



Joint Implementation Action Group

Position Paper for CMP Durban

Recommendations

The JI Supervisory Committee (JISC) prepared recommendations for the seventh session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP.7) on “options for building on the approach embodied in Joint Implementation” (the “Option Paper”).¹ Following the recommendations of the Option Paper, the CMP should confirm that:

1. The determination and verification of JI projects can continue; and
2. ERUs can be issued for verified emission reductions occurring after 2012, on the basis of Assigned Amount Units (AAUs) available under the first commitment period, until a second commitment period takes effect.

Securing a future for JI, even without a second commitment period that starts at the end of 2012, is hence possible.

This Position Paper provides details and views on the Option Paper from the JISC. It provides background information on the main recommendations of the JISC to the CMP and presents the position of the JI Action Group (JIAG). This Position Paper targets both CMP and the JI Contract Group in which the JISC position paper will be discussed in preparation of a CMP decision.

The importance of JI

The value of an offset mechanism for the capped environment lies in:

1. Mobilising private sector finance for mitigation action in Annex 1 countries. In the current options on new mechanisms under a post-2012 agreement, the focus is on cooperation between governments, thereby disregarding the important contribution private sector finance has made to stimulate mitigation action under JI and the Clean Development Mechanism (CDM). While the financial crisis puts a heavy burden on the financial abilities of European Union governments and the United States, private sector finance will have to continue to play a crucial role after 2012 as well.
2. Stimulating technology transfer towards countries with an economy in transition by supporting cooperation on mitigation action. If countries that are currently not listed in Annex 1 of the Convention

¹ See JISC 26, Annex 4, at: http://ji.unfccc.int/Sup_Committee/Meetings/index.html.

adopt a cap for the post-2012 period, also these countries can benefit from a project-based mechanism in the capped environment.

3. Emission caps under the Kyoto Protocol have been defined with allocations of emission allowances to countries. The emission allowances represent a market value. JI is a means to use that value to enable investments that reduce emissions.

JI after 2012

The Option Paper from the JISC proposes to keep the JI procedures operational in the immediate period after 2012 and it proposes two solutions for continued issuance of Emission Reduction Units (ERUs).

Continued determination, verification and issuance during the “true-up” period

Subsection C of the Option Paper describes activities resulting from emission reductions that have occurred *on or before 31 December 2012*. In this section the JISC concludes that the verification of such emission reductions and the conversion and transfer of the resulting ERUs, can happen after 31 December 2012 (par 19).

Position JIAG:

Above conclusion makes common sense, but is not explicitly written down in any rules. Therefore, to avoid any uncertainty by JI Stakeholders, we do request the CMP to explicitly confirm the understanding of the JISC as laid down in par 19, par 20 & par 23.

Treatment during a “gap” period

Subsection D of the JISC describes what activities it foresees for the period *after 31 December 2012*. These activities entail:

1. Supporting the determination (registration) of JI projects after 31 December 2012 and the verification of emission reductions occurring after 31 December 2012 (from both pre-2013 and post-2012 registered JI projects);
2. Issuing ERUs based on verified emission reductions that have occurred after 31 December 2012.

The Kyoto Protocol was designed assuming that the first commitment period would immediately be followed by a second commitment period. As this seems unlikely to happen, uncertainty arises on the above-mentioned matters in the immediate period after 31 December 2012 and the entry into force of a second commitment period.

It is the JISC’s understanding that determinations and verifications may continue in any case. This follows an earlier conclusion of the JISC that “...JI is designed as a long-term mechanism that continues from one period to the next, and is not tied to specific commitment periods. This continuity applies to all aspects of JI...”². Nevertheless the JISC recommends the CMP reaffirms this understanding.

² Par 78 of the “Report on experience with the verification procedure under the JISC and possible improvements in the future operation of JI”. This report was submitted by the JISC to CMP.6 in Cancún.

The issuance of ERUs is an important topic of this subsection: The ultimate driver of project participants to develop JI project is the ability to issue ERUs and to use ERUs for compliance purposes. The JISC recommends two options in paragraph 25:

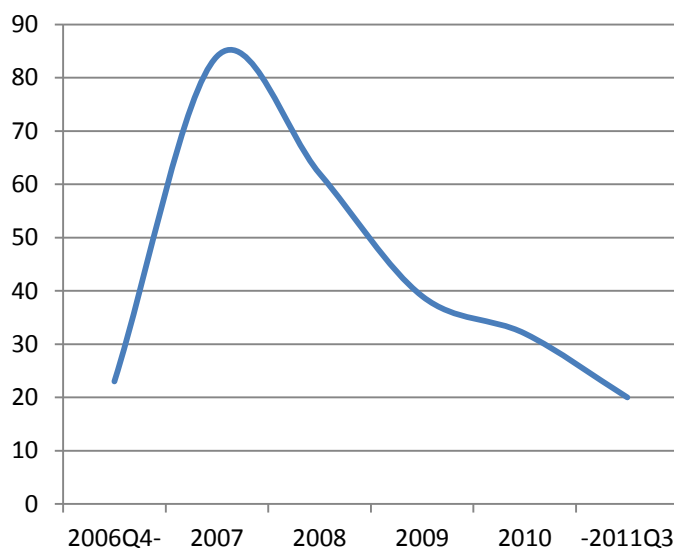
1. Allow the conversion of CP1 AAUs into CP1 ERUs based on verified post 2012 reductions, or
2. Decide to adopt modalities and procedures in CMP.8 for the issuance of offset credits of post 2012 reductions.

