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## **Subsidiary Body for Implementation**

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Item 7(b) of the provisional agenda

**Matters relating to the mechanisms under the Kyoto Protocol**

**Review of the joint implementation guidelines**

## **Recommendation on possible changes to the joint implementation guidelines**

**Note by the secretariat**

### *Summary*

This report presents information on possible changes to the joint implementation (JI) guidelines, drawing on: recommendations by the Joint Implementation Supervisory Committee (JISC); the views of Parties and admitted observer organizations on how the JI guidelines and other decisions of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP) pertaining to JI should be revised, as submitted in 2012 and 2013 in response to requests by the CMP at its seventh and eighth sessions; and the experience gained by the JISC and by stakeholders in the implementation of JI.

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## I. Introduction

### A. Background and mandate

1. The Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP), by decision 9/CMP.1, adopted the guidelines for the implementation of Article 6 of the Kyoto Protocol (the joint implementation (JI) guidelines). By the same decision, the CMP decided that the first review of the guidelines should be carried out no later than one year after the end of the first commitment period, based on recommendations by the Joint Implementation Supervisory Committee (JISC) and the Subsidiary Body for Implementation (SBI).

2. The CMP, by decision 11/CMP.7, recalled its decision to initiate the first review of the JI guidelines<sup>1</sup> and invited Parties and admitted observer organizations to submit to the secretariat their views on the revision of the JI guidelines.<sup>2</sup> A synthesis report of these views was prepared for consideration by the CMP at its eighth session.<sup>3</sup> By the same decision, the CMP requested the JISC to draft a revised set of key attributes and transitional measures on the possible changes to the JI guidelines<sup>4</sup> and to present them at CMP 8, with a view to developing revised JI guidelines for adoption at CMP 9.

3. At its eighth session, the CMP acknowledged the recommendations of the JISC and took note of the submissions and the synthesis report referred to in paragraph 2 above.<sup>5</sup> At the same session, the CMP invited Parties and admitted observer organizations to submit to the secretariat, by 18 February 2013, further views on how the JI guidelines and other decisions of the CMP pertaining to JI should be revised.<sup>6</sup> The CMP requested the secretariat to compile a report on possible changes to the JI guidelines, drawing on the above-mentioned JISC recommendations and submitted views, the recommendations contained in the annual report of the JISC to the CMP at its eighth session and the experience gained by the JISC and by stakeholders in implementing JI, for consideration by the SBI at its thirty-eighth session.<sup>7</sup>

4. At CMP 8, Parties agreed on the following set of key attributes for the future operation of JI:

- (a) A single unified track for joint implementation projects;
- (b) Closely aligned or unified accreditation procedures between JI and the clean development mechanism (CDM);
- (c) Clear and transparent information regarding JI projects in English on the UNFCCC website;
- (d) An appeals process under the authority of and accountable to the CMP against decisions of the JISC;
- (e) Clear, transparent and objective requirements on additionality;

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<sup>1</sup> As contained in decision 4/CMP.6, paragraph 15.

<sup>2</sup> The submitted views are contained in document FCCC/KP/CMP/2012/MISC.1.

<sup>3</sup> FCCC/KP/CMP/2012/INF.1.

<sup>4</sup> Contained in document FCCC/KP/CMP/2012/5.

<sup>5</sup> Decision 6/CMP.8, paragraphs 5 and 6.

<sup>6</sup> Decision 6/CMP.8, paragraph 12. The submitted further views are contained in document FCCC/SBI/2013/MISC.3.

<sup>7</sup> Decision 6/CMP.8, paragraph 13.

- (f) Mandatory requirements for host Parties for approving baselines.<sup>8</sup>
5. At the same session, the CMP requested the SBI, in preparing the revised JI guidelines, to address:
- (a) The level of oversight needed to assure a common approach among host Parties;
  - (b) The additionality of JI projects, recognizing such concepts as positive lists of project types, prior consideration and the application of standardized baselines;
  - (c) The issuance of emission reduction units (ERUs), including possible changes to decision 13/CMP.1;
  - (d) The consistency of the accounting of JI projects aimed at enhancing anthropogenic removals by sinks of greenhouse gases (GHGs) with decision 9/CMP.1, paragraph 4, and Article 3, paragraph 4, of the Kyoto Protocol.<sup>9</sup>

## **B. Possible action by the Subsidiary Body for Implementation**

6. The SBI may wish to take into account the information contained in this report in its consideration and recommendation on the review and revision of the JI guidelines for adoption by the CMP at its ninth session.

## **II. Compilation of information on possible changes to the joint implementation guidelines provided by the Joint Implementation Supervisory Committee, Parties and admitted observer organizations**

### **A. Introduction**

7. This chapter contains a compilation of the information and recommendations provided from the beginning of the review process for the JI guidelines by the JISC, Parties and admitted observer organizations, as summarized in chapter I.A above. Each section of this chapter addresses a key function of the JI mechanism and uses the existing JI guidelines<sup>10</sup> as a basis for facilitating a comparison of the views on possible changes to the JI guidelines, drawing on the recommendations by the JISC referred to in paragraph 2 above and the views of Parties and admitted observer organizations submitted in 2012 and 2013.<sup>11</sup> In each section of this chapter, the content of the original JI guidelines is compared against these recommendations and views.

