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Matters relating to the mechanisms under the Kyoto Protocol

Review of the joint implementation guidelines

Implementation of the draft joint implementation modalities and procedures

Recommendations by the Joint Implementation Supervisory Committee

Summary

This document presents the recommendations of the Joint Implementation Supervisory Committee on actions that would be necessary to implement the draft joint implementation modalities and procedures, for consideration by the Subsidiary Body for Implementation at its forty-fourth session. The recommendations are related to the following: consideration of aspects of the draft joint implementation modalities and procedures that create implementation challenges; the changes that would need to be made to the rules of procedure of the Joint Implementation Supervisory Committee if the draft joint implementation modalities and procedures were adopted in their current form; and a high-level assessment of previous decisions of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol relating to joint implementation that would still be relevant to joint implementation if the draft joint implementation modalities and procedures were adopted in their current form.

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I. Introduction

A. Mandate

1. At its eighth session, the Conference of the Parties serving as meeting of the Parties to the Kyoto Protocol (CMP) requested the Subsidiary Body for Implementation (SBI), at its thirty-eighth session, to prepare recommendations, including draft revised joint implementation (JI) guidelines, for consideration at CMP 9.¹
2. SBI 43 considered the review of the JI guidelines under agenda sub-item 5(b) and agreed to continue its consideration of this matter at SBI 44 on the basis of the text of the draft decision contained in the annex to document FCCC/SBI/2015/L.30 (hereinafter the draft decision on JI modalities and procedures). The appendix to that draft decision contains the draft JI modalities and procedures (hereinafter referred to as the draft JI modalities and procedures).
3. CMP 11 requested the Joint Implementation Supervisory Committee (JISC) to submit recommendations for consideration at SBI 44 on actions that would be necessary to implement the draft JI modalities and procedures, including changes to:
 - (a) The rules of procedure of the JISC as adopted by decision 3/CMP.5;
 - (b) Provisions under other decisions of the CMP relating to JI.²

B. Scope of the note

4. This note contains the recommendations of the JISC on the review of the JI modalities and procedures in response to the request of the CMP. The recommendations consist of three parts:
 - (a) Consideration of aspects of the draft JI modalities and procedures that create implementation challenges;
 - (b) The changes that would need to be made to the rules of procedure of the JISC (as presented in the annex, which contains a marked-up version of the current rules of procedure) if the draft JI modalities and procedures were adopted in their current form (after the resolution of remaining issues in square brackets);
 - (c) A high-level assessment of previous CMP decisions relating to JI that would still be relevant to JI if the draft JI modalities and procedures were adopted in their current form (after the resolution of remaining issues in square brackets).

II. Recommendations to the Subsidiary Body for Implementation

A. Consideration of aspects of the current draft joint implementation modalities and procedures

5. The JISC has identified elements in the text of the draft decision on JI modalities and procedures and in the draft JI modalities and procedures that may be challenging to implement.

¹ Decision 6/CMP.8, paragraphs 14–16.

² Decision 7/CMP.11, paragraph 4.

1. Issues identified in the draft decision on joint implementation modalities and procedures

6. Transition provisions for membership: there are no provisions relating to the transition of members from the existing JISC to the new JISC. Such transition provisions would need to terminate the membership of those JISC members and alternates who are in the middle of a two-year term at the time of the adoption of the CMP decision and appoint new members, and could express gratitude to the outgoing members and alternates. Relevant draft provisions were included in an earlier version of the draft decision considered at previous sessions of the SBI.³

7. Conformity with definitions, accounting rules, modalities and guidelines under Article 3, paragraphs 3 and 4, of the Kyoto Protocol: there are no provisions in the draft decision (or in the draft JI modalities and procedures) that specify that JI activities must conform to definitions, accounting rules, modalities and guidelines under Article 3, paragraphs 3 and 4, of the Kyoto Protocol.

8. Provisions related to administrative costs: there are no provisions that specify that administrative costs arising from the JI modalities and procedures should be borne by Parties and project participants in accordance with rules to be adopted by the CMP (e.g. provisions on fees), as is the case with the decision on the JI guidelines.⁴

9. Provisions for review: there are no provisions for the review (periodic or ongoing) of the JI modalities and procedures following adoption, with the current draft JI modalities and procedures covering only revisions to the rules of procedure of the JISC and other specific rules based on recommendations from the JISC (see paras. 7 and 14 of the draft JI modalities and procedures). While a further wholesale review process is unlikely to be necessary, a provision specifically mandating the JISC to propose improvements to the JI modalities and procedures could be useful.

10. Duplicating the mandate in decision 7/CMP.11: paragraph 6 of the draft decision risks duplicating the current mandate in decision 7/CMP.11, paragraph 4.

11. The need to review the draft decision after the finalization of the draft JI modalities and procedures: because of the considerable time that has passed during the development of the draft JI modalities and procedures, the accompanying decision should be carefully reviewed after the finalization of the draft JI modalities and procedures in order to ensure that there are no redundant or conflicting provisions.

2. Issues identified in the draft joint implementation modalities and procedures

12. Paragraphs 13–22 below address issues relating to the composition, membership and quorum of the JISC. These aspects of governance are closely interlinked, and therefore any amendment to one aspect would inevitably affect all the others. The JISC recommends that, if the SBI considers possible changes to the draft JI modalities and procedures, then issues relating to the composition and membership of the JISC and the implications for other matters, such as quorum and voting, should be considered as a package.

(a) Regional balance in membership

13. Paragraph 16 of the draft JI modalities and procedures establishes a 20-member, no-alternate JISC composed of:

³ See the in-session draft text from SBI 39 at http://unfccc.int/files/adaptation/application/pdf/sbi39_i7b_decision_16nov2013t1600.pdf.

⁴ Decision 9/CMP.1, paragraph 7.

- (a) Six members from Parties included in Annex I that are undergoing the process of transition to a market economy;
- (b) Six members from Parties included in Annex I not referred to in paragraph 13(a) above;
- (c) Six members from Parties not included in Annex I;
- (d) Two members from small island developing States.

