



# IETA

**INTERNATIONAL EMISSIONS  
TRADING ASSOCIATION**

## **IETA Position Paper: The Joint Implementation Mechanism Post-2012**

IETA strongly believes that Joint Implementation (JI) plays a valuable role in spurring technology diffusion and providing flexibility to countries with emissions caps under the UNFCCC. Not only should JI be maintained, it should be reformed and further improved in the post-2012 international climate change regime to make way for an increased flow of projects from countries that first accept caps in 2012. IETA recognizes, however, that JI has had a much lower profile than the Kyoto Protocol's other project-based mechanism, the Clean Development Mechanism (CDM), in terms of its public exposure, the number of projects developed, and the number of emissions reduction units (ERUs) converted from AAUs and issued. It has also underperformed in the sense that many countries following Track I have been very slow to establish the procedures necessary to participate in the mechanism.

Despite implementation challenges to date, however, IETA believes that the underlying conception of JI is very strong and will prove increasingly useful as more and more countries move towards sectoral and economy-wide emissions caps. Indeed, JI has a critical role to play in supporting low-carbon investment and in driving emission reduction activities, including the development, deployment, and diffusion of low-carbon technology, especially within capped countries or sectors that are not covered by domestic cap-and-trade schemes. JI provides flexibility for governments to meet their Kyoto commitments and fosters the use of carbon markets in areas of the economy that may have been considered too small or too difficult to access previously. Equally as important, JI provides an avenue through which the private sector – the engines of developed and developing country economies alike – is able to become directly and proactively involved in efforts to reduce emissions, bringing a level of efficiency and ingenuity to the task, which is rarely matched by governments.

While IETA believes that the underlying concept of JI should be ensured, we also believe that the Parties must move to enhance the efficiency, transparency, and governance in the system, especially as a means of making JI more attractive to countries that move to accept emission caps in the coming years. A significant amount of work has been invested in the creation of the JI system, and the institutional and legal infrastructure already in place should be built up, not discarded. Negotiators should provide clear signals to project developers and other investors that JI projects will still be viable in the post-2012 period. They should then move to reform and expand the JI mechanism in a way that provides greater guidance to host countries and project participants, a clearer role for the JISC, and permits the use of JI as a transition mechanism for countries as they first accept binding emissions caps.

### **Geneva**

24 rue Merle d'Aubigné  
1207 Geneva, Switzerland  
Tel: +41.22.737.05.00

### **Washington**

1850 M St. NW, Ste. 600  
Washington, DC 20036, USA  
Tel: +1.202.629.5980

### **Brussels**

11 Rond Point Schuman, #501  
1040 Brussels, Belgium  
Tel: +32.2.256.75.35

### **Ottawa**

350 Sparks St., Ste. 809  
Ottawa, ON K1R 7S8, Canada  
Tel: +1.613.594.3912



## The Benefits of JI

**Ensures Environmental Integrity.** JI takes place in a zero-sum environment where ERUs are backed by Assigned Amount Units (AAUs) that are issued to countries with a binding emissions cap. Provided that AAUs have been allocated based on baselines that reflect the current emissions levels of the country (i.e. not “hot air” AAUs), the environmental integrity of the ERUs is ensured. Indeed, under Track I, governments have a strong incentive to require the most accurate record of reductions possible in order to avoid transferring windfalls to project developers at the expense of the national budget. Until countries reach Track I status (which is the ultimate goal), projects undertaken through the Track II process are required to meet strict monitoring and verification standards.

**Promotes Innovation.** Project-based mechanisms provide incentives for individuals and companies to develop and implement new technologies and emission reduction strategies. In Annex I countries, they support the diffusion of low-carbon technologies beyond the country of innovation, thereby increasing market size, which may then lead to the lowering of costs and even further diffusion. JI’s project-based approach also means that it promotes innovation in areas of the economy that are difficult for command-and-control measures to reach. Moreover, the fact that JI is not restricted in scope encourages project developers to “think outside the box” and develop new and innovative project types, such as projects that use dynamic baselines. Similarly, projects that significantly increase the scale of emission reductions achieved, such as through programmatic or sectoral JI, are also already possible under JI, whereas in-depth discussion of their use under the CDM is likely to take at minimum another year to complete.