8. In response to the request for inputs by the CMP in 2012 and 2013, Parties and admitted observer organizations welcomed and expressed support for the JISC recommendations on the revision of the JI guidelines, as well as for the decisions of the CMP at its eighth session enabling the continuation of JI post-2012. Some Parties and organizations commended the JISC on its comprehensive work and its active stakeholder consultation and outreach process. Several Parties expressed their positive expectations for adopting the new JI guidelines at CMP 9.

9. Most of the Parties and observer organizations reiterated the importance of reforming JI, thereby transforming it into a robust UNFCCC instrument with mandatory requirements for

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<sup>8</sup> Decision 6/CMP.8, paragraph 15.

<sup>9</sup> Decision 6/CMP.8, paragraph 16.

<sup>10</sup> As contained in decisions 9/CMP.1 and 10/CMP.1.

<sup>11</sup> FCCC/KP/CMP/2012/MISC.1 and FCCC/SBI/2013/MISC.3 and Add.1.

ensuring environmental integrity. In the submissions received, the future JI mechanism is envisaged:

- (a) To be implemented by Parties at the national level under international oversight;
- (b) To offer a domestic offset scheme or a testing ground for new offset mechanisms;
- (c) To enhance mitigation in sectors that may be less suitable for cap-and-trade schemes, and even to link different national and regional markets;
- (d) To provide sufficient predictability to investors, market stability and credibility, enhanced transparency and accountability, and sufficient incentives for Parties to ratify the second commitment period amendments.

## **B. Governance**

### **1. Functions**

*Current joint implementation guidelines adopted at the first session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol*

10. The JISC is under the authority of, receives guidance on implementing the mechanism from and reports back on its activities to the CMP. The most important function entrusted by the CMP to the JISC refers to the supervision of the verification of ERUs generated under the Track 2 procedure.

11. In addition, the JISC was assigned other functions, such as:

- (a) Developing its rules of procedure, management plan and provisions for charging of fees;
- (b) Elaborating the JI project design document (PDD), developing guidelines for users and preparing review procedures;
- (c) Accrediting independent entities, including reviewing and revising accreditation standards and procedures;
- (d) Preparing guidance with regard to reporting guidelines and criteria for baselines and monitoring, including reviewing and revising initial standards.

12. The CMP decided, regarding the internal management of the JISC, that:

- (a) Its decisions need to be taken by consensus or adopted by a three-fourths majority vote of the members present and voting;
- (b) Its working language is English, the full text of its decisions is made publicly available and its meetings are open to attendance from observers;
- (c) The secretariat services the JISC.

*Draft joint implementation guidelines recommended by the Joint Implementation Supervisory Committee*

13. The CMP establishes a new governing body that supervises the entire JI mechanism, under the authority and guidance of the CMP, to which it shall be fully accountable.

14. In addition to the functions referred to in paragraph 11 above, the new governing body is responsible for:

- (a) Setting mandatory standards and procedures, and non-mandatory guidelines for host Parties, approving baselines, approving JI activities, demonstrating additionality, monitoring, reporting and verification of emission reductions, and issuing ERUs;
- (b) Establishing a JI registry, to be operated by the secretariat, for issuing and transferring ERUs;
- (c) Assessing the conformity of the JI processes implemented in host Parties with the JI guidelines;
- (d) Undertaking reviews of selected activities and suspending the issuance of ERUs for cases of non-compliance in host Parties;
- (e) Promoting awareness of JI.

15. The JISC recommends that the new governing body ensure the transparency and impartiality of its processes and that it may delegate functions to the secretariat and to panels established to support its work.

16. The JISC proposes to change the majority needed for decisions from a three-fourths to a two-thirds majority, in cases where the possibility of a consensus decision has been exhausted.

*Views from Parties and admitted observer organizations*

17. Most Parties and observer organizations support a new governing body established for a single-track project cycle, operating under the authority of and being accountable to the CMP. However, three Parties support the continuation of the JISC as established, and another suggests a harmonization and unification of the governing bodies for JI and CDM.

18. In addition to the functions mentioned in paragraphs 11 and 14 above, Parties and observer organizations that support a new governing body consider that it should also:

- (a) Give final approval for the conversion of assigned amount units (AAUs) into ERUs and be responsible for ERU issuance, on the basis of finalized verifications;
- (b) Supervise the performance of accredited independent entities (AIEs);
- (c) Involve host Parties in setting the non-mandatory guidelines to ensure a consistent project cycle at the national level;
- (d) Avoid involvement in the consideration of individual projects;
- (e) Communicate directly with project participants and AIEs;
- (f) Cooperate with the Compliance Committee on non-conformities;
- (g) Conduct its work in an effective and transparent manner;
- (h) Play a high-level advisory role, facilitating dialogue on innovative methodological approaches.

19. One of the submissions suggested that the new governing body could establish subordinate bodies or be separated into two sub-committees for the technical work of setting standards and for providing oversight of host Party conformity with the mandatory rules.