14. This proposed membership is double the number under the current JI guidelines. It should be noted that there would be six seats for a group of Parties that is relatively small in number (Parties included in Annex I that are undergoing the process of transition to a market economy). It may, therefore, be perceived that the membership structure is unduly weighted in favour of a small subset of Parties.

15. If Parties wish to create a JISC of 20 members with no alternates, it would be possible to review the composition rather than simply doubling the current number of members. In reviewing the composition, an analysis of the membership of comparable newer bodies may be relevant, as may also be an analysis of the nature of the mechanism and its focus on application in certain Parties (Parties included in Annex I).

16. While not relevant to the mandate that this recommendation addresses, the JISC also notes the importance of this issue (regional balance and number of members/alternates) to the future regime under the Paris Agreement, in particular its Article 6, paragraph 4.

(b) Overall quorum and regional quorum

17. The draft JI modalities and procedures propose the following quorum rules:⁵
- (a) Three options for an “overall” quorum:
 - (i) Two thirds (14⁶ out of 20 members);
 - (ii) One third (7 out of 20 members);
 - (iii) One half (10 out of 20 members);
 - (b) A “regional” quorum of a majority of members from Parties included in Annex I (7 out of 12 members);
 - (c) Two options for a “regional” quorum for members from Parties not included in Annex I:
 - (i) A majority (5 out of 8 members);
 - (ii) A quarter (2 out of 8 members).

18. The various options for constituting a quorum in the draft text result in quorum rules where the overall quorum and the regional quorum do not match each other. This means that, if the rules are implemented as drafted, there is a considerable risk of problems in determining quorum.

19. This mismatch between the overall quorum and regional quorum raises the possibility of two different situations:

⁵ FCCC/SBI/2015/L.30, annex, appendix, paragraph 24.

⁶ Under the usual practice for membership, quorum and decision-making in UNFCCC constituted bodies, where a proportion leads to a number that is not whole, the next higher whole number is used.

(a) Overall quorum is met but regional quorum is not met: in this case, the overall quorum becomes apparently irrelevant, and yet is specified, making the status of overall quorum provisions unclear;

(b) Regional quorum is met but overall quorum is not met, which in practice means that the regional quorum needs to be supplemented with further unspecified JISC members for the meeting to be considered quorate. This confusion creates ambiguity as to when quorum is met.

20. Alternative approaches to the issues above could be the following:

(a) Establish an overall quorum without regional quorum;

(b) Establish regional quorums expressed as minimum numbers of members rather than proportions. The addition of the numbers of regional quorums required would represent the overall quorum needed. This would mean that regional quorum determines overall quorum.

(c) Higher number of members required to achieve quorum where no alternates

21. It is worth noting that under the draft JI modalities and procedures, overall, the relevant options make it more difficult to achieve quorum than under the current membership model of 10 members and 10 alternates. This is because the draft JI modalities and procedures have removed the alternates and doubled the number of members. Currently, under the JI guidelines, two thirds of the 10 members are required to constitute a quorum, which is 7 members. Under the options proposed in the draft JI modalities and procedures, the lowest quorum level is 9 members, and the highest is 12. Given the current low level of activity in JI, which may continue, indirectly raising the quorum by having only members and no alternates is likely to make it harder to hold a quorate meeting of the JISC.⁷ The existence of alternate members makes it easier to achieve quorum as quorum is calculated according to the number of members, but alternates present can count towards achieving quorum when a member cannot attend. Therefore, an option that the SBI may wish to consider would be to retain the current existence of members and alternates. Should Parties wish to retain the proposed 20-member body and dispense with alternates, the JISC recommends establishing low overall and regional quorums expressed as numbers of members required.

(d) Voting majority

22. Under the draft JI modalities and procedures, the voting majority is two thirds.⁸ The voting majority is reduced compared to the current rules (three-fourths majority). However, it should also be noted that in its history the JISC has never voted; all decisions to date were reached by consensus.

(e) Review draft joint implementation modalities and procedures to ensure reflection of decision 1/CMP.8

23. The provisions in decision 1/CMP.8 relating to the second commitment period of the Kyoto Protocol and Parties taking on a quantified emission limitation or reduction commitment are dealt with by a set of placeholders in the draft JI modalities and procedures. However, the entire text of the draft JI modalities and procedures needs to be

⁷ With regard to the absence of alternates, please see the secretariat's analysis of possible changes to the modalities and procedures of the clean development mechanism contained in chapter II.A of document FCCC/TP/2014/1.

⁸ FCCC/SBI/2015/L.30, annex, appendix, paragraph 25.

reviewed before finalization for recommendation to the CMP for adoption to ensure that all aspects of that decision are appropriately reflected in the text.

B. Changes that would need to be made to the rules of procedure of the Joint Implementation Supervisory Committee

24. The current rules of procedure of the JISC were adopted by the CMP through decision 3/CMP.5 and consist of the rules of procedure that had previously been adopted in decision 9/CMP.1 together with other provisions, definitions and revisions.

25. The annex to the present document contains a marked-up version of the rules of procedure with the changes that would be necessary if the draft JI modalities and procedures were adopted in their current form. However, it should be noted that this annex should only be considered a guide until the draft JI modalities and procedures are finalized for consideration and adoption by the CMP; until that point, the changes that would need to be made to the rules of procedure cannot be considered definitive.

26. It is also worth noting that “newer” constituted bodies under or connected to the UNFCCC process have developed more elaborate rules on certain issues. Examples of these issues are:

(a) Presence of civil society: currently, the Climate Technology Centre and Network does have representation from the business and industry, research and independent, and environmental non-governmental organization constituencies; they are non-voting members, and their attendance is not required to establish a quorum;

(b) Gender balance in the membership: decisions of the Conference of the Parties and the CMP have encouraged Parties and constituencies to nominate women to constituted bodies.⁹ This should equally apply to panels and working groups;

(c) Policies on ethics and conflicts of interest: for example, the Green Climate Fund has adopted a comprehensive policy in this regard.

