

**Submission by the Republic of Nauru on behalf of the
Alliance of Small Island States (AOSIS)**

**Guidance on the implementation of Article 6 of the Kyoto Protocol:
Views on revision of Joint Implementation Guidelines**

24 April 2012

AOSIS welcomes the opportunity to present its views on the possible revision of the Joint Implementation Guidelines (9/CMP.1)¹ taking into account experiences of the implementation of the mechanisms under the Kyoto Protocol including national guidelines and the recommendations on the first review of the joint implementation guidelines.

The successful functioning of the Kyoto Protocol and its Kyoto mechanisms is of great importance to AOSIS, hence AOSIS is interested in participating actively in these discussions.

I. Role of Article 6

Article 6 of the Kyoto Protocol was established specifically for the purpose of assisting Annex I Parties in meeting their quantified economy-wide commitments under Article 3.1 of the Protocol. For this reason, only Annex I Parties with commitments under Article 3 may issue, transfer or acquire emission reduction units (ERUs) resulting from project-based activities undertaken in Annex I Parties.

Joint Implementation is intended to operate in a capped environment, in which the overall number of fungible units does not change, but where the location of the emission reductions undertaken changes. In the absence of binding emissions caps for both participating Parties – investor Party and host Party -- this fundamental aspect of JI will not be present. The success of Joint Implementation in the second commitment period will depend on ambitious, clear and unambiguous quantified emission reduction commitments from Parties participating in the Kyoto Protocol's second commitment period in order to drive demand for ERUs.

II. Participation requirements / eligibility

Decision 9/CMP.1, paragraphs 21 and 24, provides clear eligibility requirements for participation in Joint Implementation. AOSIS is of the view that these eligibility criteria continue to be essential in the second commitment period to ensure environmental integrity.

To be eligible to **transfer and/or acquire** ERUs, an Annex I Party with a commitment inscribed in annex B must:

- a) be a Party to the Kyoto Protocol;
- b) have had its assigned amount calculated pursuant to Article 3, paragraphs 7 and 8 and recorded in accordance with decision 13/CMP.1;

¹ These guidelines, among other things, provide eligibility requirements for participation in JI activities, establish two tracks of Joint Implementation (Track I and Track II), address the verification process for emission reductions achieved through JI project activities, establish the Joint Implementation Supervisory Committee (JISC), address the process for the issuance of emission reduction units (ERUs) as a result of JI project activities, set out standards and procedures for the accreditation of independent entities and set out criteria for baseline setting and monitoring.

- c) have in place a national system for the estimation of anthropogenic emissions by sources and removals by sinks, in accordance with Article 5;
- d) have in place a national registry in accordance with Article 7;
- e) have submitted the most recent required inventory, in accordance with Article 5, paragraph 2 and Article 7, paragraph 1;
- f) submit supplementary information on assigned amount and makes the necessary additions to and subtractions from assigned amount.

Where a host Party does not satisfy each of these requirements, it may nevertheless have its emissions reductions verified under JISC oversight and **issue and transfer** ERUs if it:

- a) is a Party to the Kyoto Protocol;
- b) has had its assigned amount calculated and recorded in accordance with decision 13/CMP.1; and
- c) has in place a national registry in accordance with the relevant guidelines for registries.

As a result of these existing rules, an Annex I Party will satisfy the eligibility requirements for participation in JI in the second commitment period, for emission reductions taking place in the **post-2012 period**, only if adopts an economy-wide emission reduction commitment under the Protocol for the **second** commitment period and establishes an Assigned Amount for the **second** commitment period.

Establishment of an initial Assigned Amount for the **first** commitment period is not sufficient to maintain eligibility to participate in Joint Implementation into the **second** commitment period. See decision 9/CMP.1 and decision 13/CMP.1, annex, para. 23 ("Each Party included in Annex I shall, prior to any transactions taking place for that commitment period, issue a quantity of AAUs equivalent to its assigned amount pursuant to Article 3, paragraphs 7 and 8..."). Without second commitment period AAUs to convert to ERUs, ERUs cannot be issued for post-2012 emission reductions. Any other interpretation would be contrary the very purpose of Article 6 itself.

A country's residual listing in Annex B, through a reference in Annex B to a Party's first commitment period quantified commitment, is not sufficient to maintain that country's eligibility into the second commitment period.

AOSIS has sought the agreement of Kyoto Parties to the provisional application of amendments to Annex B that are agreed and adopted, pending their entry into force. Such an approach, if adopted, should expedite the process of calculating and recording assigned amounts.

III. Proposed Revisions to the JI Guidelines

The Joint Implementation Guidelines, together with related decisions on emissions trading and the registries, provide the current rules and modalities relating to Joint Implementation. A series of revisions to these guidelines have been proposed by the Joint Implementation Supervisory Committee (JISC) for consideration by the CMP.²

² Annual report of the Joint Implementation Supervisory Committee to the CMP (FCCC/KP/CMP/2011/4) (24 October 2011) para 28; Recommendations on options for building on the approach embodied in joint implementation (FCCC/KP/CMP/2011/9) (24 October 2011).

Certain of the proposals made by the JISC were formulated before there was clarity on the start date of the second commitment period.