## **2. Membership**

*Current joint implementation guidelines adopted at the first session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol*

20. The JISC comprises 10 members from Parties to the Kyoto Protocol with the following composition:

- (a) Three members from Parties included in Annex I to the Convention (Annex I Parties) that are undergoing the process of transition to a market economy;
- (b) Three members from other Annex I Parties;
- (c) Three members from Parties not included in Annex I to the Convention (non-Annex I Parties);
- (d) One member from small island developing States (SIDS).

21. Furthermore, an alternate member is elected for each member of the JISC. Every year, five new members and five alternate members are elected by the CMP. The JISC meets at least twice a year, unless decided otherwise, and at least two thirds of its members must be present to have a quorum.

22. Members and alternate members of the JISC:

- (a) Are nominated by the relevant constituencies and elected for a term of two years by the CMP;
- (b) Can serve a maximum of two consecutive terms;
- (c) Serve in their personal capacities and have recognized competence in the area;
- (d) Have no pecuniary or financial interest in any aspect of JI;
- (e) Should not disclose any confidential information;
- (f) Are bound by the rules of procedure and take a written oath of service;
- (g) Elect annually a Chair and Vice-Chair from among JISC members.

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23. The new governing body recommended by the JISC consists of 14 members from Parties to the Kyoto Protocol, as follows:

- (a) Ten members nominated by Parties to the Kyoto Protocol included in Annex I with quantified emission limitation or reduction objectives inscribed in Annex B to the Kyoto Protocol (Annex B Parties) for the relevant commitment period;
- (b) Four members nominated by Parties to the Kyoto Protocol not included in Annex I;
- (c) Half of the members are elected by the CMP each year for a term of two years and will be eligible to serve a maximum of three consecutive terms. There are no alternate members in the new governing body.

24. In addition to the conditions for and duties of the members and alternate members of the JISC mentioned in paragraph 22 above, the members of the new governing body are also expected:

- (a) To have experience and competence in developing policy and strategy;
- (b) To possess an understanding of business perspectives;
- (c) To refrain from participating in the consideration of, and decision-making on, subjects with a potential or perceived conflict of interest.

*Views from Parties and admitted observer organizations*

25. Many Parties and observer organizations suggested that the new governing body should be kept to a manageable size and ensure a balanced representation of Parties, consisting of 14–20 members. However, different bases for membership were proposed, including:

- (a) Parties to the Kyoto Protocol, with an emphasis on Annex I Parties;
- (b) Annex I Parties and non-Annex I Parties, including dedicated seats for least developed countries and SIDS;
- (c) Annex I Parties with and without a target in the current commitment period, non-Annex I Parties, the private sector and accredited non-governmental organizations (NGOs) from Annex I and non-Annex I Parties.

26. Besides the conditions for and duties of members mentioned in paragraphs 22 and 24 above, some submissions highlighted the necessity of having only members who do not take instructions from Parties and do not have any negotiating mandates under the UNFCCC process.

**C. Eligibility requirements**

*Current joint implementation guidelines adopted at the first session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol*

27. In order for any Party to participate in JI projects, it has to inform the secretariat of its designated focal point (DFP) and its national guidelines and procedures for approving JI projects. A Party hosting a JI project should make publicly available, directly or through the secretariat, information on the project.

28. The following eligibility requirements were imposed on Annex B Parties with respect to transferring and/or acquiring ERUs:

- (a) It is a Party to the Kyoto Protocol;
- (b) Its assigned amount has been calculated and recorded;
- (c) It has in place a national system for the estimation of anthropogenic emissions by sources and anthropogenic removals by sinks of GHGs;
- (d) It has in place a national registry;
- (e) It has submitted annually the most recent required inventory of emissions;
- (f) It submits the supplementary information on its assigned amount and makes any additions to and subtractions from the assigned amount.

29. The guidelines also set out the process and timing for a Party to become eligible and state that eligibility status shall continue unless and until the Compliance Committee decides that the Party does not meet one or more of the eligibility requirements. A Party may authorize legal entities to participate in JI but remains responsible for the fulfilment of its obligations under the Kyoto Protocol, and the legal entities may transfer or acquire ERUs only if the authorizing Party is eligible to do so.

30. One of the main provisions relating to eligibility in the JI guidelines provided the basis for the two-track approach in a JI project cycle. If a host Party meets all the eligibility requirements presented in paragraph 28 above it may verify the emission reductions itself and may issue directly the appropriate quantity of ERUs (Track 1). If the host Party does not meet the eligibility requirements presented above, the verification of reductions occurs through the verification procedure under the JISC and the issuance of ERUs can happen only upon meeting



the requirements in paragraph 28(a), (b) and (d) above (Track 2). Any host Party which meets the Track 1 requirements may at any time elect to use the Track 2 procedure.

*Draft joint implementation guidelines recommended by the Joint Implementation Supervisory Committee*

31. In addition to the information on its DFP for approving baselines and registering JI activities, a Party interested in participating in JI should make publicly available and regularly update the following information in English on the UNFCCC website:

- (a) National standards, procedures and guidelines for all aspects of the JI process, including timelines;
- (b) National procedures for appealing against decisions by the DFP regarding the registration of JI activities;
- (c) An annual summary of its activities in relation to JI;
- (d) Baselines approved and activities registered or under consideration.

