JOINT IMPLEMENTATION UNDER THE 2ND KYOTO COMMITMENT PERIOD

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INTRODUCTION

In Doha Parties agreed to an eight year second commitment period (CP2) under the Kyoto Protocol (KP) from 2013 to 2020. Parties with an emission reduction target in CP2 gave written consent - subject to ratification - on their reduction commitment listed in Annex B. All three Kyoto market mechanisms – Emissions Trading, Clean Development Mechanism (CDM) and Joint Implementation (JI) - will remain in existence during CP2. Yet uncertainty remains regarding the future of JI. This uncertainty is related both to the current market situation and also in respect to the JI rules. This paper gives an overview of the issues that JI is facing during CP2. It covers the following topics:

- The supply and demand imbalance currently faced in carbon offset markets
- Issuance of JI offsets during the interim period until all participating CP2 parties have their CP2 Assigned Amount Units (AAUs).
- AAUs and JI offset eligibility under the Convention
- Revision of JI guidelines currently discussed under the UNFCCC.

For the last three topics, we discuss policy options and assess them against their ability to preserve environmental integrity; ability to strengthen or weaken the negotiations for a 2020 agreement; political practicability.

SUPPLY AND DEMAND IMBALANCE

DEMAND BY CP2 PARTIES

The lack of demand due to the economic downturn and weak reduction targets together with the large supply of Emission Reduction Units (ERUs) from JI and Certified Emission Reductions (CERs) from CDM projects have led to a severe price decay in the carbon markets. ERU prices collapsed by more than 95% in 2012 and current prices are below EUR 0.2. Only a few countries have taken on binding commitments under CP2; these countries account for about 13% of global emissions. Some of the major Annex 1 countries are not in CP2 (US, Canada, Japan). The CP2 commitments until 2020 are only slightly below business-as-usual emissions (UNEP, 2012). This means that if countries do not raise ambition of their mitigation targets/pledges, the demand for offsets will be well below the expected supply of the three Kyoto mechanisms. Nevertheless, JI and the CDM are likely to remain the main offset mechanisms over the coming years. New market mechanisms that are being developed under the UNFCCC will take time to be established and may not provide a significant stream of market units until 2020.

DEMAND BY PARTIES THAT HAVE MADE 2020 MITIGATION PLEDGES UNDER THE UNFCCC

Even if ERUs were allowed to be used under the Convention (see below), demand for such units would likely be low. Table 1 shows the hypothetical demand for international units in 2020 for pledges made under the Convention. We assumed that non-CP2 A1 countries will have a single year pledge in 2020, will remain at BAU until 2020 and then purchase international units to meet their pledge. We use four scenarios: a low and a high estimate for BAU emissions with and without emissions from the LULUCF sector (Climate Action Tracker, 2013). Despite a hypothetical demand between 0.6-1-1 billion units from non-CP2 A1 countries, the demand for Kyoto units is likely to be small: The US is not expected to buy any Kyoto units, Canada is also unlikely to do so, New Zealand will have a very small demand and Japan is expected to focus on their own new offset mechanism. The demand would therefore more likely be around a couple of hundred million units or less.

TABLE 1: POTENTIAL DEMAND FOR INTERNATIONAL UNITS FROM A1 NON-CP2 COUNTRIES (COUTRESY JOHANNES GÜTSCHOW, DATA SOURCE: CLIMATE TRACKER, 2013)

KyotoGHG					
MtCO2eq					
Country	Baseline 2020 w/o LULUCF	Baseline 2020 w LULUCF	Pledge (unconditional)	Demand w/o LULUCF	Demand w LULUCF
Baseline Emissions high estimate					
CAN	770	920	612	158	308
JPN	1'330	1'356	1'306	24	50
NZL	76	70	57	20	14
USA	6'809	6'609	5'951	858	658
Total high BAU				1'060	1'030
Country	Baseline 2020 w/o LULUCF	Baseline 2020 w LULUCF	Pledge (unconditional)	Demand w/o LULUCF	Demand w LULUCF
Baseline Emissions low estimate					
CAN	723	873	612	111	261
JPN	1'257	1'283	1'306	-49	-23
NZL	74	68	57	17	11
USA	6'460	6'260	5'951	509	309
Total high BAU				588	558

AAUs and JI offset eligibility under the Convention

JI is a mechanism for offsetting projects in CP1 and/or CP2 countries. For each ERU issued, the host country has to convert one of its Assigned Amount Units (AAUs) to avoid double counting. It is unclear if ERUs (and therefore indirectly AAUs) can be used for compliance by countries that have made emission reduction pledges under the Convention but are not in CP2. The 2020 pledges made by countries under the Convention are not legally binding but are simply declarations from Parties on their intended emission reduction pledges. Currently there are no clear and explicit rules that define if and how non-CP2 countries could use AAUs and ERUs for compliance of their pledges they made under the Convention.

Decisions Parties made in Doha on the use of AAUs and ERUs for compliance with 2020 pledges are ambiguous and somewhat contradictory. The Common Tabular Format (CTF) tables that were approved in Doha which A1 countries must use for their biennial reports, allow Parties to list CERs, ERUs, and AAUs they wish to count toward their pledge under the Convention.