Position JIAG:

JIAG recommends CMP.7 to reaffirms that determinations and verifications may continue. More importantly we urge CMP.7 to adopt proposal 25 (a) in its entirety. The alternative proposal given in par. 25 (b) will delay the matter till after 2012 and does not provide the certainty investors in JI project are looking for and raises many questions (i.e. in what compliance regime can these offset credits be used?).

The aspect of issuance is the most crucial part for the CMP to decide upon. This topic was discussed during CMP.6 in Cancún, but no consensus could be reached at that time. A larger part of the discussion in Cancún focussed whether the conversion of CP1 AAUs into CP1 ERUs was consistent with the accounting rules of the Kyoto Protocol and the Marrakesh Accords. Some called the proposal “banking”, others “borrowing”. In order not to repeat this discussion, in annex I of this paper it is explained why proposal 25 (a) is in line with the accounting rules.

Ultimately this issue is not a technical one but a political one. The Parties should be aware that, contrary to the CDM, the crediting period of JI projects is ending in just more than a year. In fact JI is already in a gap period since CMP.6 and as a result project development came almost to a standstill. While in 2011 ERU issuance grow as a result of projects developed two years ago, in the graph below the new PDDs being published has declined sharply.



Graph: JI PDDs made public at ji.unfccc.int.

Also note that the proposal 25 (a) does not pre-judge on any negotiations for a second commitment period: The proposal works fully within the rules of the first commitment period and clarifies how the first commitment period can be ‘closed’. No existing rules have to be changed.

JI Reform

The sections III and IV of the Option Paper describe several options to redesign JI as a flexible mechanism in a second commitment period under the Kyoto Protocol or under a new international agreement.

Project Cycle

The JISC recommends in par 35 to replace the two-track approach with a single unified project cycle. In paragraph 36 (g) a new JISC should administer a JI registry that will issue credits based on verification reports and distribute the credits accordingly. At the same time the new JISC would generally not be involved in the assessment of JI activities.

Position JIAG:

JIAG generally supports a unified track under a second commitment period. The current split into two tracks leads to unnecessary fragmentation of the market. Furthermore a unified track provides the opportunity to take best of both worlds which is international oversight for Track 2 and the Host Country using JI as policy instrument under Track 1. Unification would only be beneficial if the responsibilities of the different stakeholder are redefined including that of the new JISC (see below).

Governing Body

The JISC recommends that a new governing body (“a new JISC”) is established. This new JISC should set mandatory standards, issue credits, accredit and supervise verifiers. The accreditation should be unified with the CDM. Furthermore the membership of the new JISC should be drawn from Parties involved in JI activities.

Position JIAG:

In general JIAG supports the new JISC and its role. As for the membership of the JISC we recommend that the JISC will not only consist of representatives of Parties, but also of representatives of stakeholders involved in JI activities, like verifiers and project participants. This will ensure that the members of the JISC, acting in their personal capacity, will have the necessary practical skills and competence.

Closing Remarks

The expectations to reach an overarching international agreement in the nearest future are dire. As a result it is inevitable that we will enter a gap period in which, from a project developer’s view, we are already for some time. Although most attention is currently focused on the Clean Development Mechanism (CDM), the first mechanism that is confronted with an ending crediting period is JI. Without clear guidance in Durban, JI will go in (further) decline and JI will be the first “casualty” of the continued stalemate in the negotiations.

This will leave a significant part of sources of emissions in the industrial world without any international incentive to reduce emissions. Example countries are Russia and Ukraine and the non-ETS sectors in the EU (at the same time the European Commission has not initiated a rule-setting process for domestic offsetting projects under Article 24a of the EU Directive).

Proposal 25 (b) of the JISC is a modest proposal that entirely works within the context of “closing off” the first commitment period. At the same time it provides the necessary extension to bridge the gap until a new internal agreement has been concluded.

About JIAG

The Joint Implementation (JI) mechanism under the Kyoto Protocol has developed a project pipeline that is expected to generate 250 – 300 million tons of greenhouse gas (GHG) emission reductions in the period 2008-2012. Its central principle has proved simple and effective: countries under the Kyoto Protocol with capped emissions can trade project credits and reduce their total emission profile. The JI mechanism delivers low transaction costs, substantial benefits, and should be expanded in the next climate framework.

The Joint Implementation Action Group (JIAG) was formed in March 2008 to support the post-2012 negotiations with hands-on experience from market participants. The consortium of carbon market pioneers representing over 100 millions of tonnes of greenhouse gas emission reductions through JI projects constantly interacts with policy-makers and interest groups to communicate its views. The JIAG believes it is essential that JI is enhanced in the next climate agreement, maximizes its potential as a project finance mechanism, creating incentives to reduce GHG emission in a wide range of sectors and among a broad range of actors.