32. In contrast to the current guidelines, there is no differentiation in the eligibility requirements for issuing ERUs given that all Annex I Parties have fulfilled all eligibility requirements and that the JISC recommendations envisage a single-track JI project cycle.

33. The JISC proposes that in cases where a Party is identified by the new governing body as not being in conformity with the mandatory JI standards, the Party is expected to rectify the non-conformity immediately and the issue is forwarded to the Compliance Committee, which could suspend the Party's ability to issue ERUs.

34. The JISC has not provided any recommendations regarding the eligibility to transfer and acquire ERUs. However, the CMP, at its eighth session,<sup>12</sup> decided that as of 1 January 2013, only a Party with a quantified emission limitation and reduction commitment in the second commitment period whose eligibility has been established in the first commitment period shall be eligible to transfer and acquire ERUs valid for the second commitment period, unless the Compliance Committee has suspended the Party's eligibility.

*Views from Parties and admitted observer organizations*

35. Some Parties considered that eligibility requirements to participate in JI should be met by Parties before they are able to host JI activities or acquire ERUs. In addition, some submissions mentioned that the criteria for eligibility could be different between host Parties and other Parties involved, and that the eligibility requirements should not be weaker than the current ones for Track 1. Furthermore, the eligibility criteria should be formulated in the context of the second commitment period and provide for future adjustments based on the new international regime.

36. In other submissions, it was suggested that the current eligibility criteria should be maintained and that the issuance of ERUs for emission reductions generated after 1 January 2013 should not be allowed for Parties not participating in the second commitment period. Moreover, two Parties and an observer organization proposed that the issuance of ERUs for emission reductions generated after 1 January 2013 should be allowed for host Parties only after they have ratified the amendments of the Kyoto Protocol on the second commitment period.

37. One Party recommended removing the existing rule that prohibits the issuance of ERUs and their further distribution to project participants during the period when the eligibility of a host Party is suspended. In such cases, the Party could instruct the governing body to transfer

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<sup>12</sup> Decision 1/CMP.8, paragraph 15.

the same amount of ‘virtual ERUs’ until eligibility is reinstated and the host Party is able to transfer the real ERUs.

## **D. Project cycle**

### **1. Determination and registration**

*Current joint implementation guidelines adopted at the first session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol*

38. The existing guidelines define the conditions for an AIE to determine whether a project and the ensuing emission reductions meet the relevant requirements (Track 2). The process starts with the project participants submitting to AIEs a PDD containing all the information needed for the determination of whether the project:

- (a) Has been approved by the Parties involved;
- (b) Would result in a reduction of anthropogenic emissions by sources or an enhancement of removals by sinks that is additional to any that would otherwise occur;
- (c) Has an appropriate baseline and monitoring plan.

39. After making the PDD publicly available for comment for 30 days, the AIE is required to determine whether the conditions mentioned in paragraph 38 above, as well as the requirement for project participants to perform and submit documentation on an analysis of the environmental impacts of the project in accordance with host Party procedures, have been fulfilled.

40. The AIE is required to make its determination publicly available, explaining the reasons for its decision and including a summary of comments received and their resolution. The determination is deemed final 45 days after the date on which it is made public, unless a Party involved or three JISC members request a review. The review is finalized in six months or at the second meeting of the JISC after the request for review, and the JISC decision is final.

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41. In addition to the provisions mentioned in paragraphs 38 and 39 above (with the exception of the project/activity being approved by the Parties involved), the JISC proposed that the governing body and, if applicable, the host Party further elaborate the conditions for validation.

42. Similarly to the current JI guidelines, an AIE is required to validate whether a project and the ensuing emission reductions meet the relevant requirements and to make the validation report publicly available, explaining its reasons and including a summary of comments received and their resolution.

43. The JISC recommends a separate process for registration of an activity that is performed by the host Party if it meets all the JI requirements and any additional standards developed by the governing body and/or the host Party. The host Party has to make a decision within 30 days of receiving the validation report and supporting information from the AIE. The host Party will also need to make all decisions publicly available. The registration process is finalized when the secretariat issues the respective activity with a unique identifier through the international transaction log (ITL). Host Parties’ decisions on the registration of a JI activity may be appealed against based on national procedures available for this purpose.

44. For activities proposed for registration after 31 December 2012, the project participant shall select a crediting period of up to 10 years, which cannot start earlier than the submission of documentation to the secretariat. The crediting period may be renewed for periods of up to 10 years, based on an AIE validation.

*Views from Parties and admitted observer organizations*

45. The JISC proposal to merge the two tracks of the JI project cycle was welcomed by almost all Parties and observer organizations. Some Parties proposed that the unified track be implemented by the host Party at the national level based on mandatory international standards and procedures, and under the supervision of the new governing body or the JISC.