ERU trading eligibility of A1 Parties 2013-2020

A1 Parties participating in CP1 and CP2

Annex I Parties with emission targets in CP1 and CP2 may transfer and acquire Kyoto units (e.g. AAUs, CERs, ERUs, RMUs) valid for CP2 as of 1 January 2013, unless and until they are found ineligible in accordance with established procedure (paragraph 3(b) of the annex to decision 11/CMP.1).

A1 Parties participating in CP2 but not CP1

Annex I Parties with emission targets in the CP2 but not in CP1 may transfer and acquire Kyoto units valid for CP2 only after they are found to be eligible in accordance with established procedure (paragraph 3(a) of the annex to decision 11/CMP.1). Parties agreed in Doha to consider expediting the establishment of their eligibility (see chapter 8.2.2), however no decision has been taken yet. This applies to Belarus and Kazakhstan, as well as Malta and Cyprus.

A1 Parties participating in CP1 but not CP2

It is unclear if and how Parties can use their surplus Kyoto units from CP1 to meet their commitment under the Convention. It is also unclear if and how they could use CP2 Kyoto units to meet their pledges. This applies to Japan, Russia and New Zealand.

A1 Parties that are not KP Parties

It is unclear if and how such Parties could use CP2 Kyoto units to meet their pledges under the Convention. The decisions in Doha are ambiguous (see section 2). This applies to the US and Canada.

(Adapted from UNFCCC JI FAQ)

Footnote b) of this table states that Parties can list "AAUs issued to or purchased by a Party." This may imply that such units could be used by non-CP2 A1 Parties to meet their pledges under the Convention. It could also just refer to CP2 counties meeting their reporting requirements under the Convention.

Furthermore footnote a) qualifies and states: *Reporting by a developed country Party on the information specified in the common tabular format does not prejudge the position of other Parties with regard to the treatment of units from market-based mechanisms under the Convention or other market-based mechanisms towards achievement of quantified economy-wide emission reduction targets.* This statement can be interpreted to mean that countries may not accept the use of KP units by non-CP2 countries to meet their pledges under the Convention (UNFCCC 2013b).

Because ERUs are converted from AAUs they are tied to the legal interpretation of what constitutes AAUs: whether AAUs are solely the currency of the KP or whether they have intrinsic value as emission units outside of the KP. If ERUs are allowed for compliance under the Convention, it may indirectly strengthen the argument that AAUs have intrinsic value outside of the KP. This may not be desirable for the following reasons:

The legal interpretation of what constitutes an AAU is especially relevant, given the large amount of AAU surplus from CP1. This surplus is largely the result of weak commitments in CP1 and not over-achievement. The AAU surplus from CP1 is estimated to be over 13 billion tonnes of CO_2eq. Russia (5.8), Ukraine (2.6) and Poland (0.8) are the largest surplus holders, followed by Romania (0.7), the UK (0.5) and Germany (0.5) (Point Carbon, 2012). One study estimated that if the 13 billion were used fully, countries with a CP2 reduction target would not need to engage in any further mitigation action until well beyond 2020 (assuming Kyoto style rules would continue) and would still meet their targets (Climate Analytics, 2012).

The compromise adopted in Doha to address the CP1 surplus makes it impossible for non-CP2 countries to sell their surplus to CP2 countries (UNFCCC 2013a) but they are able to sell their surplus until the end of the CP1 true-up period, which is expected to end in 2015. The Doha decision does not explicitly clarify the questions if non-CP2 countries with surplus can use their surplus for compliance with their own pledge under the Convention and if they are allowed to sell CP1 surplus under the Convention. The Doha decisions on use of CP1 AAU surplus seem to imply that AAUs do not have intrinsic value outside of the KP and may therefore not represent emission units under the Convention:

The Doha surplus decisions state that in order to use CP1 AAU surplus in CP2 it must be added to the CP2 assigned amount (AA) of a Party. Since Parties that do not join CP2 will not have a CP2 AA, this cannot occur. The state and existence of AAUs outside of CP2 is therefore unclear and depend on their legal conceptualization. The Doha decisions for the CP1 AAU surplus seem to support the definition that AAUs are exclusively the currency of the KP. Such an interpretation would render these units meaningless for countries without an AA. On the other hand, the footnote b) of the Common Tabular Format tables could be interpreted as saying that AAUs constitute an independent property and therefore have intrinsic value also outside of KP Convention (UNFCCC 2013b).

Such an interpretation could also have implications for post 2020. The Doha decisions do not stipulate what will happen to any surplus at the end of CP2. In other words, there is no explicit cancellation of surplus in 2020 and it is unclear what will happen to the remaining surplus of Kyoto emission units[1] at the end of CP2. Surplus-holding countries will potentially advocate for having their surplus recognized under a new 2020 agreement.

To summarize, the negotiations for the reporting rules under the Convention and the carry over rules under the KP have led to somewhat ambiguous and contradictory language in terms of ERU and AAU use under the Convention.

[1] These include AAUs, CERs, ERUs, and RMUs

OPTIONS & ASSESSMENT

Options to address Kyoto unit eligibility for compliance with pledges made under the Convention include:

- Option A: Allow for the use of AAUs and ERUs for compliance under the Convention.
- Option B: Leave rules somewhat ambiguous as is currently the case.
- Option C: Explicitly prohibit the use of AAUs and ERUs for compliance under the Convention for countries that do not have a reduction commitment CP2.

Since demand for these units from non-CP2 A1countries is limited it is unlikely that any of the options would significantly change the number of Kyoto units sold. Under current pledges demand is low and some buyer countries, such as the US have already made clear that they will not buy Kyoto units for compliance (see above). Yet the political and legal implications of the three options are significantly different.

