

29 November 2012

New Zealand inputs on eligibility to participate in the Kyoto Protocol flexibility mechanisms

This paper is in two parts. The first contains text proposals on eligibility to access the Kyoto Protocol flexibility mechanisms with effect from 1 January 2013. The second, a non-paper, provides a method for amending any text proposal on eligibility to enable broad access to participate in the mechanisms.

New Zealand Text Proposals on Eligibility

Proposed revisions to paragraphs regarding participation in the flexibility mechanisms in the annexes to decision 3/CMP.1, 9/CMP.1 and 11/CMP.1 to enable all Annex I Parties to the Kyoto Protocol (i.e. with or without commitments inscribed in Annex B for the second commitment period) to continue using the flexibility mechanisms during the second commitment period, beginning from 1 January 2013.

Clean Development Mechanism

Decides that, subject to the provisions of paragraph 32(b) of the annex to decision 3/CMP.1, a Party included in Annex I¹ shall be considered to continue to be eligible, including for the period between 1 January 2013 and the entry into force for that Party of the amendments establishing the second commitment period from 1 January 2013, to be issued CERs, in accordance with the relevant provisions, and to use such CERs, [to contribute to compliance with part of its commitment under Article 3 or target under the Convention,] if it is in compliance with the eligibility requirements in subparagraph (a) and subparagraphs (c) to (e) of paragraph 31 of the annex to decision 3/CMP.1 and, for a Party whose assigned amount has been calculated and recorded for the second commitment period, also with subparagraph (f) of paragraph 31 of the annex to decision 3/CMP.1. The second sentence of subparagraph (e) of paragraph 31 of the annex to decision 3/CMP.1 shall be extended to apply to the second commitment period.

Joint implementation

Also decides that, subject to the provisions of paragraph 22(b) of the annex to decision 9/CMP.1, a Party included in Annex I shall be considered to continue to be eligible to transfer and/or acquire ERUs, issued in accordance with the relevant provisions, if it is in compliance with the eligibility requirements in subparagraph (a) and subparagraphs (c) to (e) of paragraph 21 of the annex to decision 9/CMP.1 and, for a Party whose assigned amount has been calculated and recorded for the second commitment period, also with subparagraph (f) of paragraph 21 of the annex to decision 9/CMP.1. The second sentence of subparagraph (e) of paragraph 21 of the annex to decision 9/CMP.1 shall be extended to apply to the second commitment period.

¹ For the purposes of this decision, “a Party included in Annex I” includes all Annex I Parties to the Kyoto Protocol, with or without commitments inscribed in Annex B for the second commitment period, notwithstanding any provisions in decisions 2/CMP.1, 3/CMP.1, 9/CMP.1 and 11/CMP.1 applicable to Annex I Parties with commitments inscribed in Annex B.

International emissions trading

Decides that, subject to the provisions of paragraph 3(b) of the annex to decision 11/CMP.1, a Party included in Annex I shall be considered to continue to be eligible to transfer and/or acquire ERUs, CERs, AAUs, or RMUs, issued in accordance with the relevant provisions, if it is in compliance with the eligibility requirements in subparagraph (a) and subparagraphs (c) to (e) of paragraph 2 of the annex to decision 11/CMP.1 and, for a Party whose assigned amount has been calculated and recorded for the second commitment period, also with subparagraph (f) of paragraph 2 of the annex to decision 11/CMP.1. The second sentence of subparagraph (e) of paragraph 2 of the annex to decision 11/CMP.1 shall be extended to apply to the second commitment period.

Further decides that paragraphs 6 to 9 of the annex to decision 11/CMP.1 and other provisions related to the operation of the commitment period reserve shall only apply to the transfer and/or acquisition of ERUs, CERs, AAUs, or RMUs by a Party whose assigned amount has been calculated and recorded for the second commitment period.

New Zealand Non-paper on Eligibility

Method for text revisions to enable access to the flexibility mechanisms for all Annex I Parties to the Kyoto Protocol, with or without quantified emission limitation and reduction commitments for the second commitment period

This note outlines what revisions would be required to any text proposal regarding the flexibility mechanisms to make it applicable to **all** Kyoto Protocol Annex I Parties (i.e. both with and without a quantified emission limitation and reduction commitments (QELRC) inscribed in Annex B for the second commitment period (CP2)). This approach retains the same standards of transparency and environmental integrity as are currently implemented under the Kyoto Protocol. We have separately submitted text proposals on access to all of the mechanisms.

2 Such an approach could be applied to the clean development mechanism, international emissions trading and joint implementation, to the extent possible, given that Annex I Parties without commitments inscribed in Annex B for CP2 would not issue CP2 assigned amount units (AAUs). Such Parties could only be eligible to acquire or transfer AAUs from other Kyoto Parties. In relation to joint implementation, the approach outlined in this note and the attached text proposals does not seek to address the issues and possible solutions identified by the Joint Implementation Supervisory Committee (JISC) in relation to the issuance of emission reduction units (ERUs) prior to the establishment of assigned amounts and AAU issuance for CP2.