46. In one of the submissions in 2012, it was suggested that the new unified track should maintain the best of both tracks, differ from the current JI Track 2 and preserve the current JI Track 1 flexibility of host Parties to use JI as a policy instrument. In addition, a Party supported by an observer organization recommended that the project cycle be revised in order to include the following steps in the first phase of the process:

- (a) Development of a design document by the participants in the JI activity;
- (b) Approval of the JI activity only by the host Party;
- (c) Determination of the JI activity by an AIE in order to ensure that the JI activity is consistent with the relevant guidelines;
- (d) Registration of the JI activity by the host Party;
- (e) Recording of the JI activity with the governing body/JISC.

47. The importance of environmental integrity was emphasized by several Parties, which proposed taking it into consideration in the process of consolidating the JI tracks. The setting of a minimum period of time for a host Party to assess and approve a project at the national level was also suggested in some submissions.

48. One admitted observer organization considered that the approval and registration of projects should not be determined by the host Party but instead by the governing body, similarly to the current situation.

49. Several submissions focused on the necessity of a review process at the registration stage, with most of them requesting that it be included in the guidelines in order to allow the governing body/JISC to trigger a review with a view to improving transparency and accountability. However, one submission provided several arguments for not establishing a review process (e.g. duplication of the assessment work). Another submission considered the review process from the participants' perspective, suggesting the establishment of a review process for questioning negative decisions of host Parties at the registration stage. In this case, the governing body could set mandatory procedures for the review, including timelines and the communication approach to be used with stakeholders.

## **2. Monitoring, verification and issuance**

*Current joint implementation guidelines adopted at the first session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol*

50. Based on a positive determination of the PDD as presented in paragraphs 38–40 above, the project cycle under Track 2 continues with the submission by the project participants to an AIE of a monitoring report detailing the reductions achieved, which is made publicly available.

51. The monitoring report is prepared in accordance with the monitoring plan (included in the PDD) that provides for: the collection and archiving of all relevant data necessary for

estimating or measuring emissions, determining the baseline during the crediting period and assessing the environmental impacts; the identification of all potential emission sources outside the activity boundary that are significant and reasonably attributable to the project; the use of quality assurance and control procedures; and the use of procedures for the periodic calculation of emission reductions, including leakage effects.

52. The AIE performs a verification of the emission reductions by sources or enhancements of removals by sinks reported by project participants, and makes it publicly available via the secretariat, together with an explanation of its verification opinion.

53. The verification of emission reductions or enhancements of removals by sinks is deemed final 15 days after the date on which it is made public, unless a Party involved or three JISC members request a review. The review is considered at the first JISC meeting or no later than 30 days after the formal request, and it is completed within 30 days following the decision to perform the review. The decision of the JISC is final and, if positive, the ERUs can be issued by the host Party.

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54. The monitoring report is prepared in accordance with the same conditions mentioned in paragraph 51 above. In addition, where applicable, the calculations of baseline emissions, reductions of emissions or enhancements of removals by sinks, and leakage are based on methods that are consistent with the host Party's calculation of its baseline emissions.

55. In addition to the verification process described in paragraphs 52 and 53 above, the AIE assesses whether the emission reduction calculation and reporting process has been conducted in accordance with the revised guidelines, as elaborated by the governing body and the host Party.

56. Furthermore, the JISC recommends that the governing body issue ERUs. Based on decisions taken by a host Party in its approval/registration of JI activities, the governing body could issue a lower amount of ERUs than the actual reductions of emissions or enhancements of removals by sinks achieved, following national standards and procedures.

*Views from Parties and admitted observer organizations*

57. Further to the steps mentioned in paragraph 46 above, a Party supported by an observer organization proposed the following steps in the second phase of the project cycle:

- (a) Monitoring of emission reductions/removals by the participants in the JI activity (proposed by a Party to be opened for public comments);
- (b) Verification of emission reductions/removals by an AIE;
- (c) Issuance of units based on verified emission reductions/removals by sinks, either by the governing body in a JI registry or directly by the host Party, and the ensuing distribution of units to the JI activity participants.

58. Similarly to the approach presented in paragraph 47 above, it was proposed that the revised guidelines include a minimum period of time for a host Party to issue ERUs. In addition, the revised guidelines should allow for, and explain, the steps to be undertaken before units are issued, including the conditions and criteria for initiating the process.

59. As presented for the first phase of the project cycle in paragraph 49 above, several submissions focused on the necessity of maintaining the review process at the verification stage, while another argued against it, giving the same reasons as those mentioned in paragraph 49 above for abandoning the review process at the verification stage, namely, that even in the

absence of a review process the integrity of the mechanisms would be safeguarded by the governing body's oversight of entity accreditation and project-related standards in host Parties.

60. Some Parties and observer organizations highlighted past bottlenecks of ERU issuance and welcomed the proposal to charge the governing body with the issuance of ERUs based on positive verifications by AIEs and following the transfer of AAUs from the host Party to the JI registry. In contrast, other Parties emphasized the need to maintain the current process for issuing ERUs on the basis of verified reductions, but setting clear time frames in the host Parties' legislation. A third proposed option for ERU issuance is the transfer of 'virtual ERUs' by the governing body in cases where the host Party has been found to be in non-compliance with the JI requirements. In this case, the governing body guarantees that the host Party transfers the real ERUs when the compliance status is reinstated. International oversight of ERU issuance by the ITL is considered essential, no matter which option is established.