For more information look at www.jiactiongroup.com or contact Lennard de Klerk (chair) deklerk@global-carbon.com, Moritz von Unger m.vonunger@climatefocus.com or Jelmer Hoogzaad (secretariat) j.hoogzaad@climatefocus.com.

17 October 2011



Annex I: Questions and Answers on Proposal 25 (a)

1. Will continued ERU crediting lead to borrowing from future commitment periods and thereby undermine the integrity of the KP commitments?

ERUs are created by converting AAUs that have already been issued by a Party into its national registry. If a Party does not hold AAUs in its registry, no ERUs can be issued. As the Kyoto Protocol does not allow for borrowing of AAUs from future commitment periods, and AAUs can only be issued after a party's assigned amount has been calculated and the commitment period has begun, only AAUs from the first commitment period will be available from which to issue ERUs during a gap period. Therefore, continued ERU crediting will not lead to borrowing from future commitment periods.

2. Will the continuation of JI after 2012 weaken the targets of CP1?

On the contrary: As the issuance of one CP1 ERU is done by cancelling one CP1 AAU those credits cancel each other out and there are no extra compliance units available under CP1. However the emission reduction in the Host Country occurred after CP1 so in effect the compliance of the Host Country has been made tighter.

3. Is continued ERU crediting inconsistent with the accounting rules under the KP?

No, there are no provisions of the Marrakesh Accords or elsewhere in decisions under the Kyoto Protocol, which have to be amended to continue issuance of ERUs during the true-up period.

The Kyoto Protocol was intended to have sequential commitment periods, where CP2 would follow immediately after CP1, and intended to have ERUs issued post 2012 on the basis of CP2 AAUs. While the Marrakesh Accords did not envisage a gap period where a CP2 would not follow immediately after CP1, the continued conversion of CP1 AAUs during a gap period is actually fully consistent with all relevant decisions and does not require any amendments to said decisions. The relevant rules includes, in particular, decision 9/CMP.1 on Guidelines for the implementation of Article 6 of the Kyoto Protocol, and 13/CMP.1 on modalities for the accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol.

Furthermore the JISC concluded that *"...JI is designed as a long-term mechanism that continues from one period to the next, and is not tied to specific commitment periods. This continuity applies to all aspects of JI..."*³.

To ensure that no CP1 ERUs can be issued after a CP2 have entered into force, and to avoid any potential inconsistency with the accounting rules, the recommendation by the JISC specifically limits the continued issuance of ERUs on basis of CP1 AAUs to a period from 1 January 2013 to the end of the true-up period or the entry into force of new commitments, whichever occurs sooner.

4. Could continued ERU crediting lead to double-counting issues arising under the Effort Sharing Decision?

Concerns over double-counting under the Effort Sharing Decision (ESD) arise from the lack of express provision for deductions from Member States' Assigned Emissions Amounts (AEA) in respect of ERUs issued for JI projects within Member States' territories. This leads to the possibility that Member States could sell ERUs for reductions made and still count those reductions towards their commitments under the Decision.

³ Par 78 of the "Report on experience with the verification procedure under the JISC and possible improvements in the future operation of JI". This report was submitted by the JISC to CMP.6 in Cancún.

Note that this issue concerns JI projects hosted by EU Member States alone and that it relates to Community legislation, not the Kyoto framework. The same concerns would arise in the absence of the gap, i.e. under CP2.

If EU Member States continue to engage in JI on their territories, any concerns regarding double-counting under the ESD can effectively be excluded by, for instance, acknowledging ERU crediting under Article 24a of the revised EU ETS Directive. Article 10(b) of the ESD would then foresee the deduction of the relevant amounts from the country AEs.

5. Will continued ERU crediting legitimize or imply any official acceptance of AAU surpluses?

There are several reasons why continued ERU crediting is not related to the issue of AAU surpluses. In order to issue ERUs:

- a) An investment in a project has to be made *before* emission reductions are achieved;
- b) The JI project needs to be registered with the UNFCCC in order to get an ITL number assigned;
- c) Verification of the achieved emission reductions needs to be done;
- d) And last but not least ERUs are sold by the private sector as a return on the investments made.

AAUs on the other hand are sold by Host Parties, are not related to investments made in real projects and the sale of AAUs are not (necessarily) related to real reduced emissions.

6. Will continued ERU crediting flood the EU ETS market?

Continued ERU issuance for the period during the true-up period will not flood the ETS.

Under Article 11a(8) of the EU ETS the amount of offset credits operators can use towards meeting their commitments - CERs, ERUs or other international credits - is capped. The exact limits for each operator are to be set by the Commission in comitology proceedings. As this cap applies to all permitted credits in aggregate, disallowing ERUs would simply allow for more CERs and/or credits issued pursuant to agreements with third countries under Article 11a(5). Similarly, Article 5(1)(b) of the Effort Sharing Decision cap Member States use of ERUs and CERs at 3% of their total assigned annual emissions. As such, continued ERU crediting will have no effect on the amount of credits permitted in the EU ETS. Furthermore only pre-2013 registered JI projects are allowed in the third phase of the ETS (no Annex I country qualifies as LDC).