Option A would give AAUs and ERUs intrinsic value outside of the KP. As explained above, this may open the door for surplus Kyoto units from CP1 and CP2 being brought into a new 2020 agreement because it would make it easier for surplus holding countries to argue that these units constitute a property independent of the KP. This could set a precedent that may not be beneficial for the environmental integrity of a post-2020 agreement. The political viability of option A is unclear, as many countries will be opposed to this option, including G-77 and the EU.

Option B would not try to clarify the current decisions and rules that are somewhat ambiguous. This is not optimal from an environmental integrity standpoint but it may politically be the most feasible and the less harmful option than option C.

Under **option C**, AAUs remain defined exclusively as the currency of the KP – the context in which they were originally created. This would be the option that would ensure the highest environmental integrity since it would likely make it more difficult for surplus holding countries to argue that they should hold value in a 2020 agreement. Yet the political viability of option C is unclear as some countries are opposed to such a clear definition, whereas others support it.

ISSUANCE OF JI OFFSETS DURING THE INTERIM PERIOD

Under current rules, ERUs can only be issued by countries that have a ratified reduction commitment under the Kyoto Protocol and were then able to issue their Assigned Amount – the number of allowances equivalent to allowed emissions over 2008-2012 for CP1 and 2013-2020 for CP2. Under current rules emission reductions from JI projects that were achieved after 2012 need to be converted from CP2 AAUs. It is therefore currently not possible to issue ERUs for emissions reductions achieved after 2012 until Parties have received their CP2 AAUs – the so called interim period. CP2 Parties are unlikely to have their CP2 AAUs before 2015 or 2016 because the initial report to calculate the AA need to be established and reviewed. It is important to note that this only affects emission reductions that occurred after 2012. Emissions reductions that occurred before 2013 can be issued by converting CP1 AAUs until the end of the true up period.

Parties agreed in Doha to consider possible changes to the rules that would allow for the issuance of AAUs before countries have received their CP2 AAUs (the “interim period”). Paragraph 16c of Doha guidance relating to JI requests that the Subsidiary Body for Implementation (SBI) addresses how ERUs are to be issued during the interim period (UNFCCC 2012b). Parties did not come to a decision since Doha. The issue was discussed at COP 19 in Warsaw but Parties could not come to an agreement and the discussion was postponed to SBI40 held in June 2014 in Bonn (UNFCCC 2013c).

Similarly, Parties did not agree if there should be a special rule for Belarus, Kazakhstan, Malta and Cyprus which were not in the first Kyoto commitment period but are planning to participate in CP2 so that they would be able to

issue ERUs before they have their CP2 AAUs. This decision was also postponed to SBI40 (UNFCCC 2013d). The decision for now states that a country may buy but not issue ERUs until it has its CP2 AAUs.

OPTIONS & ASSESSMENT

The Joint Implementation Supervisory Committee (JISC) in their 2013 recommendation to the CMP recommended that Parties should be allowed an advanced and limited issuance of CP2 AAUs (e.g. up to 1% of CP1 assigned amount) for conversion to ERUs.[2] Below we discuss this and three other options:

- Option A: would only allow issuance of CP2 ERUs once Parties have received their CP2 AAUs.
- Option B: JISC recommendation of advanced issuance of CP2 AAUs up to a maximum of [1%][3] of the country's CP1 assigned amount for conversion to ERUs.
- Option C: would allow host parties to use CP1 AAUs to convert to ERUs for emission reductions in CP2.[4]
- Options D: The deduction of the amount of ERUs sold from the host country pledge under the Convention. This option has been suggested in case a host Party does not ratify CP2 or if the CP2 does not enter into force.

Option A mirrors the procedure during CP1 where it was only possible to issue ERUs once countries had their CP1 AAUs. It would mean that no ERU issuance for emission reductions that occurred after 2012 is possible until probably 2015 or 2016, when countries are expected to have issued their CP2 AAUs. This option would be the most secure in terms of ensuring the environmental integrity of the mechanism and it would also not prejudge the negotiations on the post-2020 agreement. The political feasibility of option A is unclear and depends on the positions of Ukraine and Russia and to a lesser extent Belarus and Kazakhstan.

Option B may cause issues in cases where a country issues ERUs in the interim period but then ends up not ratifying CP2. Environmental integrity can therefore only be ensured if countries that issue interim ERUs are indeed ratifying CP2. Given that Ukraine, Belarus and Kazakhstan have not yet made a clear decision about ratification, this

[2] […] the JISC recommends that host Parties that have a quantified emission limitation or reduction commitment inscribed in the third column of annex B to the Kyoto Protocol in annex I to decision 1/CMP.8, provided that their eligibility has not been suspended in accordance with decision 27/CMP.1, annex, chapter XV, may be permitted by the CMP to undertake an advanced issuance of AAUs for the second commitment period. The JISC recommends that such advanced issuance be capped at an amount equivalent to circa 1 per cent of a Party's assigned amount established for the first commitment period.

The JISC notes that such advanced issuance should be solely for the purpose of allowing the conversion to ERUs to take place and that any advanced issuance should be fully accounted for in the later issuance of AAUs for the second commitment period. Such an approach seems both technically straightforward and politically feasible, as it does not require as substantial changes as would have been required for approaches previously proposed by the JISC and does not touch on the issue of the conversion of AAUs from the first commitment period. (JISC 2013).