C. Analysis of provisions under other decisions of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol relating to joint implementation

27. It should be noted that although the mandate in paragraph 4 of decision 7/CMP.11 requests a review of changes relating to CMP decisions on JI, there does not appear to be an intention on the part of the CMP to change existing CMP decisions and give them retroactive effect, as this would not make sense in the context of a move from one JI rule set to another.

28. The mandate from the CMP is, therefore, from a legal perspective, interpreted as a simple request to identify which previous CMP decisions on JI could continue to apply as adopted, which could be applied in the context of the new rules (*mutatis mutandis*), and implicitly, which CMP decisions on JI would not be needed for the new JI regime.

29. In this regard, since the adoption of decision 9/CMP.1, the following key CMP decisions relating to JI were adopted. These need to be applied in their entirety, as adopted, insofar as they relate to JI and notwithstanding a new set of JI rules:

(a) Decision 1/CMP.8 (the Doha Amendment);

⁹ Decision 2/CMP.5, and decisions 36/CP.7 and 23/CP.18 endorsed by the CMP.

(b) Decision 4/CMP.7 (on the global warming potentials used to calculate emission reductions);

(c) Decision 7/CMP.9 (on the expedited eligibility of certain Parties included in Annex I).

30. The draft decision on JI modalities and procedures should stipulate that decision 9/CMP.1 ceases to be applicable or usable for JI.

31. The following additional decisions, related to JI, may contain provisions that may be relevant and needed for the implementation of the draft JI modalities and procedures: 10/CMP.1, 2/CMP.2, 3/CMP.2, 3/CMP.3, 5/CMP.4, 3/CMP.5, 4/CMP.6, 11/CMP.7, 6/CMP.8, 5/CMP.9 and 5/CMP.10.

32. The table below identifies the key provisions that could remain relevant and could be applied directly and specifically to JI under the JI modalities and procedures when/if adopted, or by means of a general decision of mutatis mutandis application. In general, as can be seen from the list, a general mutatis mutandis provision with exclusions (e.g. decisions 9/CMP.1 and 1/CMP.8) would seem to be the most effective approach in order to allow for continued reliance on relevant parts of the JI body of decisions.

Decisions of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol on joint implementation relevant to the draft joint implementation modalities and procedures

<i>Decision</i>	<i>Paragraph(s)</i>	<i>Topic</i>	<i>Application</i>
10/CMP.1	4	Use of CDM methodologies	Source of reliance on CDM methodologies for JI. Continued application enables such continued reliance
	5	Collaboration with the CDM Executive Board, the Compliance Committee, designated focal points and observers	Continued application useful. Would require a mutatis mutandis provision as paragraph 5(d) refers to JI guidelines
2/CMP.2	2	JISC keeping its rules of procedure under review	Continued application useful
3/CMP.2	3–6	JI management plan	Continued approach of JI management plan likely useful. Would require a mutatis mutandis provision as paragraphs are specific to JI guidelines/current JI rules
	10	Nature of executive and supervisory role of JISC	Continued application useful
	14	Thresholds for JI small-scale projects to follow CDM small-scale projects	Continued application may be useful, depending on revisions, if any, to decision 1/CMP.2 (small-scale CDM modalities and procedures)
	16 and 17	Fee structure	Continued application may be useful
3/CMP.3	4	Publication of information relating to projects on a web-based interface	Continued application useful. Would require mutatis mutandis provision given references to JI guidelines
	5 and 6	JI management plan	Continued approach of JI management plan likely useful. Would require a mutatis mutandis provision as paragraphs are specific to JI guidelines/current JI rules
	8 and 9	Fee structure	Continued application may be useful

<i>Decision</i>	<i>Paragraph(s)</i>	<i>Topic</i>	<i>Application</i>
5/CMP.4	9 and 10	JI management plan	Continued approach of JI management plan likely useful. Would require a mutatis mutandis provision as paragraphs are specific to JI guidelines/current JI rules
3/CMP.5	1	Adoption of revised rules of procedure of the JISC	Continued application, mutatis mutandis, would be necessary if the revised rules of procedure are not adopted at the same time as the draft JI modalities and procedures. However, the latter may be preferable
	13 and 14	Publication of information relating to projects on a web-based interface	Continued application useful. Would require mutatis mutandis provision given references to JI guidelines
	15 and 16	JI management plan	Continued approach of JI management plan likely useful. Would require a mutatis mutandis provision as paragraphs are specific to JI guidelines/current JI rules
	21 and 22	Fee structure	Continued application may be useful
4/CMP.6	7	Materiality/level of assurance	Continued application may be useful. Would require a mutatis mutandis provision as paragraph is specific to JI guidelines
	10 and 11	Acceptance of project design documentation before entry into force of Annex B to the Kyoto Protocol for the relevant Party	Continued application of the principle may be useful. Would require a mutatis mutandis provision in order to be relevant (currently relevant to the second commitment period of the Kyoto Protocol and the submission of JI documentation before the entry into force of the Doha Amendment)
	17 and 19	JI management plan	Continued approach of JI management plan likely useful. Would require a mutatis mutandis provision as paragraphs are specific to JI guidelines/current JI rules
	28–31	Fee structure, including a mandate to the JISC to recommend changes to fee structure	Continued application likely useful. Would require a mutatis mutandis provision in order to be relevant
11/CMP.7	19 and 22	JI management plan	Continued approach of JI management plan likely useful. Would require a mutatis mutandis provision as paragraphs are specific to JI guidelines/current JI rules
	20	CMP acknowledgement of the Designated Focal Point Forum and its terms of reference	Continued application useful
	25	Fee structure	Continued application likely useful. Would require a mutatis mutandis provision in order to be relevant
6/CMP.8	8	Party-specific amount of issuance of emission reduction units to be made available on website	Continued application useful for transparency
	11	JI management plan	Continued approach of JI management plan likely useful. Would require a mutatis mutandis provision as paragraphs are specific to JI guidelines/current JI rules
	17	Fee structure	Continued application likely useful. Would require a mutatis mutandis provision in order to be relevant

<i>Decision</i>	<i>Paragraph(s)</i>	<i>Topic</i>	<i>Application</i>
5/CMP.9	7	Recalls that JI projects must conform to Article 3, paragraphs 3 and 4, of the Kyoto Protocol ^a	Continued application useful
5/CMP.10	9	Ensure sufficient infrastructure and capacity until the end of the second commitment period's "true-up period"	Continued application likely useful

Abbreviations: CDM = clean development mechanism, CMP = Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, JI = joint implementation, JISC = Joint Implementation Supervisory Committee.

