

Subject: Submission to the UNFCCC secretariat: Views by the International Emissions Trading Association (IETA) and the Project Developer Forum (PD-Forum) on the revision of the joint implementation (JI) guidelines

16 April 2012

Office of the Executive Secretary

UNFCCC Secretariat
Martin Luther King Strasse 8
P.O. Box 260124
D-53153 Germany

Dear Ms Diouf,

We write to you in response to the invitation by the Conference of the Parties serving as the Meeting of the Parties (CMP) at its seventh session for admitted observer organizations to submit views on the revision of the joint implementation (JI) guidelines, taking into account experience of implementing the mechanisms under the Kyoto Protocol, including national guidelines, and the recommendations by the JI Supervisory Committee (JISC) on options for building on the approach embodied in joint implementation (Decision 11/CMP.7, paragraph 14).

This letter constitutes a joint submission by International Emissions Trading Association (IETA) and the Project Developer Forum (PD-Forum) on private sector views on the revision of the JI guidelines, including experience with JI thus far and future prospects of the mechanism.

When the CMP considers options and ways for increasing ambition and further action it will be critical to consider the view of the private sector, who will likely be expected to contribute considerably to identifying, financing and implementing mitigation action in the future.

This submission builds heavily on the IETA Response to the call for input on the JISC's "Draft Recommendations on Options for Building on the Approach Embodied in Joint Implementation"¹ from June 2011.

ABOUT IETA AND PD-FORUM

IETA is dedicated to the establishment of market-based trading systems for greenhouse gas emissions that are demonstrably fair, open, efficient, accountable, and consistent across national boundaries. IETA has been the leading voice of the business community on the subject of emissions trading since 2000. Our member companies include some of the world's largest industrial and financial corporations, as well as leading firms in the data

¹ Available at: http://ji.unfccc.int/CallForInputs/draft_rec_cmp/cfi/ieta.pdf

IETA - Climate Challenges, Market Solutions



verification and certification, brokering and trading, offset project development, legal, and consulting industries.

The PD-Forum is the biggest grouping of investors in emission reduction projects. Our members have on-the-ground experience in investing and implementing clean technology projects throughout the developing world.

OVERARCHING SUPPORT TO JI POST-2012

IETA and PD-Forum welcome this opportunity to:

- study JI's evolution over the past 14 years from a few early paragraphs in the Kyoto Protocol to a fully functioning mechanism delivering hundreds of millions of tons of emission reductions, and;
- explore the accumulated capacity, insights and lessons for further improvement of JI to increase its efficiency and broaden and diversify its scope, and for the development of new climate financial flows, including new market-based mechanisms based on JI.

IETA and PD-Forum agree with the JISC that JI is at a crossroads with much untapped potential under the current approach and the need for significant changes in the set-up of JI to realize its full potential and to secure its relevance as a mitigation tool beyond 2012.

IETA and PD-Forum believe that the underlying concept of JI is very strong and will prove increasingly useful as more and more countries move towards sectoral and economy-wide emissions caps. The benefits of JI that were discussed in IETA's position paper in 2009² remain valid today.

IETA and PD-Forum believe that JI has a critical role to play in supporting low-carbon investment and in driving emission reduction activities, including the development, deployment, and diffusion of low-carbon technology, especially within capped countries or sectors that are not covered by domestic cap-and-trade schemes. JI provides flexibility for governments to meet their Kyoto commitments and fosters the use of carbon markets in areas of the economy that may have been considered too small or too difficult to access previously.

Equally as important, JI provides an avenue through which the private sector – the engines of developed and developing country economies alike – is able to become directly and proactively involved in efforts to reduce emissions, bringing a level of efficiency and ingenuity to the task, which is rarely matched by governments. This has been demonstrated by the volumes of emission reductions achieved through JI and the CDM to date which far exceed the initial expectations.

² Available at:

http://www.ieta.org/index.php?option=com_content&view=article&catid=25%3Aarchived-position-papers&id=239%3Aieta-position-paper%3A-the-joint-implementation-mechanism-post-2012&Itemid=107



IETA and PD-Forum support the continuation of JI into a second commitment period of the Kyoto Protocol, as well as the expansion and encouragement of emission reduction projects in capped environments under whatever post-2012 international climate regime the Parties agree to create. We agree with the JISC that the purpose of JI is to provide a common basis for countries with quantified emission targets to collaborate in the mitigation of climate change and that, at a minimum, it requires compatible accounting standards and procedures among participating countries.

