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INTERGOVERNMENTAL NEGOTIATING COMMITTEE  
FOR A FRAMEWORK CONVENTION ON CLIMATE CHANGE  
Tenth session  
Geneva, 22 August-2 September 1994  
Item 3 (c) of the provisional agenda

MATTERS RELATING TO COMMITMENTS

CRITERIA FOR JOINT IMPLEMENTATION

Comments from Parties or other member States

Note by the interim secretariat

The Committee, at its ninth session, requested the interim secretariat to provide further documentation on joint implementation, including options for a phased approach to joint implementation, beginning with a pilot phase addressing objectives, a list of possible criteria and institutional arrangements, and taking into account all views expressed and submissions made during the ninth session, and any further comments which Parties or other member States may have transmitted to the interim secretariat before 30 April 1994, for distribution to all delegations (A/AC.237/55, para. 66).

The interim secretariat received such communications from Argentina, Australia, Austria, Canada, Germany, Greece (on behalf of the European Community and its member States), the Netherlands, New Zealand, Sweden and the United States of America. These submissions are attached and, in accordance with the procedure adopted for miscellaneous documents, are reproduced in the language(s) in which they were received.

The interim secretariat also received the following documents which are not being circulated but which may be requested from the submitters:

1. "Matters relating to commitments: Criteria for joint implementation", Comments from The Center for Clean Air Policy, 444 N. Capitol Street, Suite 602, Washington, D.C. 20001. Fax No. (202) 508 3829.
2. "Joint Implementation: Institutional Options and Implications", Center for Global Change, University of Maryland at College Park, The Executive Building, 7100 Baltimore Avenue, College Park, Maryland 20740. Fax No. (301) 403 4165.

Any further submissions will be issued in an addendum.

A/AC.237/MISC.37

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PAPER NO. 1: ARGENTINA

The Delegation of Argentina wishes to develop the positions on Joint Implementation expressed in the last session of this Committee keeping in mind the new Document. We consider this step extremely helpful because it allows us to continue the debate of this very complex issue.

We understand that the philosophy of the Document elaborated by the Secretariat named "Criteria for Joint Implementation" responds to the purpose of establishing a discussing field with a series of possible criteria which could build conceivable positions of consensus. While these goals are praiseworthy, we feel that the more we study the document and reason it out, the more complex the matter becomes.

It is essential to restate our starting point in the analysis; only Parties which are committed can undertake JI projects, which means Annex I Parties with Annex I Parties or, according to Article 4.2.g), Annex I Parties with another Party not included in that Annex which notifies the Depositary in its instrument of ratification or accession that "it intends to be bound by subparagraphs a) and b) of the same article 4.2". We shall analyse "joint implementation", meaning two parties implementing together, not "extraterritorial implementation", meaning one party implementing its own commitment in other party's territory.

Reasons of equity and juridical logic, taking into account the principles and objective of the Convention, keep us convinced of the reasonableness of this interpretation. The Convention clearly establishes the important differences in responsibilities, since not all those who must carry out changes do it with the same level of difficulty.

We also want to point out our disagreement with the designations "investor" and "host". A possible action of JI between a developed/investor country and a developing/host country could not reflect the real status of the situation. In usual terms, the concept of investor has a highly positive connotation, meaning action, while "host" is generally perceived as passive. We think that this does not reflect the real situation, because both Parties invest economic or production factors. Thus, thinking, we would be leaving behind the concept of "cost of opportunity", which designates the profits that one fails to obtain, choosing one given investment project instead of another (aimed, evidently, to economic and social sustainable development).

This principle should be kept in mind while debating the joint implementation. For example, in a hypothesis of reforestation, a developing country might provide a territory (soil and water) which, in addition to other biological machinery, could generate trees capable of becoming sinks. In this case, the above mentioned territory would be unfit to be exploited for intensive agricultural activities or any other use. This is the cost of opportunity. This idea is expressed on paragraph 25 (possible criterion 5), but its significance forces us to suggest to address it without further delay.

Also, it's not easy to estimate all the costs that a forestal plantation requires, including the necessary structure and human resources expertises that a country allocates to enable trees to grow. Some elements have to be included in the so-called "management costs", which must tend also to sustainability, as it is stated in the document on par. 22. This is also related with the calculation of the terms of the project, because the longer the span, the weaker the certainty of following up the environmental rationality. This important aspect is considered in possible criterion 8; to this calculation not only a grade of formality or assurance should be added, but also concrete economic resources to make possible continuous action.