^a See paragraph 7 of this document, where it is recommended that the draft decision on JI modalities and procedures specify that JI activities must conform to definitions, accounting rules, modalities and guidelines under Article 3, paragraphs 3 and 4, of the Kyoto Protocol.

D. Summary of recommendations to the Subsidiary Body for Implementation

1. Recommendations on aspects of the current draft joint implementation modalities and procedures

33. Based on the analysis in paragraphs 6–11 above, the JISC recommends that the SBI include provisions and changes in the draft decision on JI modalities and procedures regarding the following issues:

- (a) Transition of members from the existing JISC to the new JISC;
- (b) Conformity with definitions, accounting rules, modalities and guidelines under Article 3, paragraphs 3 and 4, of the Kyoto Protocol;
- (c) Provisions that specify that administrative costs arising from the JI modalities and procedures should be borne by Parties and project participants in accordance with rules to be adopted by the CMP;
- (d) Provisions for the review (periodic or ongoing) of the JI modalities and procedures following adoption;
- (e) Deletion of paragraph 6.

34. In addition, the JISC recommends that the SBI review the adopting decision once the text of the draft JI modalities and procedures is finalized.

35. Based on the analysis provided in paragraphs 12–23 above, the JISC recommends that the SBI consider the revision of the rules contained in the draft JI modalities and procedures relating to the following issues, taking into account that issues relating to the composition and membership of the JISC and their implications for other matters, such as quorum and voting, are to be considered as a package:

- (a) Membership: in particular, the rules related to regional balance and the non-use of alternates;
- (b) The overall quorum and regional quorums, including in the context of the interrelationship with membership provisions. If there is a 20-member body, the JISC recommends establishing low overall and regional quorums expressed as numbers of members required;
- (c) The voting majority.

36. The JISC further recommends that the SBI carefully review the draft JI modalities and procedures to ensure the reflection of decision 1/CMP.8.

2. Recommendations on changes to the current rules of procedure

37. Based on the analysis in paragraphs 24–26 above, the JISC recommends that the SBI take into account the amendments to the rules of procedure of the JISC that would be required if the current draft JI modalities and procedures were adopted and that it review such amendments after the finalization of the JI modalities and procedures.

38. The JISC also recommends that the SBI consider what provisions could be updated to leverage the experience of newer UNFCCC constituted bodies.

3. Recommendation regarding the previous decisions of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol on joint implementation

39. Based on the analysis in paragraphs 27–32 above, the JISC recommends that the SBI ensure that the mutatis mutandis application of previous decisions relating to JI is properly delineated and excludes decisions and paragraphs that should not be applied to JI under the JI modalities and procedures.

Annex

Marked-up version of the current rules of procedure of the Joint Implementation Supervisory Committee

The following text is a marked-up version of the current applicable rules of procedure of the Joint Implementation Supervisory Committee with the changes that would be necessary if the draft joint implementation modalities and procedures were adopted in their current form. Additions are highlighted and deletions are shown as strikethrough text.

Rules of procedure of the Joint Implementation Supervisory Committee

I. Scope

Rule 1

These rules of procedures shall apply to all activities of the Joint Implementation Supervisory Committee undertaken in accordance with decisions ~~16/CP.7 and 9/CMP.1/~~ X/CMP.12, and the annexes thereto on ~~modalities and procedures~~ guidelines for the implementation of Article 6 of the Kyoto Protocol as well as any other relevant decisions.

II. Definitions

Rule 2

For the purpose of these rules:

1. “Joint implementation ~~guidelines~~ modalities and procedures” (JI modalities and procedures) means ~~guidelines~~ modalities and procedures for the implementation of Article 6 of the Kyoto Protocol contained in the annexes to decisions ~~16/CP.7 and 9/CMP.1~~ X/CMP.12;
2. “UNFCCC” means the United Nations Framework Convention on Climate Change;
3. “~~COP/MOP~~ CMP” means the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol;
4. “JI” means the mechanism referred to in Article 6 of the Kyoto Protocol;
5. “Joint implementation activity” (JI activity) is an activity pursuant to Article 6 of the Kyoto Protocol that reduces anthropogenic emissions of greenhouse gases (GHGs) by sources or enhances anthropogenic removals of GHGs by sinks.
6. “Joint Implementation Supervisory Committee” is the committee established by decision ~~10/CMP.1~~ X/CMP.12 and the name given by that decision to the Article 6 Supervisory Committee as defined in the Joint Implementation ~~guidelines~~ adopted modalities and procedures by decision ~~9/CMP.1~~ adopted through the annex to decision X/CMP.12. Throughout these Rules, “[Joint Implementation] Supervisory Committee” has replaced “Article 6 Supervisory Committee” when the Joint Implementation ~~guidelines~~ are cited;
7. An “emission reduction unit” is a unit issued pursuant to Article 6 of the Kyoto Protocol and requirements under the Kyoto Protocol, including the relevant provisions of these modalities and procedures as amended or replaced from time to time, and is equal to one metric tonne of carbon dioxide equivalent, calculated using global warming potentials defined by decision 4/CMP.7 or as subsequently revised in accordance with Article 5 of the Kyoto Protocol.
8. “Chair” and “Vice-Chair” mean the members of the Joint Implementation Supervisory Committee elected as Chair and Vice-Chair by the Committee;
9. “Member” means member of the Joint Implementation Supervisory Committee;
10. ~~“Alternate member” means alternate member of the Committee;~~

11. “Secretariat” means the secretariat referred to in Article 14 of the Kyoto Protocol and paragraph 19 32 of the JI guidelines modalities and procedures;

12. “Stakeholders” means the public, including individuals, groups or communities affected, or likely to be affected, by the project JI activity;

13. For the purpose of rules 21 20 and 22 21, Parties to the Convention that are not Parties to the Kyoto Protocol may exercise the same rights as all other observers.