A discussion about post-2012 JI should, therefore, focus on creating a mechanism that could serve *any* capped environment, as long as the caps meet basic eligibility criteria (for example, they have been internationally recognized under the UNFCCC) and are accompanied by the use of compatible accounting standards and the other relevant procedures.

A significant amount of work has been invested in the creation of the JI system, and, in IETA's and PD-Forum's view, the institutional and legal infrastructure already in place should be further developed, not discarded (and note the same infrastructure will be required for any new mechanisms developed under the Durban Platform). Negotiators should provide clear signals to project developers and other investors that JI projects will still be viable in the post-2012 period. They should then move to reform and expand the JI mechanism in a way that provides greater guidance to host countries and project participants, a clearer role for the JISC, and permits the use of JI as a transition mechanism for countries as they first accept binding emissions caps, then implement and extend climate change policies such as cap-and-trade systems.

Against this backdrop, IETA and PD-Forum urge the CMP to send a strong signal about their intention to maintain the functioning of JI during a second commitment period of the Kyoto Protocol and to create a similar mechanism (or continue JI) under a new post-2012 international climate regime. IETA and PD-Forum also believe that the Parties should move quickly to provide for the operation of JI in the event of a gap between the first and possible second commitment periods of the Kyoto Protocol. Hence, IETA and PD-Forum fully support JISC's vision for JI post-2012 and the ambitious timelines of its business plan, as adopted at the twenty-eighth JISC meeting in March 2012.

The CMP should confirm that JI projects that have achieved registration before the end of the first commitment period are fully eligible to continue issuing credits until the end of the operational lifetime of the project or the end of the second commitment period, whichever comes first, at least in host countries that have adopted new national targets under the second commitment period of the Kyoto Protocol.

The CMP should also confirm that the introduction of revised JI guidelines should not impact the eligibility of those JI projects that were registered before the new JI guidelines came into effect.



RECOMMENDED EVOLUTION OF JI

Verification Process

IETA and PD-Forum believe that, under the current two-track approach, both tracks have proven to have their own advantages and disadvantages. IETA and PD-Forum have noticed that Track 2 has set the standard for JI as a whole; Track 1 procedures in many host countries make extensive use of Track 2 modalities and procedures, as well as independent entities accredited by the JISC. On the other hand, Track 1 offers flexibility to tailor JI to fit national policies and circumstances, promoting, *inter alia*, early action, streamlined procedures and programmatic approaches.

IETA and PD-Forum support the proposal for a single, unified track in JI but we think that the newly unified mechanism should maintain the best of both tracks, and therefore should differ from the current Track 2 process. IETA and PD-Forum believe that further consultation is needed with stakeholders and Parties to fully consider the necessary elements for the project cycle under a single-track verification process.

At a minimum, the current flexibility of host countries under Track 1 to use JI as a policy instrument must be maintained while also reducing the knowledge barriers and transaction costs for project developers and participants involved in multiple countries and increasing transparency.

IETA and PD-Forum believe that the JI governing body should work very closely with host countries to develop best practice guidelines for determination and verification requirements that go as far as possible to meet the needs of all host countries. **Some elements of those guidelines should be binding and some non-binding, and IETA and PD-Forum believe that the Parties and the JISC should undertake further consultation with Parties and stakeholders to determine which elements need to be binding to improve the efficiency, transparency, and environmental integrity of the mechanism.** The non-binding elements should be considered “best practice guidance” and should at least include guidance on the national approval procedures, including number of stages, required documents, processing times, etc. Countries should have the ability to tweak the procedures in their countries where necessary to meet their policy objectives but alignment with the best practice guidance should be strongly encouraged.

IETA and PD-Forum point out that the use of standardized baselines under JI is already possible and should remain so. The further development and use of standardized baselines under JI does not require CMP action and can be addressed at the level of the JISC or any new body with which the JISC is replaced. IETA and PD-Forum believe that the issue of additionality should be significantly reconsidered at the level of the CMP. It should be considered whether the complex and high-cost of project-by-project demonstration of additionality is necessary in a new operational model for JI in the view of the original rationale for it and experience in the first commitment period. Net emission reductions should result in an equivalent number of AAUs being converted into ERUs and transferred



to a buyer. Additionality should only be a consideration in situations where emission caps are not in place and enforced.³

Given the operation of JI within a capped environment, it should be the host countries' prerogative to decide whether there is a need to make an additionality determination. IETA and PD-Forum suggest that such a determination could be on the basis of – but not limited to – a positive list of technologies defined by the host country. To promote innovation, the private sector should be allowed to seek crediting of mitigation activities also outside positive lists in accordance with relevant procedures and criteria.