**Provides Flexibility.** JI provides flexibility in a number of ways. JI provides governments the flexibility to address emissions in a given sector without enacting regulations, thereby providing incentive to conduct emission reduction activities in areas that are difficult to regulate. Similarly, JI allows project developers to operate in advance of national and sectoral regulations, ensuring that emission reduction activity is incentivized right away and not held off by the slow but necessary process of developing a well-designed cap-and-trade system. Through providing positive incentives to implement emissions reduction projects, instead of penalties for non-compliance, JI can help to overcome some of the barriers commonly associated with misguided government attempts to direct technology development and diffusion before all of the options have been thoroughly tested.

Businesses, too, benefit from time to experiment. By participating in JI projects during the time before compliance obligations have been devolved to the installation level, companies can generate valuable knowledge, experience, and familiarity with new technologies and practices. JI also allows more flexibility for companies to be proactive in lowering their emissions before regulation because they know that their emission reduction efforts will not go unacknowledged.

In addition, JI allows host countries to adopt and approve their own JI project approval procedures, tailored to the country’s particular characteristics (provided that these procedures are in accordance with international requirements). In countries without a cap-and-trade system, JI projects provide a valuable “service” to the country and businesses by “transmitting” the carbon price signal to the company level, incentivizing them to lower emissions in order to benefit from that price. Establishing awareness of the value of carbon – a critical objective in the global effort to lower emissions – would take much longer if JI were not able to send this message in countries lacking domestic cap-and-trade systems.

**Entails Less Bureaucracy.** As previously explained, JI projects take place in a capped environment, where the environmental integrity of the emissions reductions is secure. For that reason, JI does not require the additional, strict and often overlapping rules and regulations that have caused significant difficulties in the CDM. Less bureaucracy in JI– for example, there is no methodology panel with which to



engage – means that the process of final determination, verification and issuance is an overall simpler one, with fewer headaches and delays, and a reduction in transaction costs.

***Softens Transition to a Capped Environment.*** JI aids countries transitioning between non-capped to binding, economy-wide or sector-wide targets in several ways.

First, a key consideration for the existing carbon market is the transition from CDM to JI as countries formally adopt emissions limitations. IETA believes that the post-2012 international climate change agreement should provide a clear pathway for CDM projects that had been published to the UNFCCC website for global stakeholder consultation before the host country took on such a cap. This pathway could include the shifting of the status of these projects from the CDM to JI Track II, which would then ensure eligibility for issuance to the project proponents until the end of the project's remaining crediting periods.

In addition, the combination of JI with a growing international carbon market gives all countries the opportunity to access additional finance to support emission reduction efforts and a mechanism to meet their targets at lowest cost. This benefit will be particularly important to countries that are just beginning to actively lower their emissions.

Finally, by providing an avenue through which countries may lower their emissions before establishing regulations to do so, JI allows newly capped countries to avoid rushing into regulating sectors or emissions types that would be too difficult or costly to cap at the onset of a new system of regulation. JI therefore provides governments with an alternative way of encouraging green investment during the transition period.

***Complements Green Investment Schemes.*** IETA believes that while the relationship between Track 1 JI to Green Investment Schemes (GIS) is complex, and at times competitive, JI actually provides a very useful complement to government-led schemes to green AAUs. For example, green investment schemes will be most successful in those areas where the government is best placed and has the knowledge to drive emission reductions. Contrastingly, JI will be able to lower emissions in areas where the specialized expertise of the wide-ranging private sector is crucial for emission reduction innovation. For this reason, while significant areas exist for the development of government-led GIS, JI projects are likely to be more diverse and innovative in nature.

In addition, if JI is reformed so that higher levels of ERUs are generated, it will be able to play a critical role in relation to GIS in the future. A higher volume of ERUs flowing through JI will ensure that ERUs are available as a clear alternative to GIS, and one that generates emission reduction credits through a transparent system of high environmental integrity. The existence of an alternative is important because it places pressure on seller countries to improve the transparency of their GIS and provide clear assurance of environmental integrity. Many buyer countries purposely seek out schemes that can demonstrate clear environmental benefit, but a dearth of high quality green investment schemes has meant that more and more questionable transactions have taken place recently. Maintaining and scaling up JI will ensure that ERUs are available as a substitute for inadequately greened AAUs in the future.