III. Members and alternate members

A. Nomination, election and re-election

Rule 3

Paragraph 16 4 of the JI guidelines modalities and procedures:

The {Joint Implementation} Supervisory Committee shall comprise 40 20 members from Parties to the Kyoto Protocol, as follows:

- (a) ~~Three~~ Six members from Parties included in Annex I that are undergoing the process of transition to a market economy;
- (b) ~~Three~~ Six members from Parties included in Annex I not referred to in subparagraph (a);
- (c) ~~Three~~ Six members from Parties not included in Annex I;
- (d) ~~One~~ Two members from the small island developing States.

Rule 4

Paragraph 17 5 of the JI modalities and procedures guidelines:

1. Members, including alternate members, of the {Joint Implementation} Supervisory Committee shall be nominated by the relevant constituencies referred to in paragraph 4 X 14 {of the JI guidelines} modalities and procedures and be elected by the COP/MOPMP. For the first year of operation of the Joint Implementation Supervisory Committee, the CMP shall elect to the Joint Implementation Supervisory Committee 10 members for a term of two years and 10 members for a term of one year. Members for the initial one-year term shall be selected proportionately from the groups referred to in paragraph 14 above. Thereafter, the CMP shall elect every year 10 new members for a term of two years. Members shall remain in office until their successors have been elected. The COP/MOPCMP shall elect to the {Joint Implementation} Supervisory Committee five ten members and five alternate members for a term of two years and five ten members and five alternate members for a term of three years. Thereafter, the COP/MOPCMP shall elect every year, ten five new members and five alternate members for a term of two years. Appointment pursuant to paragraph 12 23 X {of the Joint Implementation guidelines} modalities and procedures shall count as one term. The members and alternate members shall remain in office until their successors are elected.

Paragraph 186 of the JI guidelines modalities and procedures:

2. Members of the {Joint Implementation} Supervisory Committee may be eligible to serve a maximum of ~~three~~ consecutive terms. ~~Terms as alternate members do not count.~~

Paragraph 21(a), (b) and (e) 40 (aX) and (d) of the JI guidelines modalities and procedures:

3. ~~Each member~~ Members, including alternate members, of the {Joint Implementation} Supervisory Committee shall:

(a) Serve in his or her personal capacity;

(b) Have experience and competence in developing policy and strategy within regulatory processes, including in the development or implementation of GHG market mechanisms, and shall possess an understanding of business perspectives regarding investment in the environmental field;

(c) ~~Refrain from participating in the consideration of and decision making on subjects in relation to which he or she has a real or perceived conflict of interest, including in relation to specific host Parties or JI activities;~~

(a) ~~Serve in their personal capacities and shall have recognized competence relating to climate change issues and in relevant technical and policy fields;~~

(e) Be bound by the rules of procedure of the {Joint Implementation} Supervisory Committee.

4. ~~Alternate members of the Joint Implementation Supervisory Committee may be eligible to serve a maximum of two consecutive terms. If an alternate member is subsequently elected as a member, his or her term(s) as an alternate member does not count towards his/her term as member.~~

54. The term of service of a member, ~~or an alternate member,~~ shall start at the first meeting of the Joint Implementation Supervisory Committee in the calendar year following his/her election and shall end immediately before the first meeting of the Joint Implementation Supervisory Committee in the calendar year in which the term ends.

Rule 5

Paragraph 8 of the Joint Implementation guidelines:

1. ~~The COP/MOP shall elect an alternate member for each member of the {Joint Implementation} Supervisory Committee based on the criteria in paragraphs 4, 5 and 6 {of the Joint Implementation guidelines}. The nomination by a constituency of a candidate member shall be accompanied by a nomination of a candidate alternate member from the same constituency;~~

2. ~~Any reference in these rules to a member shall be deemed to include his/her alternate when such alternate acts for the member.~~

3. ~~In the absence of a member from a meeting of the Committee, his/her alternate shall serve as the member for that meeting.~~

Rule 65

Paragraph 10 (a)X of the Joint Implementation modalities and procedures guidelines:

1. The cost of participation of members and of alternate members from developing country Parties and other Parties eligible under UNFCCC practice shall be covered by the budget for the {Joint Implementation} Supervisory Committee.
2. Funding for participation shall be provided in accordance with the financial regulations of the United Nations and the financial procedures of the UNFCCC.

B. Suspension, termination and resignation

Rule 76

Paragraph 142 X of the JI guidelines modalities and procedures:

1. The {Joint Implementation} Supervisory Committee may suspend and recommend to the COP/MOP/CMP the termination of the membership of a member on certain grounds, of a particular member, including an alternate member, for cause including, inter alia, breach of the conflict of interest provisions, breach of the confidentiality provisions, or a failure to attend two consecutive meetings of the {Joint Implementation} Supervisory Committee without proper justification.

2. Any motion calling for the suspension of, and recommendation to the COP/MOP/CMP to terminate the membership of, a member or an alternate member, shall immediately be put to the vote in accordance with the voting rules in chapter V below. When the motion concerns the suspension of, and recommendation to the COP/MOP/CMP to terminate the membership of, the Chair, the Vice-Chair shall act as the Chair until the voting has been conducted and its result announced.

3. The Joint Implementation Supervisory Committee shall suspend and recommend termination of the membership of a member, or an alternate member, only after the member, or the alternate member, has been afforded the opportunity of a hearing by the Joint Implementation Supervisory Committee in a meeting.

Rule 87

Paragraph 234 X of the JI guidelines modalities and procedures:

1. If a member, or an alternate member, of the {Joint Implementation} Supervisory Committee resigns or is otherwise unable to complete the assigned term of office or to perform the functions of that office, the {Joint Implementation} Supervisory Committee may decide, bearing in mind the proximity of the next session of the COP/MOP/CMP, to appoint another member, or an alternate member, nominated by from the same constituency to replace the said member for the remainder of that member's term/mandate. In such a case, the {Joint Implementation} Supervisory Committee shall take into account any views expressed by the group that had nominated the member.