The single verification process will increase the likelihood of it being utilized as a basis for providing domestic offsets within domestic emission trading systems if it strikes an appropriate balance between flexibility and adherence to high standards of transparency and environmental integrity. Exporting countries need to feel that it is a good fit with their emission reduction needs and importing countries need to feel comfortable allowing its credits into their emission trading systems.

Governing Body

IETA and PD-Forum agree that a new governing body for the single verification process will be required. We see one major change for this governing body in that it should avoid involvement in the considerations of individual projects and, instead, focus on supervising the accreditation process; developing standards and principles in baseline setting, monitoring, etc; managing the JI Registry; and supervising issuance. Following the authorization of the project by the host party, a positive determination by the Accredited Independent Entity (AIE) should lead directly to registration and a positive verification should lead directly to issuance. There should be no duplication of roles.

IETA and PD-Forum believe that members of the governing body should act in their individual capacities. Parties should be encouraged to nominate representatives of the business community on the governing body as regular members of the body in their personal capacities. It is important to note that representatives of the business community currently serve on the JISC and have made valuable contributions to the development of JI since its inception. We believe that the same should continue.

IETA and PD-Forum believe that two good options are available to ensure the separation of powers between the function of setting standards/procedures and the function of providing impartial oversight over the conformity of national JI implementation with those standards/procedures. Either the governing body could create subordinate bodies tasked with undertaking the technical work of setting standards/procedures and enforcing standards/procedures, with the governing body providing high level guidance on both, or

³ Additionality is closely tied with the approach to baseline setting, which is currently defined based on the most plausible scenario in the absence of the Kyoto mechanisms. This approach is justified in the CDM, but could be altered under JI as countries with emissions caps have and continue to improve their national GHG inventory systems. IETA suggests that the CMP and JISC consider using an approach to the establishment of project baselines and project monitoring that is more in line with the approach to set emission caps and undertake GHG accounting at the country level.



the governing body itself could be separated into two committees, one to set standards/procedures and the other to provide oversight.

IETA and PD-Forum strongly believe that the governing body should perform the accreditation functions on behalf of all Parties participating in JI. IETA and PD-Forum members are concerned over the lack of interest among auditors to seek JI accreditation. The limited availability of AIEs could lead to near-monopolization of JI auditing market and thus harm the efficiency of the mechanism. A unification of CDM and JI accreditation could increase the efficiency and decrease the costs of accreditation, and consequently, of both mechanisms. However, we believe that the CDM and JI are separate mechanisms with different functions and should remain so. IETA and PD-Forum members have noticed that AIEs that have teams dedicated to JI tend to better understand the mechanism and be more familiar with, and open to JI-specific approaches. In cases where determination is performed by auditors who mainly focus on CDM projects, IETA and PD-Forum member companies have observed that CDM requirements are often unnecessarily applied to JI projects and the use of approved CDM methodologies is insisted upon. Therefore, while there are similarities, and efficiencies and cost reductions in accreditation need to be achieved, to secure the efficient functioning of JI, it is critical that auditors that engage in both CDM and JI auditing are fully aware of the differences and similarities between CDM and JI processes and criteria. The possibility to directly communicate with the governing body of JI would be useful in resolving differences in interpretation between JI Project Participants and the AIE.

The governing body should assume responsibility for the authorization of the conversion of AAUs into ERUs and their subsequent issuance. Such a responsibility will have more impact by (a) ensuring that AIE certification leads directly to issuance without further involvement by the governing body or host country and (b) setting up a set-aside of AAUs for approved JI projects (see further explanation below). IETA and PD-Forum member companies believe that issuance has been one of the main bottlenecks of the JI process and a disincentive to participate in the mechanism. Changing the rules for issuance in this way would alleviate much of their concern by ensuring that issuance takes place in a timely manner once emission reductions have been verified for projects that have been authorized by the host country and received a final determination from an AIE. This change will be very important to ensure that greater investments flow through the JI mechanism post-2012.

