “clear, transparent and objective requirements to ensure that projects are additional to what would otherwise occur.” Para 16b furthermore requests SBI to address the additionality of JI “recognizing such concepts as positive lists of project types that would automatically be deemed additional and prior consideration of joint implementation projects, taking into account, as appropriate, the application of standardized baselines.”

### POSITIVE LISTS

Positive lists simplify the approval process of projects and can therefore reduce transaction costs for project developers. Yet such positive lists have to be designed carefully and conservatively and reviewed periodically in order to ensure that the technologies on the list are truly additional. For example, simply using penetration rates to determine which technologies should be considered additional will in many cases not deliver a sufficiently conservative or realistic result, as there are many types of barriers for implementation which cannot be overcome by increased revenues (e.g. water availability in an area for hydro power). Also, technologies are constantly evolving and may become common practice within only a few years.

Para 32 of the [JISC draft revised JI guidelines](#) also outlines that host Parties may utilize positive lists of activity types that are automatically deemed additional. But the text is silent on how the environmental integrity of such lists is ensured.

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<sup>1</sup> Any positive difference between the assigned amount of the second commitment period for a Party included in the Annex I and average annual emissions for the first three years of the preceding commitment period multiplied by eight shall be transferred to the cancellation account of that Party. <http://unfccc.int/resource/docs/2012/cmp8/eng/l09.pdf>

<sup>2</sup> Environmental Defence Fund bylines this paragraph.

***CAN-I recommends that positive lists are required to be reviewed by an independent auditor and approved by the governing body to ensure their environmental integrity. Furthermore positive lists should only be valid for up to 3 years and must be reviewed and updated thereafter.***

#### **PRIOR CONSIDERATION**

Prior consideration, i.e. the evidence that JI was taken into account at the planning stage of the project, is an important indicator that JI was instrumental in the implementation of an emission reduction activity. The concept of prior consideration is not a new requirement, but a clarification of the already existing requirements and fully in line with the Article 6 of the Kyoto Protocol which stipulates that reductions need to be additional to any that would occur in the absence of JI. Many JI projects registered only in 2012 claim emission reductions starting from 1 January 2008 or before. Such practices undermine the environmental integrity of JI.

***CAN-I welcomes that Parties “recognized” prior consideration in the Doha document and urges Parties to operationalize proof of prior consideration as a mandatory requirement for the demonstration of additionality for the new unified JI track, similar to how it is required under the CDM.***

#### **STRENGTHEN CRITERIA AND REVIEW PROCEDURES FOR BASELINE SETTING**

In para 15f of the [Doha guidance relating to JI](#) Parties agreed that the new unified JI track should have “Mandatory requirements for host Parties with respect to the approval of baselines, monitoring and reporting, including clear, transparent and objective requirements for the setting of standardized baselines by host Parties.”

The way baselines are set impacts the environmental integrity of the issued credits. For example, baselines that assume emissions that are above business-as-usual will lead to over-crediting. The JISC should coordinate and share lessons learned best practices about baseline setting. These should inform the discussions about New Market Mechanism and Framework for Various Approaches discussions under SBSTA.

***CAN-I recommends that autonomous (business-as-usual) improvements in efficiencies and regular technology upgrades must be taken into account when baselines are set.*** Baselines have to become more stringent over time as business-as-usual improvements in efficiency can be expected. Such autonomous improvement factors have to be set according to the technology lifetimes and common practice in the relevant sector of the host country.

The proposed rules in para 33 of the [JISC draft revised JI guidelines](#) states that “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.” Yet countries may have an incentive to set weak baselines in order to maximize credit issuance. This will lead to the over-issuance of JI credits.

***CAN-I recommends that baselines must be reviewed by an independent auditor with expertise in the respective sectors and then reviewed and approved by the governing body to avoid over-crediting. Baselines need to be updated regularly, at least every 5 years.***

#### **STANDARDIZED BASELINES**

Standardized baselines (SBL) help simplify procedures for project developers and may therefore reduce their transaction costs. Yet developing standardized baselines is costly as it requires large amounts of reliable data and careful analysis. SBL that are not carefully designed will lead to overcrediting or the issuance of non-additional credits.

***CAN-I recommends that standardized baselines must be reviewed by an independent auditor with expertise in the respective sectors and then reviewed and approved by the governing body to avoid over-crediting and non-additionality. Standardized baselines need to be updated regularly, at least every 5 years.***

#### **IMPLEMENT PROCEDURES TO RENEW CREDITING PERIOD**

The [Doha guidance relating to JI](#) does not include specific language on how existing JI projects are dealt with in CP2. Likewise, para 35 of the [JISC draft revised JI guidelines](#) outlines procedures on selecting and renewing crediting periods but is silent on how existing JI projects will be treated.

There is strong evidence that many currently registered JI projects are not additional. Also it is likely that a large share of JI projects that were indeed additional are no longer so, given ongoing changes in industry and policy. It is possible that some of the projects that started during CP1 may still truly rely on JI as the critical source of income

and would discontinue operation without JI.<sup>3</sup> Yet even those projects need to be reviewed to see for example if there was a change in legislation that impacts their additionality.<sup>4</sup>

Also, while most of the Project Design Documents of projects registered in CP1 include projected emission reductions in CP2 and beyond, project developers could not seriously rely on JI income beyond 2012 due to the high uncertainty of CP2 until the recent CMP decision. This is another indication that there is likely a large share of current JI projects that cannot be considered additional.