2. The Joint Implementation Supervisory Committee shall request the relevant constituency to nominate the new member or the new alternate member, to be appointed in accordance with paragraph 1 of this rule.

C. Conflict of interest and confidentiality

Rule 98

~~Paragraph 10 (bX) of the Joint Implementation guidelines:~~

Paragraph 21(c) of the JI modalities and procedures:

Each member shall:

1. Refrain from participating in the consideration of and decision-making on subjects in relation to which he or she has a real or perceived conflict of interest, including in relation to specific host Parties or JI activities.

~~{Members, including alternate members, of the Joint Implementation Supervisory Committee shall} {h}ave no pecuniary or financial interest in any aspect of an Article 6 project activity.~~

2. Members ~~including alternate members,~~ of the Joint Implementation Supervisory Committee shall have no pecuniary or financial interest in any accredited independent entity, or any designated operational entity acting ~~provisionally~~ as an accredited independent entity.

Rule 109

Paragraph ~~21(f) 40 (e) X~~ of the JI ~~guidelines~~ modalities and procedures:

1. ~~{Members including alternate members, of the Joint Implementation Supervisory Committee shall} {t}ake~~ take a written oath of service witnessed by the Executive Secretary of the UNFCCC or his/her authorized representative before assuming his or her duties.

2. The written oath of service shall read as follows:

“I solemnly declare that I will perform my duties as a member/~~alternate member~~ of the Joint Implementation Supervisory Committee honourably, faithfully, impartially and conscientiously.

“I further solemnly declare and promise that I now do not have and shall not have any financial interest in any aspect of joint implementation, including accreditation of independent entities. I will not disclose, even after the termination of my functions, any confidential or proprietary information which is transferred to the Joint Implementation Supervisory Committee in accordance with the modalities and procedures ~~guidelines~~ for the implementation of Article 6 of the Kyoto Protocol, or any other confidential information coming to my knowledge by reason of my duties for the Joint Implementation Supervisory Committee, **either during or after my term of office on the Joint Implementation Supervisory Committee.**

“I will disclose to the Executive Secretary of the United Nations Framework Convention on Climate Change and to the Joint Implementation Supervisory Committee any direct and indirect interest whatsoever that I or my immediate family have in any matter under discussion by the Joint Implementation Supervisory Committee which may constitute a conflict of interest or which may be incompatible with the requirements of integrity and impartiality expected of a member/~~alternate member~~ of the Joint Implementation Supervisory Committee and I will refrain from participating in the consideration of and decision-making on subjects in relation to which I have a real or perceived conflict of interest, including in relation to specific host Parties or joint

implementation activities; in the work of the Joint Implementation Supervisory Committee in relation to any such matter.

“I further solemnly declare and promise that in case of any doubt as to whether there is an issue under the preceding paragraphs of this Declaration I shall disclose the full facts to the Executive Secretary of the United Nations Framework Convention on Climate Change.”

Rule 1110

Paragraph 2140(de) of the JI modalities and procedures guidelines:

Each member shall:

1. ~~S~~{Members, including alternate members, of the Joint Implementation Supervisory Committee shall} {s}subject to their responsibility to the {Joint Implementation} Supervisory Committee, not disclose any confidential or proprietary information coming to his or her knowledge by reason of his or her duties for the Joint Implementation Supervisory Committee, either during or after his or her term of office on the Joint Implementation Supervisory Committee, their knowledge by reason of their duties for the {Joint Implementation} Supervisory Committee. The duty of a member, including an alternate member, not to disclose confidential information constitutes an obligation in respect to that member, including an alternate member, and shall remain an obligation after the expiration or termination of that member’s, including an alternate member’s, function for the {Joint Implementation} Supervisory Committee.

Paragraph 3140 of the JI guidelines modalities and procedures:

31. 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, describe the baseline methodology and its application, and/or support an environmental impact assessment shall not be considered proprietary or confidential.

2. — Information obtained {by members, and alternate members} 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 to support an environmental impact assessment referred to in paragraph 33 (d) {of the Joint Implementation guidelines}, shall not be considered as proprietary or confidential.

D. Officers

Rule 1211

Paragraph 197 of the JI guidelines modalities and procedures:

1. The Joint Implementation Supervisory Committee shall elect a chair and vice-chair annually from among its members. The JISC shall elect a chair and vice chair annually from among its members.1.The {Joint Implementation} Supervisory Committee shall elect annually a Chairperson and

Vice-Chairperson from among its members, with one being from a Party included in Annex I and the other being from a Party not included in Annex I. The positions of Chairperson and Vice-Chairperson shall alternate annually between a member from a Party included in Annex I and a member from a Party not included in Annex I.

2. At the first Committee meeting of each calendar year, the **Joint Implementation Supervisory** Committee shall elect a Chair and a Vice-Chair from among its members. The secretary of the **Joint Implementation Supervisory** Committee as defined in rule 29 ~~30~~ shall preside over the opening of the first Committee meeting of each calendar year and conduct the election of the new Chair and Vice-Chair.

Rule ~~13~~12

1. The Chair and Vice-Chair shall serve in their respective capacities at any meeting of the Joint Implementation Supervisory Committee.
2. If the elected Chair is not able to serve in that capacity for a meeting, the Vice-Chair shall serve as the Chair. If both are unable to serve in their respective capacities, the Committee shall elect a member from among its members present to serve as the Chair for that meeting.
3. If the Chair or Vice-Chair ceases to be able to carry out his or her functions, or ceases to be a member, a new Chair or Vice-Chair shall be elected for the remainder of the term.

Rule 1413

1. The Chair shall preside over the meetings of the Joint Implementation Supervisory Committee as provided for under this rule.
2. In addition to exercising the functions conferred upon the Chair elsewhere by these rules, the Chair shall declare the opening and closing of meetings, preside at meetings, ensure the observance of these rules, accord the right to speak, put questions to the vote and announce decisions. The Chair shall rule on points of order and, subject to these rules, shall have complete control of the proceedings and over the maintenance of order at the meeting.
3. The Chair may propose to the **Joint Implementation Supervisory** Committee a limitation on the time to be allowed to speakers and on the number of times each member may speak on a question, the adjournment or closure of the debate and the suspension or adjournment of a meeting.
4. The Chair, or any other member designated by the **Joint Implementation Supervisory** Committee, shall represent the **Joint Implementation Supervisory** Committee as necessary, including at sessions of the **CMPOP/MOP**.