61. Many Parties and observer organizations acknowledged the JISC recommendation to facilitate the net reduction in emissions by instructing the host Parties to consider issuing a lower amount of ERUs compared with the actual monitored emission reductions. In this way, the mechanism will not only offset emissions but will also support the respective host Party in meeting its domestic mitigation target. However, one submission emphasized the need to reflect the expected net reduction in the baseline of the registered activity.

62. Several submissions proposed maintaining the status quo on the issuance, transfer and acquisition of ERUs, given the anticipated entry into force of commitments under the second commitment period. One Party proposed that JI activities should be validated and verified by different AIEs, the fees of which should not be provided by project participants.

## **E. Additionality, baseline setting and methodology**

### **1. Additionality**

*Current joint implementation guidelines adopted at the first session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol*

63. Paragraph 1 of Article 6 of the Kyoto Protocol stipulates that emission reductions under JI shall be additional to any that would otherwise occur. The concept of additionality has not been detailed in the existing JI guidelines. The only reference to the reduction of emissions being additional to any that would otherwise occur is included in the list of information that needs to be included in the PDD and later determined by the AIE. The concept was further developed by the JISC in the "Guidelines for users of the joint implementation project design document form"<sup>13</sup> and in the "Guidance on criteria for baseline setting and monitoring".<sup>14</sup>

*Draft joint implementation guidelines recommended by the Joint Implementation Supervisory Committee*

64. In addition to the provisions mentioned in paragraph 63 above, the JISC recommends that to be considered additional a JI activity needs to demonstrate that:

- (a) Emissions are lower or removals by sinks are higher than the baseline;
- (b) The activity would not have been implemented in the absence of JI.

65. The JISC also recommends that the host Parties use positive lists of activity types that are automatically deemed additional. Such lists would have to be made publicly available by the host Party and be kept up-to-date.

<sup>13</sup> <<http://ji.unfccc.int/Ref/Documents/Guidelines.pdf>>.

<sup>14</sup> <[http://ji.unfccc.int/Ref/Documents/Baseline\\_setting\\_and\\_monitoring.pdf](http://ji.unfccc.int/Ref/Documents/Baseline_setting_and_monitoring.pdf)>.

*Views from Parties and admitted observer organizations*

66. Many Parties and observer organizations supported the JISC recommendations on additionality. One observer organization suggested that Parties should reconsider the project-by-project demonstration of additionality and some Parties proposed having the additionality demonstration as part of the approval/registration process by the host Party. In contrast, some Parties and observer organizations proposed that the governing body enforce minimum mandatory standards (similar to the CDM) on the demonstration of additionality and consider the potential benefits in the decision to undertake the project under the JI mechanism.

67. In 2012, some submissions highlighted the need for a more centralized approach to additionality, baselines and monitoring approaches applied in host Parties, with the enforcement of a strict additionality demonstration, in order to ensure environmental integrity. The JISC recommendation of having non-mandatory best practice guidelines was considered by one observer organization to be unsatisfactory for ensuring environmental integrity.

68. Another option proposed that the additionality demonstration recommended by the JISC be simplified through the establishment of positive lists of technologies/activity types which are automatically deemed additional. Many Parties and observer organizations focused in their submissions on explaining the implementation of positive lists, and on setting different conditions for them, such as:

- (a) The positive lists are drawn up by the host Parties based on national circumstances;
- (b) Mandatory, objective and transparent criteria are set for their establishment;
- (c) They are conservatively designed and are reviewed periodically by an independent auditor;
- (d) They are approved/confirmed by the governing body (valid for three years).

69. The concept of prior consideration (evidence that JI was taken into account before implementing the project) was mentioned by two Parties and one organization in their submissions. They expressed support for establishing it as a mandatory requirement for avoiding retroactive crediting of non-additional activities and welcomed the decision of the CMP<sup>15</sup> to include it among the issues to be addressed by the SBI.

## **2. Baseline setting and methodology**

*Current joint implementation guidelines adopted at the first session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol*

70. The guidance on baseline setting is not extensive in the original JI guidelines. The reference to the appropriate baseline for the project is included in the list of information that needs to be included in the PDD and later determined by the AIE. The guidelines also include an appendix that defines criteria for baseline setting.

71. The baseline is defined as the scenario that reasonably represents the emissions by sources or removals by sinks that would occur in the absence of the proposed project. A baseline should cover emissions from all gases, sectors and sources and removals by sinks, within the project boundary. At the same time, a baseline is established:

- (a) On a project-specific basis and/or using a multi-project emission factor;
- (b) In a transparent manner with regard to the choice of approaches, assumptions, methodologies, parameters, data sources and key factors;

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<sup>15</sup> Decision 6/CMP.8.

- (c) Taking into account national and/or sectoral policies and circumstances;
- (d) In such a way that ERUs cannot be earned for decreases in activity levels outside the project activity or due to force majeure;
- (e) Taking uncertainties into account and using conservative assumptions.

72. The concept was further developed by the JISC in the guidance referred to in paragraph 63 above.

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73. In addition to the original criteria on baseline setting presented in paragraphs 70 and 71 above, the JISC recommends a broad definition of a JI project that allows a baseline to be established on an activity, programmatic or sectoral basis.

