

An Introduction to Joint Implementation and its Procedures

Joint Implementation (**JI**) enables a country with a Kyoto Protocol emission reduction target (i.e. industrialised nations and those in transition to a market economy listed in Annex I to the Kyoto Protocol) (**Annex I Parties**) to meet part of its emissions reduction target by carrying out or financing sustainable development project activities to reduce greenhouse gas emissions in another Annex 1 country (**Host Country**). It is one of the "flexibility mechanisms" established under the Kyoto Protocol.

JI is effected by the transfer of emission reduction units (**ERUs**) equal to the emission reductions made by JI project activities in the Host Country, from the Host Country to the other Annex I Party (**Investor Country**). Under JI, an Investor Country may authorise legal entities (e.g. companies) to participate in JI projects on its behalf.

If an Annex 1 country wishes to participate in a JI project (as a Host Country or a Non-Host Country) it must inform the United Nations Framework Convention on Climate Change (**UNFCCC**) Secretariat of (i) its designated focal point for approving JI Projects (its **JI Focal Point**); and (ii) its national guidelines and procedures for approving JI projects.

There are two tracks for getting approval for a JI project depending on how advanced the Host Country's implementation of the monitoring and inventory requirements of the Kyoto Protocol have been:

Track 1

These procedures apply when the Host Country meets all of the eligibility requirements related to the transfer and acquisition of ERUs.

The relevant eligibility criteria include requirements that the Host Country has:

- Ratified the Kyoto Protocol;*
- calculated their assigned amount, as referred to in Articles 3.7 and 3.8 and Annex B of the Protocol in terms of tonnes of CO₂ equivalent emissions;*
- in place, a national system for estimating emissions and removals of greenhouse gases within their territory;
- in place, a national registry to record and track the creation and movement of units issued under the flexibility mechanisms and annually reports such information to the UNFCCC secretariat; * and
- submitted its most recent annual report on emissions and removals to the UNFCCC secretariat.

If all of the criteria above are met, the Host Country will be able to apply its own procedures for assessing the JI project and will then be able to issue and transfer ERUs to the Investor Country, without recourse to any international body for approval. However, it is open to a party that satisfies all of the eligibility criteria for Track 1 to undertake Track 2 projects, and this has tended to be market practice to date.

Track 2

These procedures apply when the Host Country does not meet all of the eligibility requirements for Track 1, but has fulfilled the requirements marked "*" above. Under Track 2, the JI Supervisory Council (**JISC**) (the body set up to supervise the verification procedure of JI) assesses projects according to the procedures it administers.

After projects are approved under the JI process, Host Countries are able to issue and transfer ERUs to Non-Host Countries. If the minimum eligibility requirements set out

above are not met by a Host Country, ERUs may not be issued in relation to a JI project in that Host Country.

The JI Process

Step 1 - Project Identification

An Investor Country participant who has identified a project located in an Annex 1 country and evaluated its eligibility and viability as a JI project activity will, if the project is to be carried out as a Track 1 project, contact the Host Country JI Focal Point in order to ascertain the procedures to be followed. The intending participant may in any event prepare a Project Idea Note (**PIN**) summarising the project's technical and financial characteristics. The PIN is not compulsory but may be useful.

At this stage, a request may be made (using the PIN) to the Host Country for a Letter of Endorsement (**LoE**), indicating the Host Country's preliminary support for the project. Buyers of ERUs often require LoEs before they will consider entering into contractual negotiations. However, many Annex 1 Parties may only approve a Track 1 project in circumstances in which a memorandum of understanding is in place between the Host Country and the Investor Country relating to co-operation between the countries.

Step 2 - Project Formulation

Full project documentation will then be prepared, including a Project Design Document (**PDD**). The PDD contains a description of the project; the basis for determining the emissions that would occur without the project (the baseline) and plans for monitoring the reductions.