[3] The JISC did not specifically recommend 1%. It was just used as an example figure.

[4] This option has been suggested by the JISC in 2012 in its recommendations to CMP8 but was subsequently removed in their recommendations for CMP 9:

3. In order to also accommodate the issuance of emission reduction units (ERUs) during the period before Parties are able to issue ERUs under the current rules, the JISC recommends to the CMP that it decide that:

(a) […]

(b) Until the end of the CP1 true-up period or when AAUs or RMUs for CP2 have been established for that Party, whichever is the earlier, ERUs may be issued by any host Party that [has a QELRO for CP2 in the amendment to Annex B of the Kyoto Protocol adopted by the CMP] [has declared in accordance with any relevant provisions agreed by the Parties to be bound by a QELRO for CP2] for emission reductions or removal enhancements that occur in this period resulting from JI projects registered in CP1 or CP2, provided that the Party's eligibility has not been suspended in accordance with section XV of decision 27/CMP.1, by converting the corresponding amount of AAUs or RMUs, as appropriate, for CP1; such ERUs may be used only for the purpose of compliance with the commitments for CP2. (JISC 2012).

may not be the most cautious approach. On the other hand, this approach is, like options A and C, within the KP and would therefore not prejudge the outcome of the post 2020 agreement.

Option C would potentially undermine the cap on emissions in CP2: In Doha at COP18, Parties ensured that countries have a CP2 reduction target that is not higher than their average emissions between 2008-2010 (UNFCCC 2013e, paragraph 3.7ter). This provision helps minimize the risk of creating new 'hot air' in CP2. Parties also agreed that their CP1 surplus has to be transferred into a special account established in Parties' registries – the Previous Period Surplus Reserve (UNFCCC 2013a, paragraph 25). The use of CP1 AAUs held in PPSR is restricted in order to minimize the use of CP1 surplus in CP2. It is unclear how the use of such CP1 AAUs for JI issuance could work. More importantly, the use of CP1 AAU surplus for the issuance of CP2 ERUs would contradict the intent of para 3.7ter (UNFCCC 2013a). Countries with a large CP1 surplus could issue large numbers of ERUs. The environmental integrity of such ERUs would be questionable. This option could furthermore lead to issuance of a large quantity of ERUs further increasing the oversupply of offsets. Option C would therefore not ensure the environmental integrity of CP2. On the positive side, this option would not prejudge the outcome of the post 2020 agreement, as it would stay within the KP.

Options D has been suggested by the JISC in 2012 in case a host Party does not ratify CP2 or if the CP2 does not enter into force. This option can ensure very limited environmental integrity for several reasons:

Accounting would be problematic for at least two reasons: 1) the pledges under the Convention are single-year pledges for 2020. For such pledges it would be difficult to account for ERUs that were issued before 2020. 2) This option would create legal difficulties because pledges made under the Convention are not legally binding and accounting rules not defined yet.

Most importantly, this approach, unlike the previous three options, would blur the line between KP and the Convention. As discussed in the previous chapter, it would indirectly give AAUs legal standing outside the KP. Both AAUs and ERUs were created for the sole purpose of accounting for compliance with KP commitments. Option D would lead to a legal extension of the original purpose of these units. It could therefore prejudge the outcome of the post 2020 agreement and make it easier for countries to advocate that they should be able to bring their surplus from CP1 and CP2 into the post 2020 climate treaty.

REVISIONS OF JI GUIDELINES

Parties are currently negotiating the revision of JI guidelines. The JI review was formally initiated by the CMP at its 7th meeting in Durban in 2011 (UNFCCC 2006, UNFCCC 2010). In Doha, they agreed on a set of "key attributes that shall characterize the future operation of JI" (UNFCCC 2012a), including a single track that will unify the current track 1 and track 2 systems.

At CMP 9 in Warsaw in November 2013, Parties discussed the modalities and procedures for the revised JI that would replace the existing Guidelines adopted by decision 9/CMP.1 (UNFCCC 2006). The draft was discussed but not finalized and adopted in Warsaw (UNFCCC 2013f). The text adopted by the CMP in Warsaw notes that negotiations on the draft will continue at SBI 40 in June 2014 in Bonn (UNFCCC 2014). According to some negotiators the draft is well developed and almost ready for adoption and the final text will not be much different. In the following sections we first discuss the proposed unified track and then some other of the most pertinent issues relating to the draft text and its annex developed in Warsaw (UNFCCC 2013f).

A SINGLE UNIFIED JI TRACK

Currently JI projects can be registered under one of two separate tracks:

- Track 1 projects are approved and the credits are issued by host countries themselves.