IETA and PD-Forum believe that there is a need for further consultation on the issue of appeals under post-2012 JI, and that the decision on whether and where to place an appeals body will be based largely on the final distribution of decision-making power under JI, among the governing body, host country and AIE. IETA and PD-Forum believe that it is very likely that a multi-level appeals process would be necessary to ensure that host countries, AIEs and project participants all have access to recourse for decisions taken against them. IETA and PD-Forum believe that it will likely not be appropriate that such an appeals mechanism builds upon appeals processes for other offset credit systems at the international level, for example that currently under consideration for the CDM, but we remain open to further consideration of this suggestion once the final distribution of decision-making power is decided.



IETA and PD-Forum do not see a strong need for the current vocabulary of JI to be aligned with other project-based mechanisms but would not oppose doing so.

National Project Approval

IETA and PD-Forum agree with the JISC that only the Host Party of a project be required to give its national approval. As explained previously, IETA and PD-Forum believe that the governing body should issue “best practice guidance”, which should include guidance on the national approval procedures, including number of stages, required documents, processing times, etc. Host countries should still be able to determine the types of projects that they deem eligible to be undertaken in their territory, however, and to tweak the procedures if necessary within their country. Any eligibility criteria or positive or negative lists of project types/technologies should be made public by the host countries, however. **IETA and PD-Forum agree with the JISC that, upon project approval by the host country and positive determination by an AIE, host Parties should be required to set aside the estimated quantity of credits for the project to a JI-registry administered and maintained by the governing body, for subsequent distribution to project participants upon positive verification and issuance.** Should the emission reductions not occur to the extent predicted, the governing body should transfer any un-issued credits back to the host country.

Eligibility requirements

IETA and PD-Forum agree that the CMP should consider the possible need for different eligibility requirements for participation in JI in light of any further clarity emerging on the future international climate regime beyond 2012. IETA and PD-Forum believe that Host Parties should meet basic minimum eligibility requirements pertaining to their GHG accounting at a country level and, if JI is utilized under a system other than the Kyoto Protocol, also pertaining to the nature of their caps. However, some eligibility concerns may be addressed if a mandatory set aside of the (total) estimated quantity of credits for approved projects is implemented.

Financial resources

If the registration process is implemented at a national level, an annual fee on Parties involved in JI and based on emission reductions generated should be strongly considered, possibly in addition to project-based fees. Other options should also be considered after further analysis and after the more is known about the design of JI post-2012.

TRANSITIONAL ISSUES

IETA and PD-Forum support the JISC recommendation that the CMP, with regard to the continuation of activities under the Track 2 procedure in the immediate period beyond 2012, should do the following: (a) Clarify that these activities may continue, including the registration of projects and the verification of emission reductions and removals; (b) at



minimum, countries that adopt new commitments for a second commitment period under the Kyoto Protocol should be allowed to issue ERUs against emission reductions and removals achieved by existing and new JI projects between 1 January 2013 and either the end of the true-up period or the establishment of assigned amount for a host Party for a second commitment period under the Kyoto Protocol, whichever is sooner, by converting AAUs or RMUs from the first commitment period. If the Parties decide to move forward with a different form of international climate regime post-2012, IETA and PD-Forum believe that they should then consider how to bring JI, or a mechanism for crediting emission reductions in a capped environment, into that regime.

IETA and PD-Forum support the specific transitional measures put forward by the JISC.

IETA and PD-Forum believe that all types of activities should be undertaken under a new operational model, including micro, small and large-scale projects, programs, and sector-level activities. Putting in place rules for sector-level activities will require further consultation with the Parties and stakeholders to ensure that sectoral activities can be developed effectively. IETA and PD-Forum do not have any proposals to be incorporated in revised JI guidelines in order to encourage these activities. If future JI entails a shift to sector-level activities, provision should be made for existing JI projects to remain viable within any newly defined sectoral boundary.

To date, JI projects take place within a capped environment. As long as this remains the case, IETA and PD-Forum do not believe that it is appropriate to consider amending guidelines to facilitate net overall reductions in emissions as they are achieved by the agreed targets themselves.

Thank you very much for taking the time to review IETA's and PD-Forum's recommendations with respect to these issues. Please do not hesitate to contact us should you have comments or questions on the views expressed above.

Sincerely,

Henry Derwent
President and CEO, IETA

Rachel Child
Co Vice Chair, Project Developer Forum