As is the case of PDD's under the Clean Development Mechanism, the PDD must be

Berlin
Ebertstraße 15
10117 Berlin
Tel +49 (0)30 88 56 36 0
Fax +49 (0)30 88 56 36 100

Brussels
Trône House
4 Rue du Trône
B-1000 Brussels
Tel +32 (0)2 289 6060
Fax +32 (0)2 289 6070

Cambridge
24 Hills Road
Cambridge CB2 1JW
Tel +44 (0)1223 446400
Fax +44 (0)1223 446401

Dubai
P.O. Box 33675
28th Floor Al Moosa Tower II
Sheikh Zayed Road
Dubai, United Arab Emirates
Tel +971 (0)4 332 3324
Fax +971 (0)4 332 3325

Düsseldorf
Königsallee 92a
D-40212 Düsseldorf
Tel +49 (0)211 83 87 0
Fax +49 (0)211 83 87 100

Frankfurt a. M.
Senckenberganlage 20-22
D-60325 Frankfurt a. M.
Tel +49 (0)69 971 30 0
Fax +49 (0)69 971 30 100

Hamburg
Hanseatic Trade Center
Am Sandtorkai 41
20457 Hamburg
Tel +49 (40) 3 68 03-0
Fax +49 (40) 3 68 03-280

London
Carmelite
50 Victoria Embankment
Blackfriars
London, EC4Y 0DX
Tel +44 (0)20 7300 7000
Fax +44 (0)20 7300 7100

Munich
Isartorplatz 8
D-80331 Munich
Tel +49 (0)89 2 10 38 0
Fax +49 (0)89 2 10 38 300

Paris
42 avenue Montaigne
75008 Paris
Tel +33 (0)1 72 74 03 33
Fax +33 (0)1 72 74 03 34

Representative offices:
Alicante
Paseo Explanada de España No. 1,
4-Izda E-03002 Alicante, Spain
Tel +34 (0)96 51 42 805
Fax +34 (0)96 52 00 248

Shanghai
15th Floor United Plaza
Unit 1509
No. 1468 Nanjing West Road
200040 Shanghai, China
Tel +86 (21)6247 7247
Fax +86 (21)6247 7248

www.taylorwessing.com

validated by an independent entity. In the case of a Track 1 Project, the independent entity must be an entity acceptable to the Host Country. In the case of a Track 2 Project, the entity must be an Accredited Independent Entity (AIE) accredited by the JISC. The independent entity will review and validate the baseline study and other aspects of the PDD. In all cases JI projects must demonstrate that emissions reductions are additional to those that would otherwise occur in a "business as usual" scenario.

Step 3 - National Approval

Once a PDD has been validated it will be presented to the Host Country with a request to issue a Letter of Approval. The Letter of Approval confirms the Host Country's approval for the transfer of ERUs.

Step 4 - Implementation

The project will be implemented in the Host Country according to the specifications outlined in the PDD.

Step 5 - Monitoring

The Investor Country participant is required to monitor the project to identify the emission reductions. Monitoring reports are issued to the Independent Entity.

Step 6 - Verification

The Independent Entity verifies the emission reductions.

Step 7 - Issuance of ERUs

Verification reports are submitted to the Host Country and the Investor Country's JI

Focal Point. The Host Country then directs its national registry to convert specified assigned amount units (AAUs) into ERUs within an account in that registry in accordance with the procedures determined by it. ERUs may only be issued under Track 1 in where the Host Country has complied with the Marrakesh Accords. ERUs may only be issued under Track 2 where the Host Country has complied with JISC verification procedures.

Step 8 - Transfer of ERUs

The Host Country will transfer ERUs from its registry account to the national registry account of the Investor Country participant.

Joint Implementation entails a number of variations in procedures and specific risks depending on whether the project is undertaken under Track 1 or Track 2 and the Host Country. Notably, there is an ongoing reliance on the Host Country not only to approve the project activities but also to effect the conversion of AAUs and transfer of ERUs. The ability of the Host Country to transfer ERUs is (under Track 1) also dependent on the Host Country having performed its treaty obligations, notably in relation to commitment period reserve obligations under Article 17 of the Kyoto Protocol.

For further information please contact:

Dominic FitzPatrick

DDI +44 (0)20 7300 4689
Email d.fitzpatrick@taylorwessing.com

Brian Greenwood

DDI +44 (0)20 7300 4724
Email b.greenwood@taylorwessing.com

© Taylor Wessing LLP 2008

This publication is intended for general guidance only and no responsibility is accepted by Taylor Wessing LLP for any errors or omissions. The information in this publication should not be relied upon to replace professional advice on specific matters. Taylor Wessing LLP is a limited liability partnership registered in England and Wales, registered number 0C322935, with its registered office at Carmelite, 50 Victoria Embankment, Blackfriars, London EC4Y 0DX.

Taylor Wessing LLP operates in combination with associated legal entities in other locations.