By decisions taken in Cancun and Durban (1/CMP.6 and 1/CMP.7), all Kyoto Parties have now agreed that there will be a second commitment period under the Kyoto Protocol which will begin on 1 January 2013, and that emissions trading and the project-based mechanisms under the Kyoto Protocol shall continue to be available to Annex I Parties as a means to meet their quantified emission limitation and reduction objectives in accordance with relevant decisions of the CMP.

As a result of these decisions, the existing rule set that applies to Joint Implementation activities can continue to govern the issuance, transfer and acquisition of ERUs as commitments for the second commitment period enter into force and Parties' assigned amounts for the second commitment are established.

A. Post-2012 reductions and new project activities

The JISC report suggests that with regard to emission reductions and removals that occur after the first commitment period, the CMP may wish to either:

- a) Allow emission reductions and removals achieved by existing and new JI projects between 1 January 2013 and either the end of the true-up period or the establishment of assigned amount for a host Party for a second commitment period under the Kyoto Protocol, whichever is sooner, to be issued by host Parties as ERUs under the Track 2 procedure by converting AAUs or RMUs from the first commitment period; or
- b) Decide to adopt, at its eighth session, modalities and procedures for the issuance of offset credits under the Track 2 Procedure and their subsequent deduction from future emission reduction or limitation targets adopted by Parties hosting such activities.³

In AOSIS's view, it would not be consistent with existing rules, or desirable, to allow for the conversion of AAUs valid in the first commitment period to ERUs valid for the second commitment period. Surplus AAUs from the first commitment period will only be valid in the second commitment period, and available for conversion to ERUs, once they have been carried over consistent with the relevant rules following the true up period.

It would also be inappropriate to permit Annex B Parties to present **new** project activities for the post-2012 period (for reductions post-2012), or allow issuance of for post-2012 reductions, where the Parties involved have not taken binding quantified economy-wide emission limitation or reduction commitments for the second commitment period under the Kyoto Protocol.⁴ The stated objective of Article 6 is to assist Annex I Parties in meeting their commitments under Article 3.1 and such Parties will not have new commitments under Article 3.

Finally, the alternative proposal of the JISC, for the establishment of modalities and procedures for offset credits under Track II, was made before a second commitment period under the Kyoto Protocol was agreed and confirmed by decision 1/CMP.7. Accordingly, there is no need to

³ See FCCC/CMP/2011/9, Recommendations on options for building on the approach embodied in joint implementation, paragraph 24.

⁴ Decision 4/CMP.6, paragraphs 10 and 11, are not applicable here, insofar as they apply to a Party whose quantified emission limitation or reduction commitment for the *first* commitment period has not yet been inscribed in Annex B but that wish to host projects, and do not address the issue of issuance prior to amendment of Annex B, entry into force and satisfaction of eligibility requirements.

consider this option further at this time. Any proposal to reframe Joint Implementation as a unilateral offset generating mechanism raises broader issues, relevant to discussions under all three mechanisms, and should be addressed in a wider forum.

B. Joint Implementation Supervisory Committee / Governance

The JISC has proposed that as part of revised JI guidelines, the CMP may wish to establish a new governing body for a consolidated single track under JI, kept to a manageable size, with the members being drawn from Parties involved in JI activities.

The JISC is currently comprised of: (a) 3 members from Parties included in Annex I that are undergoing the process of transition to a market economy; (b) 3 members from Parties included in Annex I that are not economies in transition; (c) 3 members from Parties not included in Annex I; and (d) 1 member from the small island developing States.

All Parties to the KP have an interest in ensuring the smooth functioning and environmental integrity of project-based activities under the Kyoto Protocol. The composition of the JISC is representative and this representative aspect plays an important role in transparency and legitimacy.

Joint Implementation should continue to be overseen by a body comprised of representatives of both developed and developing country Parties, under the umbrella of the Protocol. If cost or expertise is a concern, other ways should be explored to bolster the necessary capacity.

C. Tracks I and II – ensuring environmental integrity and additionality

The JISC has also proposed that JI Track I and JI Track II be considered for consolidation. In considering consolidation, or improvements to the operation of JI's two tracks, the paramount consideration should be that of environmental integrity. It is essential to ensure the additionality of emission reductions undertaken in host countries through more transparent reporting and a more centralized approach to additionality, baselines and monitoring. Guarantees of additionality should be at least as strict at the national level as they are for JI Track II projects. To achieve this, greater centralization and harmonization of approaches may be desirable, rather than reliance on individualized, national approaches.

D. Share of the proceeds for adaptation

The Adaptation Fund, established under Article 12.8 of the Protocol, benefits from a share of the proceeds from CDM project activities. Any revision of the JI guidelines must consider how best to ensure that a share of the proceeds from JI project activities is also directed to the Adaptation Fund.

III. Avoidance of parallel negotiations

Certain proposals that have been made for possible revisions to the JI Guidelines have implications for issues that continue to be under negotiation in the AWG-KP. These include broader issues of eligibility to access the mechanisms, means to address first and second commitment period surplus AAUs, the role of the commitment period reserve, and carryover rules. It may be most appropriate to defer consideration of such proposals until after a full discussion and final resolution of the above political issues has taken place.