74. The JISC also recommends that baselines are:

- (a) Established by host Parties (common baselines for activities in the same sector, ensuring that activities achieve comparable results);
- (b) Validated by AIEs and approved by host Parties prior to any activity registration;
- (c) Reviewed at regular intervals, not exceeding five years and updated accordingly.

*Views from Parties and admitted observer organizations*

75. Many Parties and observer organizations welcomed the JISC recommendations regarding baselines, highlighting in particular the need for the revised JI guidelines to continue to provide flexibility in terms of innovative methodological approaches. Furthermore, almost all submissions proposed different conditions for baselines, such as:

- (a) They should be established on an activity-specific, programmatic or sectoral basis;
- (b) They should be more stringent than 'business as usual' scenarios and equal to or lower than the lowest relevant historical activity emission rates;
- (c) They should reflect improvements in efficiency and regular technology upgrades;
- (d) They should be practicable and tolerant to various national contexts;
- (e) Essential/minimum standards or non-mandatory guidelines should be set by the governing body in cooperation with Parties;
- (f) They should be approved by the host Party, validated by an AIE and confirmed by the governing body;
- (g) They should be reviewed and updated regularly (every five years and every 10 years for land use, land-use change and forestry activities), taking into account the specificity of sectors and the economic and regulatory circumstances;
- (h) Their validity should be linked with the commitment periods of the Kyoto Protocol, starting with the registration date of a JI activity;
- (i) It should be possible to use conservative baselines, discounting and benchmarks and to enable 'atmospheric benefits' (reductions beyond the cap).

76. Several proposals in this area from both Parties and observer organizations provide for the use of standardized baselines under JI, which is currently possible. The submissions suggest that it is important for standardized baselines in JI to:

- (a) Have key principles and criteria on the establishment proposed by the governing body and approved by the CMP;
- (b) Be mandatory for new projects if the bottom-up baselines are less ambitious;
- (c) Be reviewed by an AIE and updated regularly (every three to five years).

## **F. Accreditation**

*Current joint implementation guidelines adopted at the first session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol*

77. The original JI guidelines set out detailed accreditation requirements, which demand that an AIE: is a legal entity; employs a sufficient number of competent persons; has financial stability, insurance coverage and sufficient resources; has sufficient arrangements to cover legal and financial liabilities; has documented internal procedures for carrying out its functions; has the necessary expertise to carry out its functions; has a management structure with overall responsibility for performance and implementation; and does not have pending any judicial process for malpractice, fraud and/or other activity incompatible with its functions.

78. An AIE is also required to work in a credible, independent, non-discriminatory and transparent manner, and to have adequate arrangements for safeguarding confidentiality. In addition, the JISC was entrusted with the ability to suspend or withdraw the accreditation of an AIE, following a process in which the AIE has the opportunity of a hearing. In this situation, the verified projects are not affected by the suspension or withdrawal of the accreditation, unless significant deficiencies are identified.

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79. The new governing body, in elaborating standards and procedures for accrediting independent entities, is requested to collaborate with the CDM Executive Board for aligning the accreditation standards and procedures of the two mechanisms.

80. The governing body recommended by the JISC is also expected to ensure that the accreditation standards and procedures cover, inter alia, the following areas:

- (a) The ability of the AIE to assume obligations under national or international law;
- (b) Legal and financial liabilities;
- (c) Management and decision-making structure;
- (d) Competence;
- (e) Validation and verification processes, taking into account the concept of materiality;
- (f) Impartiality and prevention of conflict of interest;
- (g) Safeguarding confidentiality;
- (h) Appeals and complaint processes.

81. The process of suspending or withdrawing the accreditation of an AIE presented in the current JI guidelines was considered relevant by the JISC, which recommended that it be continued.



*Views from Parties and admitted observer organizations*

82. As compared with the 2012 submissions, more Parties and observer organizations appear in their 2013 submissions to be supportive of the proposal for having a unified accreditation process for JI and the CDM. The submission imply that the unification could increase the efficiency and decrease the costs of accreditation. However, the system needs to consider the differences/similarities between JI and CDM, apply a single accreditation fee under both mechanisms, and combine regular assessment and reaccreditation activities.

83. Various submissions also suggested that the role and responsibilities of AIEs be made clearer and that the governing body take a stronger role in monitoring the compliance of AIEs with standards. It was suggested that the governing body should have the authority to impose sanctions for non-compliance, such as suspension or withdrawal of accreditation, notwithstanding the opportunity of the AIE for a hearing and appeal. Submissions also suggest that the governing body should develop a mechanism for regular surveillance and spot-checking of AIE performance, including rules on the suspension of and possible sanctions for AIEs found in non-compliance with the rules.

**G. Other issues****1. Transitional aspects***Current joint implementation guidelines adopted at the first session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol*

84. Transitional aspects are not detailed in the existing JI guidelines. There is, however, one paragraph specifying that the possible future limitations to transfers under Article 17 of the Kyoto Protocol shall not apply to transfers by a Party of ERUs verified under JI Track 2.