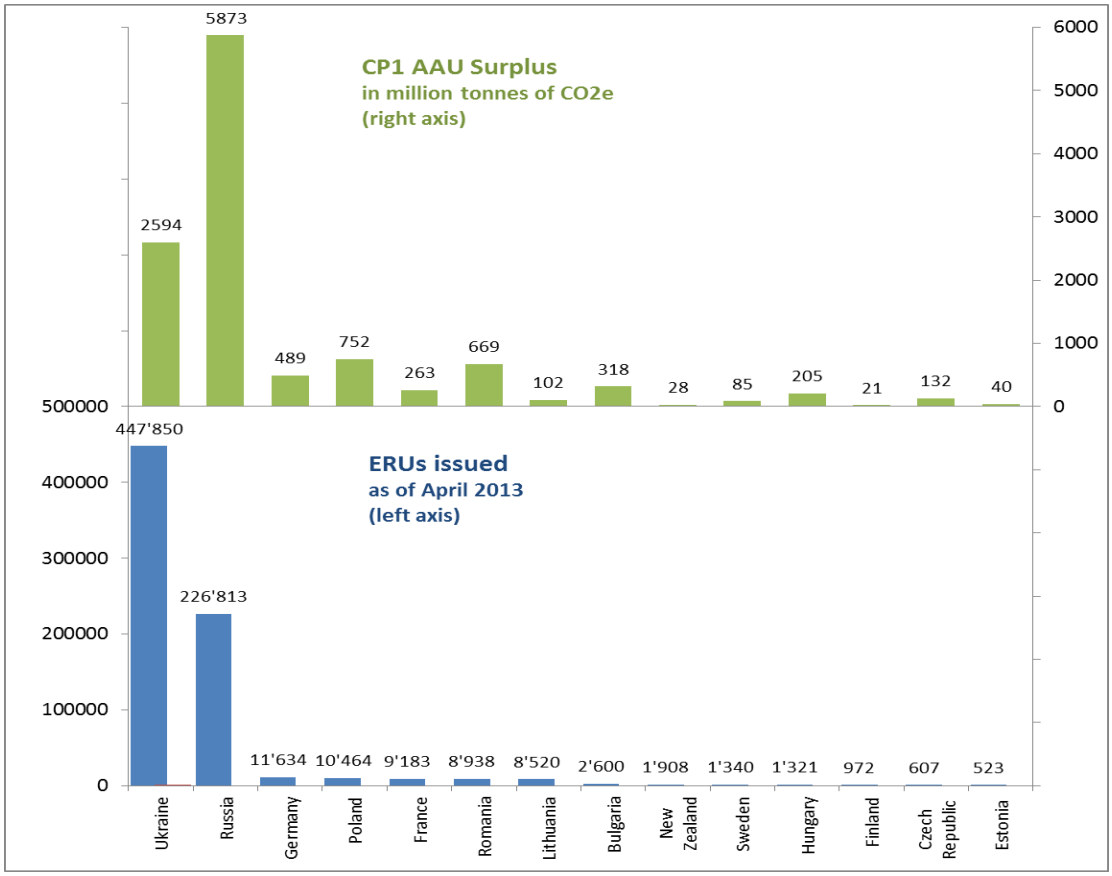
- Track 2 projects are approved by the Joint Implementation Supervisory Committee (JISC), an international body, much like the CDM Executive Board.

For projects that are implemented under JI Track 1 there is little international oversight and countries can approve projects and issue credits unilaterally. There has been an exponential growth in issuance of JI Track 1 credits from Russia and Ukraine. 95% of all ERUs issued under JI to date originate from track 1 projects. **Fehler! Verweisquelle konnte nicht gefunden werden.**

Figure 1 shows countries that have issued ERUs and their CP1 AAU surplus. The figure illustrates that the two countries with the largest surplus (Ukraine and Russia) have issued more than 92% of ERUs. Parties and the JISC recognized the discrepancies between track 1 and track 2 procedures and have long commented on the lack of transparency in track 1 and therefore decided to create a unified JI track. The draft decision text from Warsaw suggests that the new track "shall become effective on [1 January 2015] (effective date)" (UNFCCC 2013f).

The proposed unified track, as it is defined in the current draft, is a compromise between track 1 and track 2. It gives considerable flexibility to host countries and already registered projects and also some oversight to the JISC. In the next sections we examine the draft text more closely and examine the implication the proposed new rules have on the environmental integrity of JI.

FIGURE 1: JI HOST COUNTRIES AND THEIR CP1 AAU SURPLUS



ASSESSMENT OF THE DRAFT DECISION ON THE REVIEW OF JI GUIDELINES

The draft decision developed in Warsaw spells out how the revised JI would work for the period up until 2020. It contains an annex which includes the proposed revised guidelines ("Modalities and procedures for the implementation of Article 6 of the Kyoto Protocol Joint Implementation" - UNFCCC 2013f).

TREATMENT OF JI PROJECTS REGISTERED UNDER THE CURRENT RULES

One of the most important questions is how existing projects will be dealt with. The draft decision states:

> *8. Also decides that joint implementation projects that have, by the date of adoption of this decision, been deemed final in accordance with decision 9/CMP.1, annex, paragraph 35, or established in accordance with paragraph 23 of that annex, may select either: (a) To be deemed registered under the joint implementation modalities and procedures from [1 January 2015]; or (b) To continue to operate under decision 9/CMP.1;*
>
> *9. Further decides that after [1 January 2015] the joint implementation modalities and procedures shall apply to all projects other than those referred to in paragraph 8 above;*
>
> *10. Decides that the Joint Implementation Supervisory Committee shall continue to apply decision 9/CMP.1 to projects selecting to continue operation under decision 9/CMP.1 in accordance with paragraph 8(b) above;* (UNFCCC 2013f)

Paragraph 8 suggests that both projects registered under track 1 and track 2 would automatically be considered as reregistered. Paragraphs 8 and 10 give projects the option to choose if they want to continue operating under the currently existing rules or if they want to apply the revised rules. This has several implications which would weaken environmental integrity.