***Provides De facto Link between Cap-and-Trade Systems.*** JI also has the ability to act as a *de facto* linking mechanism between Parties with economy-wide caps in a Post-2012 framework – in the same way that the CDM provides such a link – which helps begin to spread price discovery across borders. IETA believes that JI can be one of the key instruments that help the international community achieve a global price for carbon in the time before emissions trading schemes around the world become directly linked.



## The Future of JI

IETA believes that as countries begin to adopt more stringent targets in the post-2012 climate change regime and look to the private sector to provide increasing amounts of financial capital for the achievement of these targets, the role of flexible mechanisms will become increasingly important. Consequently, it is vital to outline measures that facilitate the functioning of JI at level of efficiency and scale that will be necessary post-2012.

### Track I and Track II

Maintaining the flexibility of JI is vital. IETA believes that the key to doing so is through the continuation of the two-track system for project approval. Many countries have already adopted and implemented Track I procedures, consistent with the requirements set down by the UNFCCC. The Track II process, now established, should continue to play an important role in establishing best practice reporting guidelines for nations to adopt; and to allow countries which are not yet eligible for Track I or transitioning to Annex B to continue to be eligible to participate in JI.

IETA would also like to suggest that the Parties consider adding some flexibility to the differentiation between Track I and Track II by allowing Track I countries to “fall back” to Track II if, for any given project, they prefer to “delegate” the verification of the impact of the project on their national GHG inventory to the JISC. The JISC would then act as a “service provider” to the host country.

### The Role of the JISC

IETA believes that the JISC should be primarily concerned with issues related to measurement, reporting and verification (MRV). Within this role, the JISC should focus on three primary tasks, (1) the review of projects in track II, for registration and issuance, (2) the accreditation of AIEs, and (3) the development of rules, guidance, and procedures for Track II and best practice guidance for Track I. Fulfillment of the latter task should concentrate on improving and standardizing MRV and methodological approaches and encouraging greater levels of transparency. Indeed, IETA believes that the JISC should work with host countries to encourage conformity with the best practice guidelines developed, in Track I countries as much as in Track II. Developing and encouraging best practice guidance, and working with the countries to implement such guidance on a voluntary basis, will maintain respect for country sovereignty while moving towards more standardization throughout JI. Following the guidance will increase transparency in the system and reduce confusing and time-consuming country-by-country differences. These changes will, in turn, lead to greater assurance for investors about the security of their investment and the environmental quality of the credits they will receive for it.

### General Reform

IETA believes that the following reforms are necessary to fill in current gaps in transparency, to provide clarity as to what is required of AIEs and project developers, and to increase confidence (among investors and other project stakeholders alike) in the consistency of decisions taken within the mechanism. IETA welcomes the decision to develop a Determination and Verification Manual for AIEs, and looks forward to its completion as a strong first step towards the necessary reform.

1. The Parties should clearly specify the mandate and role of the JISC, which is currently not explicit in the Marrakech Accords. This mandate should explain the precise role of the JISC in its assessment of projects, which elements it should address and what the criteria for judgment should be. IETA believes that this simple explanation will go a long way to ensuring the



consistency of each assessment.<sup>1</sup> IETA has made suggestions earlier in this text on what we think the role of the JISC should be.

2. The JISC should be staffed with individuals whose collective expertise (including project finance, law and engineering) spans the entire range of concepts and project types covered and is grounded in practical, project-level experience and knowledge of JI. JISC members should be limited to individuals from countries that are eligible to participate in the mechanisms.
3. JISC meetings should be made open to any project participants (whether or not they are official UN observers) on a “first come, first served” basis in order to increase the transparency in the decision-making process and to encourage greater levels of interaction between the JISC and project participants.
4. The JISC should also consider creating an official project developers’ forum similar in form and function to the current DOE/AIE forum.
5. All phases of the JI Track II project development and registration process (including, but not limited to, decisions taken by the host country, the JISC, the Secretariat, and AIEs) should be subject to timelines. Track I countries should be encouraged to implement such timelines as well.
6. Negative decisions taken by the JISC in relation to final determination and issuance should provide clear reasoning for the decision as a means to improve transparency and ensure consistency in the decision-making process.
7. IETA believes the Parties should elaborate the modalities and procedures for the transition, if any, between CDM and JI as soon as possible, in order to provide maximum investment security for project participants.
8. The JI crediting period should be brought in line with common practice for other project-based crediting mechanisms, in particular, the CDM, which provides a 7-year crediting period, renewable twice, or one 10-year crediting period for non-forestry projects.