3 Annex I Parties without commitments inscribed in Annex B for CP2 could, in practice, meet the same eligibility criteria that Annex I Parties with commitments inscribed in Annex B for CP2 could meet in the period before assigned amounts are established. These are set out in the following sub-paragraphs to paragraph 31 of the annex to decision 3/CMP.1, paragraph 21 of the annex to decision 9/CMP.1 and paragraph 2 of the annex to decision 11/CMP.1:

- (a) It is a Party to the Kyoto Protocol
- (c) It has in place a national system for the estimation of anthropogenic emissions by sources and anthropogenic removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, in accordance with Article 5, paragraph 1, and the requirements in the guidelines decided thereunder
- (d) It has in place a national registry in accordance with Article 7, paragraph 4, and the requirements in the guidelines decided thereunder

- (e) It has submitted annually the most recent required inventory, in accordance with Article 5, paragraph 2, and Article 7, paragraph 1, and the requirements in the guidelines decided thereunder, including the national inventory report and the common reporting format. For the first commitment period, the quality assessment needed for the purpose of determining eligibility to use the mechanisms shall be limited to the parts of the inventory pertaining to emissions of greenhouse gases from sources/sector categories from Annex A to the Kyoto Protocol and the submission of the annual inventory on sinks

4 Prior to the establishment of assigned amounts, no Annex I Party, with or without a commitment inscribed in Annex B for CP2, would be able to meet criteria that depend on having an assigned amount calculated and recorded for CP2. These may include the following sub-paragraphs of paragraph 31 of the annex to decision 3/CMP.1, paragraph 21 of the annex to decision 9/CMP.1 and paragraph 2 of the annex to decision 11/CMP.1:

- (b) Its assigned amount pursuant to Article 3, paragraphs 7 and 8, has been calculated and recorded in accordance with decision 13/CMP.1;
- (f) It submits the supplementary information on assigned amount in accordance with Article 7, paragraph 1, and the requirements in the guidelines decided thereunder and makes any additions to, and subtractions from, assigned amount pursuant to Article 3, paragraphs 7 and 8, including for the activities under Article 3, paragraphs 3 and 4, in accordance with Article 7, paragraph 4, and the requirements in the guidelines decided thereunder.

5 It would also include the provisions relating to the commitment period reserve, principally in sub-paragraphs 6 – 10 of the annex to decision 11/CMP.1. Annex I Parties without a commitment inscribed in Annex B for CP2 would also not be able to meet criteria that depend on having such a commitment. However, we consider that the criteria concerning assigned amounts are relevant to the use of units to meet a legally-binding emissions reduction commitment, but add no additional environmental integrity to the issuance of CERs, transfer or acquisition of Kyoto units, and are therefore not required for these activities to continue.

6 In order to make any text proposal on the key decisions (2/CMP.1, 3/CMP.1, 9/CMP.1, 11/CMP.1) regarding the flexibility mechanisms applicable to all Annex I Parties (including those without commitments inscribed in Annex B) for CP2, the following revisions would likely be required:

- Delete any requirement to have a commitment inscribed in Annex B for the second commitment period *or* add as an alternative a requirement to have a target under the Convention.

- Delete provisions relating to the use of the units towards compliance with a commitment under Article 3 of the Kyoto Protocol *or* add as an alternative that the units may be used towards a target under the Convention.
- As is necessary for Annex I Parties with commitments inscribed in Annex B for CP2 prior to the establishment of their assigned amounts, remove the requirement to have an assigned amount calculated and recorded. The requirement to provide supplementary information on assigned amount may not be able to be fully met. Annex I Parties without commitments inscribed in Annex B for CP2 may be able to provide equivalent reporting on their unit holdings.
- As for Annex I Parties with commitments inscribed in Annex B for CP2 prior to the establishment of assigned amounts, the provisions relating to the commitment period reserve, principally in paragraphs 6 – 10 of the annex to decision 11/CMP.1, would not apply to Annex I Parties without commitments inscribed in Annex B for CP2 as they will not have assigned amounts or issue AAUs during the second commitment period.
- The arrangements for Annex I Parties without commitments inscribed in Annex B would be for the entire second commitment period, rather than just the period prior to the establishment of assigned amounts.
- As for Annex I Parties with commitments inscribed in Annex B for CP2, the eligibility established in the first commitment period would continue, unless the Party was found to be out of compliance.²

7 Annex I Parties without commitments inscribed in Annex B for CP2 would be able to meet the other eligibility requirements, to the extent possible without a QELRC or assigned amount for CP2.

² Consistent with sub paragraphs (b) of paragraph 32 of the annex to decision 3/CMP.1, sub paragraph (b) of paragraph 22 of the annex to decision 9/CMP.1 and sub paragraph (b) of paragraph 3 of the annex to decision 11/CMP.1.