There is no reregistration procedure required at the point the new guidelines come into effect. Neither additionality nor baselines will be reevaluated for existing projects. Almost all ERUs issued to date are from track 1 projects that have limited transparency and in many cases limited environmental integrity. The suggested new guidelines would allow all those projects to continue generating credits.

RENEWAL OF CREDITING PERIOD

The suggested crediting periods for projects are defined in paragraph 36 of the annex:

> *36. JI activity participants shall select a crediting period for the activity that shall not exceed 10 years. The crediting period shall not start earlier than the submission of activity documentation to the secretariat in accordance with paragraph 36 below. The crediting period may be renewed for periods of up to 10 years, provided that, for each renewal, an accredited independent entity validates that the activity baseline is still accurate or has been updated taking new data into account, where applicable.* (UNFCCC 2013f)

The total period in which a JI project can receive credits is not limited. The way the text is written now it could be renewed every 10 years at which point the baseline is reevaluated but not the additionality requirements. If additionality is not reconsidered it may in certain cases lead to projects being reregistered (several times) that are no longer additional because e.g. the technology used has become common practice, or because fuel or electricity availability or prices have changed considerably. This could lead to a number of existing projects which were registered well after they had already been implemented (no prior consideration) to extend their crediting periods. Such projects have a much lower likelihood of being additional.

Furthermore, the crediting period would only apply to new projects and already registered projects that choose to operate under the new guidelines. The rules do not clarify if existing projects that choose to operate under the currently existing rules would have a limited crediting period because the current guidelines do not define a crediting period. If the draft rules are adopted as they are, this could mean that all the projects that were registered without prior consideration could continue to receive credits without any limitation of the crediting period. Given the wide range of quality of existing JI projects, it may be useful to require re-registration of all existing projects which would require the evaluation of both baseline and additionality.

ADDITIONALITY

It has been argued that additionality is not necessary for projects implemented under JI, because for each ERU issued an AAU has to be converted. This holds true in the case when countries have an ambitious emission reduction target and therefore a scarce supply of AAUs. If, on the other hand, a country has a lenient reduction target and an oversupply of AAUs, additionality of JI projects is necessary to ensure environmental integrity. It is unclear if the targets taken in CP2 are sufficiently stringent to avoid an oversupply of CP2 AAUs. This is especially true because the rules for implementation of paragraph 3.7ter (see Issuance of offsets during interim period) have not been agreed yet. It is therefore necessary to have sound additionality requirements.

> Paragraph 6 of the annex lays out the responsibilities of the JISC: *6. (b) (i) Provide criteria for the demonstration of additionality, through ensuring prior consideration of JI for proposed JI activities applying project-specific baselines, the use of positive lists, performance benchmarks and financial return benchmarks, and the objective demonstration of barriers ensuring that positive lists are applied only in areas where there is low risk of non-additonality;*
>
> *22. Information obtained from activity participants marked as proprietary or confidential shall not be disclosed without the written consent of the provider of the information, except as required by applicable national law of the host Party. Information used to determine whether reductions in anthropogenic emissions by sources or enhancements of anthropogenic removals by sinks are additional, describe the baseline methodology and its application, and/or support an environmental impact assessment shall not be considered proprietary or confidential.* (UNFCCC 2013f)

Ensuring prior consideration means that retroactive crediting will no longer be possible for projects (re)registering under the new rules. Retroactive crediting was responsible for a large share of ERUs issued in CP1. But since projects can chose if they want to apply the currently existing rules (which do not require ensuring prior consideration), it will still be possible for registered projects that were registered retroactively to continue receiving ERUs.

The environmental integrity of the use of positive lists, performance benchmarks and financial return benchmarks depends on the rules that define these and how they are applied and updated. These rules have to be defiend by the JISC (Paragraph 6bi and ii). It is unclear from the draft rules with what frequency these additionality indicators and standardized baselines (see below) would be updated. The new rules only includes a bracketed paragraph that would require a review procedure that would assess how each host country is applying these rules to its national circumstances (see *Host Country Compliance*). More precautionary measures may be necessary to ensure additionality determination is stringent enough. If done well, standardized approaches can simplify the approval process of new projects.

BASELINES

Conservative and realistic baseline setting is important to avoid over-crediting (and under crediting).[5]

> The JISC shall: *6. (b) (ii) Provide objective criteria for the establishment of baselines, including standardized baselines, that reasonably represent the anthropogenic emissions by sources or anthropogenic removals by sinks that would occur in the absence of the proposed JI activity, which:*
>
> > *a. [Ensure that the baseline is lower than the relevant previous emission levels];*
>
> *24. A Party participating in JI shall make publicly available and maintain, in an up-to date manner, the following: (a) The contact details of the [designated focal point] [host Party] responsible for approving baselines and registering JI activities hosted by the Party;*

[5] Whereas over-crediting undermines environmental integrity, under-crediting does not. Under-crediting may lead to projects no longer being financially feasible but this would not lead to lost abatement assuming the host country would meet its target.

> *26. Baselines for projects using standardized baselines shall be reviewed periodically and updated according to transparent criteria established ex ante.*
>
> *28. A Party participating in JI shall make publicly available, through the secretariat, information on all baselines that it has approved and activities that it has registered or that it has under consideration for approval or registration.* (UNFCCC 2013f)

Although the JISC is to develop criteria for establishing baselines, these are merely to ensure that baselines reasonably represent the anthropogenic emissions. It is unclear if this definition is sufficient to ensure conservativeness. Paragraph 6. (b) (ii) would require that baselines are set below the estimated emissions level under the business-as-usual-scenario. This would ensure conservativeness and may help host countries to meet their own reduction target. The paragraph is in brackets. It is therefore unclear if it will be approved.