### **Creating an Appeal Mechanism**

IETA believes that the Parties should move to establish an independent *appeal* process for Track II JI. IETA believes that this process should be brought in line with whatever appeal process is created for the CDM,<sup>2</sup> which we have previously proposed should be developed along the following lines.

The mandate of the JI appeal mechanism should be clearly defined in a COP/MOP decision. In order to ensure that it is a satisfactory alternative to litigation in the national courts, its mandate should make clear that the mechanism is (1) an independent and impartial authority, (2) a decision-making authority, and (3) accessible to all affected third Parties. The appeal mechanism should be completely independent from the JISC and its supporting bodies. Those individuals who serve on it should be experts in the variety of fields associated with JI.

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<sup>1</sup>When the COP/MOP re-considers the role of the JISC, IETA suggests that they pay particular attention to whether or not the JISC should be making judgements on additionality and the determination of the baseline scenario. It has been suggested and IETA is open to the idea that judgments on additionality and the determination of the baseline scenario should be the role of the host country, with the role of the JISC limited to assessing MRV.

<sup>2</sup> Indeed, IETA believes that it will be possible for both mechanisms to share one appeal body.



IETA believes that the appeal mechanism's investigations should be triggered upon receipt of a complaint and an initial review of the facts to show that the claim resides within its mandate. Its terms of reference should be set out in the COP/MOP decision establishing it and should be clear as to what the mechanism can and can not decide and which parties are able to submit a complaint. These terms of reference should include powers of investigation, including the ability to call hearings, view all relevant documentation, conduct interviews, and require the submission of evidence. The aggrieved parties whose rights are established in relation to the appeal mechanism should be given the opportunity to be heard and make written submissions.<sup>3</sup>

### **Expanding the Scope of JI**

IETA proposes that the Parties amend Article 6 to allow domestic JI projects, or “unilateral” JI projects. Domestic emission reduction projects complement cap-and-trade schemes by promoting emissions reductions by installations not covered by the domestic cap-and-trade system. Currently, domestic JI projects are not permitted, as two Annex I Parties are required to be involved in each project. In practice, however, it is very simple to circumnavigate this rule; countries simply use a roundabout way to export and then re-import their own domestic reductions. The expansion of JI projects to domestic projects will remove this useless bureaucracy and encourage local investors and developers to participate in JI, reducing transaction costs and increasing efficiency.

### **Greater Transparency in Track I JI**

IETA believes that Track I host governments should be required to use the JI website of the UNFCCC to provide information on projects once letters of approval are provided or a determination has begun, whichever occurs first according to the national rules. Track I host countries should also be required to use the UNFCCC website to provide information on credit issuance and transfers. IETA understands that Track 1 host countries see their complete control over their project development and approval process as an issue of national sovereignty, which they do not want to submit to oversight. Investors and buyers have made it clear, however, that, to be credible, credits issued must entail a high degree of transparency. Making project approvals, issuance, and credit transfer public is *the least* that should be required.

IETA also believes that it is critical moving forward that JI host countries agree to make Track I approval and review procedures openly and transparently available. To this end, IETA proposes that all project development and approval procedures be made available in English on the UNFCCC website. The process of translating the procedures for each country from their native language leads to a serious lack of transparency in the system at the present time, and this simple change would provide a significant boost to public perception and confidence in the consistency and predictability of JI.

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<sup>3</sup> IETA understands that decisions taken under Track 1 are entirely within the sovereignty of the Host Country and, for that reason, IETA believes that all attempts at redress in relation to Track I would need to be handled through the administrative courts of the host country.