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85. Recommendations regarding transitional aspects of JI from the existing to the new JI guidelines have been provided by the JISC in its annual report to the CMP at its eighth session, following its recommendations on the subject from the annual report to the CMP at its seventh session. The JISC recommended in 2011 that, with regard to emission reductions and removals occurring after the first commitment period, one of the following possibilities be selected:

(a) The CMP allows 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 the second commitment period, whichever is sooner, to be issued by host Parties as ERUs under Track 2 by converting AAUs or removal units from the first commitment period;

(b) The CMP decides to adopt modalities and procedures for the issuance of offset credits under Track 2 and their subsequent deduction from future emission reduction or limitation targets adopted by Parties hosting such activities.

86. Furthermore, in its 2012 annual report to the CMP, the JISC recommended the following steps to manage the transition of JI from the current to the revised JI guidelines:

(a) The new JI guidelines become effective on 1 January 2014, in order that new activities may be submitted for registration as soon as possible after this date;

(b) All JI projects deemed final/published prior to 1 January 2014 are deemed registered under, and governed by, the new JI guidelines from that date;

- (c) All AIEs accredited prior to 1 January 2014 are deemed accredited under, and governed by, the new JI guidelines from that date;
- (d) The JI projects and AIEs referred to in paragraph 86(b) and (c) above have to be brought fully into accordance with the new JI guidelines, and any further guidance, by 31 December 2014;
- (e) The JISC continues to operate until the new JI guidelines become effective.

*Views from Parties and admitted observer organizations*

87. With respect to the issuance of ERUs and continued eligibility of JI projects registered prior to the end of 2012, several Parties and registered observer organizations stated that:

- (a) During the transitional period the issuance of ERUs should continue by converting AAUs from the first commitment period (that would otherwise be carried over to the second commitment period) to ERUs valid for the second commitment period for emission reductions taking place during the second commitment period;
- (b) Projects that received final determination under Track 1 and Track 2 prior to the adoption and entry into force of the revised JI guidelines should maintain their registration status and validity of the baseline without the need for further action;
- (c) Issuance of ERUs valid for the second commitment period should be allowed only once the AAUs valid for the second commitment period have been calculated and issued.

88. Many Parties and observer organizations expressed the following views about the transition from the existing JI guidelines to the implementation of a revised set of JI guidelines:

- (a) A grace period for bringing existing JI projects into compliance with the revised guidelines should be considered. This could also include a fast track for projects registered prior to the end of 2012;
- (b) The revised JI guidelines should become effective as of 1 January 2014, with a one-year grace period for existing projects to be brought into compliance with the revised guidelines. Projects must demonstrate conformity with the new guidelines and requirements regarding public availability of information;
- (c) A procedure for renewal of the crediting period should be established that evaluates the baseline scenario and additionality of each project desired to be continued during the second commitment period.

## **2. Financial resources**

*Current joint implementation guidelines adopted at the first session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol*

89. The only reference to financial resources comes from the additional guidance given by the CMP to the JISC in decision 10/CMP.1, where the JISC was requested to develop provisions for the charging of fees to cover administrative costs relating to its activities. The provisions for charging fees were developed in 2006 and have been regularly updated by the JISC. The provisions currently include fees on Track 1 and Track 2 projects and accreditation, as well as provisions regarding how the fees may be applied if a project moves between tracks.

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90. Similarly to the original guidelines, the JISC recommendations include only one reference to the fees by assigning to the governing body the facility to collect fees in order to cover the administrative costs of the governing body and its support structure.

*Views from Parties and admitted observer organizations*

91. Several submissions from 2012 mentioned that a combination of fees on accreditation and issuance cases could be useful for ensuring adequate funding for the work of the governing body, its committees and support structure in a sustainable and predictable manner.

92. One Party proposed that project-based fees continue to be levied on the project participants, depending on the design of the new JI mechanism, whereas an observer organization suggested that an annual fee be introduced for Parties involved in JI (based on emission reductions generated) in a system with a domestic registration process.

### **3. Appeals**

*Current joint implementation guidelines adopted at the first session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol*

93. The existing JI guidelines stipulate that the JISC decisions are final.

*Draft joint implementation guidelines recommended by the Joint Implementation Supervisory Committee*

94. In the JISC recommendations on the JI guidelines, host Parties would be requested to publish their national appeals procedures for decisions by the DFP regarding the registration of JI activities. Furthermore, the JISC proposed that it should be possible to appeal against decisions regarding the issuance of ERUs in accordance with any provisions for appeal adopted by the CMP.

*Views from Parties and admitted observer organizations*

95. In their views submitted in both 2012 and 2013, several Parties and observer organizations referred to the importance of allowing project participants, AIEs, host Parties and locally affected populations to appeal against the host Parties' decisions and JISC/governing body rulings, including on the registration of JI activities and the issuance of units.

96. Several submissions focused on the need to establish a special body for appeals (a committee of appeals) under the authority of the CMP. This body should consider the distribution of decision-making power for the new JI mechanism among the governing body, host Party and AIE, and possibly include NGOs and other civil society groups.

97. The same appeals mechanism as that established for the CDM could be adopted for JI, as proposed by an observer organization, but further consideration should be given to this issue.