Even if the JI rules in CP2 are substantially improved and the additionality of the newly registered projects is ensured, the problem of environmental integrity in JI will not be solved as long as the projects registered so far continue generating ERUs. Such projects could further flood the carbon market with cheap non-additional ERUs. Thus they will directly compete with newly registered projects and make truly additional projects infeasible.

**CAN-I recommends that a procedure for the renewal of the crediting period for projects registered in CP1 be established that evaluates the baseline scenario and additionality claims of each project that wants to generate ERUs in CP2.**

## REQUIRE REVIEW PROCEDURE AT REGISTRATION STAGE

Para 16a of the [Doha guidance relating to JI](#) requests the SBI to address the level of oversight needed to assure a common approach among host Parties.

For the new unified track, the JISC proposes<sup>5</sup> a procedure for validation and registration that does not include the option of a review of the project by the governing body, who will supervise JI under the guidance of the CMP. The proposed guidelines suggest that registration is exclusively in the hands of a Host Party. A review procedure is only proposed at the stage of ERU issuance (paragraph 48 of the [JISC draft revised JI guidelines](#)), where it can be triggered by three members of the governing body. However, without any influence on project registration, members of the governing body will not be able to supervise compliance with essential JI requirements of a project until issuance of ERUs, the last step of the JI cycle.

**CAN-I recommends that a review procedure by the governing body be included at the stage of validation or registration in addition to the review option at the stage of ERU issuance.** A similar procedure to the one proposed in paragraph 48 during ERU issuance could be used for the review procedure during registration.

## ESTABLISH AN EFFECTIVE APPEALS PROCESS

CAN-I commends Parties for deciding in para 15d to establish *“An appeals process under the authority of and accountable to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol against decisions of the Joint Implementation Supervisory Committee.”*

Such an appeal process is vital to ensure the environmental and social integrity of JI. The appeals procedure and its appellate body must be based on the principles of effectiveness, legitimacy, accessibility, predictability, equitability, transparency, rights compatibility, and participation. **To that end, CAN-I makes the following recommendations:**

**1) To decide to allow appeals against both positive rulings (i.e. approvals) and negative rulings (i.e. rejections).** Excluding approvals from the scope of review would not be acceptable, in particular given that the JI appeals procedure serves not only to protect individual rights but also to ensure environmental integrity. To limit the appeals procedure to rejections and alterations would address interests of project developers only. Such a narrow interpretation of the right of stakeholders to appeal questionable JI projects is likely to further undermine the integrity of the mechanism. A broader, more inclusive definition of concerned stakeholders is likely to enable a more robust public check on the JI project approval process, and promote transparency, accountability and

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<sup>3</sup> For example, landfill gas flaring is not profitable by itself as it requires some operational expenses which cannot be recovered without external support, unless it is mandatory due to legislation requirements.

<sup>4</sup> For example, 12 Central and Eastern European Countries (CEECs) countries joined the EU since 2004. These new member states must adopt the body of EU law and regulation, known as the *acquis communautaire* (*acquis*). Accession countries were given a “grace period” to implement these new laws. This grace period directly impacts JI projects. For example, the EU landfill directive requires that landfills receiving biodegradable waste must have a gas collection system. Yet there is a transition period for existing landfill sites. That means, once the grace period is over, CEECs should no longer be able to generate ERUs through landfill projects.

<sup>5</sup> CMP7 requested the Joint Implementation Supervisory Committee (JISC) to draft a revised set of key attributes and transitional measures dealing with possible changes to the JI guidelines: [Revised set of key attributes and transitional measures and draft revised joint implementation guidelines](#). These were presented and discussed at CMP8. Revised JI guidelines will be developed by the Subsidiary Body for Implementation in 2013 for possible adoption at CMP9.

integrity in the decision-making process. The scope of the review should therefore include both rejections and approvals of JI projects.

**2) To define standing to appeal so as to include non-governmental organizations (NGOs) and other civil society groups, that have the capacity to monitor and review proposed JI project activities, and that can provide a voice for affected peoples and communities.** AIEs must not be allowed standing, as it would be incompatible with their role as independent auditors.

## **IMPROVE PUBLIC PARTICIPATION**

Para 15c of the [Doha guidance relating to JI](#) agrees that the following should be available: *“Clear and transparent information regarding all relevant public information required for joint implementation projects by stakeholders, accredited independent entities and host Parties in English on the UNFCCC website in accordance with decision 13/CMP.1”*

Yet neither the [Doha guidance relating to JI](#) nor the [JISC draft revised JI guidelines](#) include any provisions for providing input on documents, such as monitoring reports. It makes little sense to publish reports if there is no possibility to submit comments.

***CAN-I recommends that all JI monitoring reports must go through a 30 day commenting period after they have been published. Relevant comments have to be addressed.***