IV. Meetings

A. Dates

Rule ~~15~~14

Paragraph 209 of the **JI modalities and procedures** guidelines:

The ~~{Joint Implementation}~~ Supervisory Committee shall meet at least ~~twice~~ **twice** times each year, ~~whenever possible in conjunction with the meetings of the subsidiary bodies, unless decided otherwise.~~

Rule ~~16~~15

1. At the first Joint Implementation Supervisory Committee meeting of each calendar year, the Chair shall propose for the approval of the **Joint Implementation Supervisory Committee** a schedule of meetings for that calendar year.
2. If changes to the schedule or additional meetings are required, the Chair shall, after consultations with all members, give notice of any changes in the dates of scheduled meetings, and/or of the dates of additional meetings.

Rule ~~17~~16

1. The Chair shall convene and give notice of the date of each meeting of the Joint Implementation Supervisory Committee, if possible not less than eight weeks prior to the date of such meeting.
2. The secretariat shall promptly notify all those invited to the meeting.

B. Venue

Rule ~~18~~17

Meetings of the Joint Implementation Supervisory Committee held in conjunction with sessions of the subsidiary bodies shall be held at the same location as the sessions of these bodies. Other meetings of the **Joint Implementation Supervisory Committee** shall take place at the location of the secretariat, unless the **Joint Implementation Supervisory Committee** decides otherwise or other appropriate arrangements are made by the secretariat in consultation with the Chair.

C. Agenda

Rule ~~19~~18

1. The Chair, assisted by the secretariat, shall draft the provisional agenda of each meeting of the Joint Implementation Supervisory Committee and transmit a copy of such provisional agenda, agreed upon by the **Joint Implementation Supervisory Committee** at its previous meeting, to all those invited to the meeting.
2. Additions or changes to the provisional agenda of a meeting may be proposed to the secretariat by any member, ~~or alternate member~~ and incorporated in the proposed agenda provided that the member, ~~or alternate member~~, shall give notice thereof to the secretariat not less than four weeks before the date set for the opening of the meeting. The proposed agenda for the meeting shall be transmitted by the secretariat to all those invited to the meeting three weeks before the date set for the opening of the meeting.
3. The **Joint Implementation Supervisory Committee** shall, at the beginning of each meeting, adopt the agenda for the meeting.

4. Any item included on the agenda for a meeting of the Joint Implementation Supervisory Committee, consideration of which has not been completed at that meeting, shall automatically be included on the provisional agenda for the next meeting, unless otherwise decided by the Joint Implementation Supervisory Committee.

D. Documentation

Rule 2019

1. All documentation for a Joint Implementation Supervisory Committee meeting shall be made available to members ~~and alternate members~~ through the secretariat at least two weeks before the meeting.
2. Documentation shall be made publicly available by the secretariat via the Internet soon after transmission to members ~~and alternate members~~. Availability of such documentation shall be subject to confidentiality provisions.

E. Transparency

Rule 2120

Paragraph 28 of the JI modalities and procedures:

The Joint Implementation Supervisory Committee 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.

1. Subject to the need to protect confidential information, the principle of transparency should apply to all the work of the Joint Implementation Supervisory Committee, encompassing the timely public availability of documentation and channels through which external comments by all Parties and all UNFCCC ~~accredited~~-admitted observers and stakeholders can be submitted for consideration by the Joint Implementation Supervisory Committee. The posting of the proceedings of the Joint Implementation Supervisory Committee's meetings on the Internet is one way to ensure transparency.

F. Attendance

Rule 2221

Paragraph 29~~48~~ of the JI ~~guidelines~~ modalities and procedures:

1. Meetings of the ~~Joint Implementation~~ Supervisory Committee shall be open to attendance, as observers, by all Parties and ~~by all UNFCCC~~-admitted ~~accredited~~ observers and stakeholders, except where otherwise decided by the ~~Joint Implementation~~ Supervisory Committee ~~on the grounds of confidentiality~~.

2. In the context of paragraph 1 above, the Joint Implementation Supervisory Committee may decide, in the interests of economy and efficiency, to limit physical attendance at its meetings to members ~~alternate members~~ and secretariat support staff. In such instances, the Committee shall take all practicable steps to accommodate in other ways the interests of Parties, non-Parties to the Kyoto Protocol that are Parties to the Convention and ~~accredited~~ UNFCCC.

admitted observers and stakeholders to observe its proceedings, except when the Joint Implementation Supervisory Committee decides to close all or a portion of a meeting.

3. Observers may, upon invitation by the Joint Implementation Supervisory Committee, make presentations relating to matters under consideration by the Joint Implementation Supervisory Committee.

G. Quorum

Rule 23~~22~~

Paragraph 14~~24~~ of the JI guidelines modalities and procedures:

~~At least two thirds of the members of the {Joint Implementation} Supervisory Committee, representing a majority of members from Parties included in Annex I and a majority of members from Parties not included in Annex I, must be present to constitute a quorum.~~

At least [two] [one] third[s] [half] of the members of the Joint Implementation Supervisory Committee representing a majority of members from Parties included in Annex I and a [majority] [quarter] of members from Parties not included in Annex I must be present to constitute a quorum.

V. Voting

Rule 24~~23~~

Paragraph 15~~25~~ of the JI guidelines modalities and procedures:

1. Decisions by the {Joint Implementation} Supervisory Committee shall be taken by consensus, whenever possible. If all efforts to reach ~~at reaching~~ a consensus have been exhausted and no agreement has been reached, decisions shall as a last resort be adopted by a ~~two-thirds~~ ~~three-fourths~~ majority vote of the members present and voting at the meeting. Members abstaining from voting shall be considered as not voting.