There seems to be no requirements to review the proposed standardized baselines by an independent third party and/or the JISC. The new rules only includes a bracketed paragraph that would require a review procedure that would assess how each host country is applying these rules to its national circumstances (see *Host Country Compliance*). A lack of such a review requirement may encourage country with a surplus of AAUs to set their standardized baselines not stringently enough.

The review and updating of standardized baselines (SBL) is very important to ensure that no over crediting occurs because the baselines are outdated. The rules currently lack specificity. They do not specify how frequently those SBL will need to be updated and who will decide the time interval, the JISC or the host party.

Although transparency is an important component for ensuring environmental integrity, by itself it is not sufficient to ensure that project based or standardized baselines are reviewed conservatively, ensuring no over crediting.

ATMOSPHERIC BENEFIT

Atmospheric benefit means achieving additional reductions that go beyond the targets that countries have committed to.

> The JISC shall: *6. (b) (iv) Allow for net atmospheric benefits, inter alia through the cancellation of ERUs on a voluntary basis.* (UNFCCC 2013f)

Providing that countries do not have a surplus of AAUs, the cancellation of ERUs could indeed lead to a net atmospheric benefit (Lazarus et al 2013). But this is only the case if cancellation does not lead to some form of crediting later on, as was suggested in a proposal presented by Brazil at COP 19 in Warsaw.

STAKEHOLDER INVOLVEMENT AND APPEALS PROCEDURE

Local and global stakeholder consultations are a requirement under the CDM. Nevertheless stakeholder involvement and the not yet decided appeals procedure have been controversial topics under the CDM. Under the current rules of JI, local stakeholder involvement is not a strict requirement. Under track 1, the rules depend on the host country but according to project developers are usually only treated as a formality. Under track 2, consultations are expected to be held but there are no specific rules on how local stakeholders have to be consulted. Under track 2, submitting global stakeholder comments on the draft PDD during determination is always possible. The same rules are now suggested for the revised JI rules (see below para 37 and 39). The draft changes to the JI rules propose the inclusion of both a local and global stakeholder consultation and appeals procedures:

> Paragraph 6 of the annex lays out the responsibilities of the JISC: *(c) Setting minimum requirements to facilitate the development of project cycle procedures by host Parties which ensure provisions in relation to the transparency of decision-making processes, local stakeholder consultation and rights for directly affected entities to hearings prior to decision-making, timely decisions and appeals of decisions;*
>
> *24. A Party participating in JI shall make publicly available and maintain, in an up-to date manner, the following: (c) Its national procedures for appealing decisions by the [designated focal point][host Party] regarding the registration of JI activities;*

JI activity participants shall provide: *35. (b) Documentation on how input from local stakeholders was invited and taken into account.*

37. The accredited independent entity shall make the activity design document publicly available through the secretariat, subject to the confidentiality provisions set out in paragraph 22 above, and shall invite comments from Parties and stakeholders on the activity design document and any supporting information for 30 days from the date that the activity design document is made publicly available.

39. The accredited independent entity shall make its validation report publicly available through the secretariat, together with an explanation and justification of its findings, including a summary of the stakeholder comments received and a report on how due account was taken of those comments.

51. Any decision taken by the JISC in accordance with these modalities and procedures may be subject to appeal by affected stakeholders, in accordance with provisions to be determined by the CMP. (UNFCCC 2013f)

Local stakeholder consultations and appeals procedures are necessary to ensure that affected communities can raise concerns and that these are sufficiently addressed. Requiring both procedures is an important step towards ensuring that no stakeholders are harmed by JI projects. Making these items mandatory parts of national rules is clearly a step forward. Nevertheless, the draft guidelines are currently not specific enough to ensure that these procedures will be effective:

As the experience with the CDM has shown, without specific rules on how local stakeholder consultations have to be conducted and how the raised concerns have to be addressed, these consultations are often insufficient to enable local communities to provide input which then is sufficiently addressed. The draft guidelines include all the important elements for each of the steps in the project cycle (Annex, para 6c, 35b, 39) but specific rules on how such consultations are to be conducted, evaluated and addressed are currently not required.

There are two appeals processes proposed:

- Any JISC decision can be appealed by "affected stakeholders" (Annex, para 51)
- The host country or its Designated Focal Point (DFP) have to have a national appeals procedure against decisions it takes (Annex, para 24).

Although the JISC is to develop minimum requirements for appeals procedure, it is unclear how detailed they will be and if they will be sufficiently enforced by host countries (Annex, para 6 c). Given the lack of transparency in many JI host countries, such appeals procedures may not be sufficiently effective. In addition, it is unclear what type of action the JISC can take against host countries that do not comply with the rules (see below).

For both appeals processes, the rules do not define the types of stakeholders who can raise an appeal. Defining who is considered a stakeholder has been a major sticking point in the CDM negotiations on the appeals procedure. Not clearly defining who the stakeholders are, may lead to a situation where local stakeholders and/or civil society organizations are not able to raise an appeal.

It is unclear if existing projects that choose to continue under the current rules will have to comply with appeals procedures.

PROJECT VALIDATION AND REGISTRATION

Project validation is done by an Accredited Independent Entity (AIE) accredited by the JISC. Project registration is done by the host country, as is currently the case under JI track 1. What is different under the proposed track is that the JISC may request a review of a project:

40. The host Party may register the activity if it meets all of the requirements set out in these modalities and procedures and any additional or elaborated standards developed by the JISC and, as applicable, by the host Party. The host Party shall decide whether to register the activity and shall make its decision

publicly available through the secretariat. Registration is considered the formal approval of the respective joint implementation activity by the host Party. If the host Party decides not to register a proposed JI activity, it shall make the reasons for its decision publicly available through the secretariat.

41. Upon receipt of the notice of registration from the host Party, the secretariat shall record the registered JI activity with a unique and publicly available identifier, unless the JISC requests a review according to its rules and procedures within 30 days. (UNFCCC 2013f).

The draft rules no longer require receiving host or buyer country approval before registration. The latter now is considered as approval. This will simplify the registration procedure and may but down on bureaucracy in the host country.

The draft rules do not specify under what circumstances the JISC can request a review and how such a review would be conducted. The current draft rules for example do not specify if the JISC could stop a project from being registered by a host country. The JISC will elaborate in their rules and procedures on the process of how they request a review. The quality of approved projects may depend on how these rules are elaborated and then implemented.

VERIFICATION AND ERU ISSUANCE

An accredited independent entity (AIE) will verify the project. The JISC is responsible for the accreditation of these AIEs. It is the host party's responsibility to accept the verification report (Annex, para 47). It is interesting to note that the draft specify in para 47 that "The host Party **shall** accept the verification if it meets all of the requirements…" This may avoid situations where the host Party without justified reason withholds issuance of ERUs (e.g. because of corruption).

If the JISC does not request a review, it will inform the host party after 30 days that the issuance of ERUs has been endorsed (UNFCCC 2013f, Annex, para 48). Paragraph 6 of the annex lays out the responsibilities of the JISC:

6. (f) Providing oversight in the issuance of ERUs by host Parties;

6. (i) Undertaking reviews of selected JI activities as set out in paragraph 40 and 47 below and, where appropriate, [withholding the process of issuance of ERUs]; (UNFCCC 2013f)

Although the JISC will oversee ERU issuance by the host parties, it is unclear to what extent it will have control over the process. The JISC can request a review of a project that has been submitted by a host country, after it has accepted the verification report. The draft rules do not elaborate how such a review would be requested and conducted. The JISC will elaborate on the procedure of how they request a review in their rules and procedures. They may apply the current procedures under track 2 where at least three members of the JISC have to request a review. The question if the JISC should be able to withhold ERUs has been controversial and the relevant language is therefore in brackets. Without the JISC being able to take such corrective action, a review procedure may not be sufficient to stop the issuance of ERUs with limited environmental integrity.

HOST COUNTRY COMPLIANCE

The draft rules include two bracketed paragraphs that suggest that the JISC should be able to assess if host countries comply with JI rules.

6. (h) [Assessing the conformity of implementation of JI by host Parties with these modalities and procedures and the minimum requirements and procedures referred to in paragraph 6(b) above through initial assessments of implementation by Parties followed by regular assessments to monitor ongoing implementation]; (UNFCCC 2013f).

29. [A Party identified by the JISC in accordance with paragraph 6(h) above as not being in conformity with the mandatory requirements and procedures of JI shall immediately take action to rectify the identified non-conformities and shall provide written evidence to the JISC to demonstrate that the identified non-

conformities have been rectified. The JISC shall make such evidence publicly available (subject to confidentiality). The JISC elaborate the procedure to rectify non-conformities that have resulted in the transfer of excess of ERUs, assessing options to assign liability for excess issuance for consideration by the CMP.]

Giving the JISC the option to intervene when a host country does not comply with the rules is an important element to help ensure that JI's environmental integrity can be monitored and improved where necessary. Without the JISC being able to take corrective action, host countries may not have enough of an incentive to prioritize environmental integrity over maximizing credit issuance. This would hold especially true for countries that expect to have a surplus of AAUs. If countries have a stringent target with a scarce supply of AAUs, the risk of over-issuance would be smaller.

CONCLUSIONS

The future of JI is uncertain due to a large oversupply of Kyoto units and very low prices. Nevertheless it is important to address the issues discussed in this paper to ensure that a revised JI can operate with environmental integrity. Integrity of JI and its units will depend on what Parties decide on

- the use of ERUs for meeting pledges under the Convention;
- the issuance of ERUs during the interim period;
- the revisions of the JI modalities and procedures.

The use of ERUs outside the KP would indirectly change the current interpretation of AAUs as the exclusive currency of the KP. Even if the units sold to a non-KP party where to have high environmental integrity, a change in current practices, which limits the use of JI units for compliance to KP Parties, could undermine mitigation targets due to accounting issues and more importantly it could prejudge the discussion on the post-2020 climate agreement.

The issuance of ERUs during the interim period until countries have issued their CP2 AAUs is problematic as it may undermine environmental integrity. Since there is very limited demand for offsets under CP2, it may be the safest option to not allow the issuance of ERUs during the interim period.

The revision of the JI rules will have much influence over the quality of the mechanism in the coming years. Maybe most important will be to avoid the continued issuance of ERUs from projects registered during CP1 with limited environmental integrity. This will require changing the draft rules that are currently being discussed.

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