2. The Chair shall ascertain whether consensus has been reached. The Chair shall declare that a consensus does not exist if there is a stated objection by a member of the Joint Implementation Supervisory Committee ~~or by an alternate member acting for a member~~ to the proposed decision under consideration.

3. Each member shall have one vote.

4. ~~Alternate members may participate in the proceedings of the Committee without the right to vote. An alternate member may cast a vote only if acting for the member.~~

Rule 25~~24~~

1. Whenever, in the judgement of the Chair, a decision must be taken by the Joint Implementation Supervisory Committee which cannot be postponed until the next meeting of the Committee, the Chair shall transmit to each member a proposed decision, with an invitation to approve the decision by consensus. Together with the proposed decision, the Chair shall provide, subject to the applicable confidentiality requirements, the relevant facts that, in the Chair's judgement, justify decision-making pursuant to this rule 24~~5~~. The proposed decision shall be

transmitted in the form of an electronic message through the listserv of the Joint Implementation Supervisory Committee. A quorum of the Joint Implementation Supervisory Committee is required to confirm the receipt of the message. ~~Such message shall also be transmitted to alternate members for information.~~

2. ~~Members, and/or alternate members,~~ shall be given two weeks from the date of receipt of the proposed decision for comments. These comments shall be made available to members ~~and alternate members~~ via the Committee listserv.

3. At the expiration of the period referred to in paragraph 2 above, the proposed decision shall be considered approved if there is no objection by any member. If an objection is raised, the Chair shall include consideration of the proposed decision as an item on the proposed agenda for the next meeting of the Committee and inform the Committee accordingly.

4. Any decision made using the procedure specified in paragraphs 1 to 3 of this rule shall be included in the report of the Committee at its next meeting and shall be deemed to have been taken at the seat of the UNFCCC secretariat in Bonn, Germany.

VI. Languages

Rule 26~~25~~

Paragraph 16 of the Joint Implementation guidelines:

1. ~~———— The full text of all decisions of the {Joint Implementation} Supervisory Committee shall be made publicly available. Decisions shall be made available in all six official languages of the United Nations.~~

Paragraph 27~~47~~ of the JI guidelines: modalities and procedures:

2. The working language of the {Joint Implementation} Supervisory Committee shall be English.

VII. Expertise

Rule 27~~26~~

Paragraph 43~~0~~ of the JI guidelines: modalities and procedures:

1. The {Joint Implementation} Supervisory Committee ~~may delegate functions to the secretariat and to panels, set up by the Joint Implementation Supervisory Committee to support its work, and otherwise shall draw on the technical expertise necessary to perform its functions, in particular taking into account national accreditation procedures.~~

2. ~~———— The Committee may establish subcommittees, panels or working groups to assist it in performing its functions.~~

VIII. Secretariat

Rule 2827

Paragraph 3249 of the JI ~~guidelines~~: modalities and procedures:

The secretariat shall service the ~~{Joint Implementation}~~ Supervisory Committee.

Rule 2928

The Executive Secretary of the UNFCCC shall arrange for the provision of staff and services required for the servicing of the Joint Implementation Supervisory Committee from within available resources. The Executive Secretary shall manage and direct such staff and services and provide appropriate support and advice to the Committee.

Rule 3029

An official of the secretariat designated by the Executive Secretary shall serve as secretary to the Joint Implementation Supervisory Committee.

Rule 3130

In addition to the functions specified in the JI modalities and procedures ~~guidelines~~ and/or any subsequent decision by the ~~COP/MOP~~, the secretariat shall, in accordance with these rules, and subject to the availability of resources:

- (a) Receive, reproduce and distribute to members ~~and alternate members~~ the documents of a meeting;
- (b) ~~Receive and translate decisions into all six official languages of the United Nations and~~ ~~m~~Make publicly available the full texts of all decisions of the Joint Implementation Supervisory Committee;
- (c) Assist the Committee in fulfilling tasks relating to the maintenance of files and the collection, processing and public availability of information;
- (d) Perform all other work that the Committee may require.

Rule 3231

The financial regulations of the United Nations and the financial procedures of the UNFCCC shall apply.

IX. Conduct of business

Rule 3332

The Joint Implementation Supervisory Committee shall undertake any tasks assigned to it by decision ~~x/CMP.1246/CP.7~~, in accordance with the JI modalities and procedures ~~guidelines~~, and by any subsequent decision taken by the ~~COP/MOP~~ ~~CMP~~.

Rule 3433

1. The Joint Implementation Supervisory Committee, and the secretariat, in its mandated role of support to the Committee, may use electronic means for transmission and storage of documentation.
2. The documentation submitted using electronic means is subject to the transparency and confidentiality provisions of the JI guidelines modalities and procedures. In submitting any documentation through electronic means (e.g. the UNFCCC JI website), the submitter shall acknowledge that he or she has read the relevant procedures and agrees to be bound by the terms and conditions of submission of documentation, including with respect to the submitter's sole responsibility for the content of his or her submission and the waiver of all claims associated with use of electronic means of submitting and transmitting documentation.
3. The Committee shall not be made responsible for any claim or loss arising from the transmission, storage or use of documentation obtained through electronic means. Neither the confidentiality nor the integrity of the documentation submitted can be guaranteed following electronic transmission and storage.

X. Record of the meeting

Rule 3534

Before the end of each meeting, the Chair shall present draft conclusions and decisions of the meeting for consideration and approval by the Joint Implementation Supervisory Committee. Any written records of the Committee or recordings of proceedings shall be kept by the secretariat in accordance with United Nations rules and regulations.

XI. Amendments to the rules

Rule 3635

Paragraph 73 (e) of the JI modalities and procedures guidelines:

1. ~~{The Joint Implementation Supervisory Committee shall elaborate be responsible for} (t)he elaboration of any its rules of procedure for consideration by the CMP and subsequently recommend to the CMP any revisions to such rules additional to those contained in the {Joint Implementation guidelines}, for consideration by the COP/MOP.~~

2. Further to any action under paragraph 1 of this rule, the Committee may also make recommendations to the COP/MOP on any amendments or additions to the rules of procedure of the Committee.