This bring us to possible criteria 6 and 7. It's very difficult to quantify the current situation and the possible changes. There is great disparity between the scientific and technical capacity of countries, There are many highly qualified technicians in the developing countries but there is a crisis in research financing. Through investments and reforms, actions should be taken to create an exhaustive environmental order so that the ecosystemic external function of the renewable resources (the sinks' capacity) be integrated to the multiple products bestowed by the ecosystemic offer. This goes beyond the narrow concept of environmental impact. It doesn't seem at first sight that JI projects as aimed to strengthen financially the national environmental control bodies, which, in most of developing countries don't count currently on the necessary resources to regulate and supervise the actions.

We agree with possible criterion 8: the phrase "where appropriate" should be eliminated.

We believe that the main argument to invalidate a possible joint action between an Annex I Party and a developing country is that technological change and efficient use of energy in Annex I Parties shouldn't be delayed. That's why we should emphasize the content of paragraph 24 of the Secretariat's Document: JI could divert policies that require immediate action, that is to say direct reduction of emissions. Last Monday debate about the review of the adequacy of commitments and Professor Bolin's statement make this necessity even clearer. This is the major and most hazardous delay for the sustainable development of the biosphere.

Let us put it this way: a developing country, which has no commitments in terms of articles 4.2.a) and 4.2.b) could receive JI projects without any quantitative limit. A massive application of JI projects scenario would put off even more the limitation of the 75% of world emissions, originated in Annex I countries. What would the limit be?

Experience shows that technological change in developed countries results in changes in the developing countries as a mirror effect, and not the other way around. On the other hand, we wonder: what are the areas kept in mind in intended JI projects, reforestation or investments in clean technologies?

For all the above, we firmly believe that the point of "cost effectiveness" seems to be too simple, given the multiplicity of important factors that we mentioned and that must be taken into account.

We reaffirm our interpretation of the Convention about which Parties must carry out JI projects; yet, the Delegation of Argentina would not oppose the study of a "Pilot Phase" of JI activities, keeping in mind all political, economic, social and technological factors related to the principle of "common but differentiated responsibilities".

Given the complexity implied in calculating all the costs and benefits of the parties involved and to avoid any misgiving about the real intentions of proposals, a rational and cautious approach would imply:

- avoid discussing credits during such phase.
- split JI actions from national legal obligations.
- to comply with the goal of allotting 0.7% of GNP for development aid, according to United Nations Conference on Environment and Development.

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## PAPER NO. 2: AUSTRALIA

### INTRODUCTION

Joint implementation has the potential to make a practical and cost-effective contribution towards meeting the objective of the Convention. It is consistent with developed countries taking the lead in emission abatement and would complement their domestic action. In addition, joint implementation is a positive way of involving all countries in emission reductions and potentially offer benefits to developing countries in the form of additional technology transfer and infrastructure development.

Australia welcomes the decision of the Ninth Session of the Intergovernmental Negotiating Committee (INC9) for the interim secretariat to prepare a paper for consideration at INC10 on the options for developing a phased approach to joint implementation, with the initial phase being a pilot program. The interim secretariat's INC9 paper (document A/AC237/49) is a useful basis for developing flexible and transparent criteria for joint implementation which could be tested during a pilot phase.

### GENERAL CRITERIA FOR JOINT IMPLEMENTATION

Taking into account the range of suggestions that have been made by other countries, in Australia's view joint implementation projects should observe the following general criteria:

- be voluntary;
- be undertaken in conjunction with domestic action;
- be consistent with the national priorities of the recipient country and the principles of sustainable development;
- bring about real and measurable emission reductions;
- be additional to planned development assistance; and
- be assessed in terms of their economic, social and environmental impacts.

### PILOT PHASE

A pilot phase for joint implementation is an ideal opportunity to test prospective criteria, such as those developed by the interim secretariat.

During a pilot phase, participating countries should be able to negotiate the terms and conditions of individual projects, ensuring that they conform with criteria agreed by the INC/COP. It would be counter-productive during this early phase to complicate operations with complex approval and institutional arrangements.

While joint implementation agreements will be between sovereign states, the involvement of the private sector will be critical as it holds much of the appropriate technology.

Project participants will need to ensure that the greenhouse benefits of projects are clearly identifiable. Given the methodological difficulties in measuring the contribution of greenhouse sink enhancement projects, Australia's approach has been to focus on emission reduction projects such as:

- projects that improve the efficiency of energy use leading to a reduction in emissions;

- projects that reduce emissions from existing energy suppliers by increasing efficiency through improvements in fuel quality, retro fitment or replacement technologies; and

- projects that use near-zero emission renewable energy sources.

But a pilot phase covering a full range of projects, including greenhouse sink projects, will assist in facilitating the development of acceptable methodologies. Projects relating to sink conservation or replacement could be included in a pilot phase, subject to their meeting the pilot phase eligibility criteria.

In addition to the general criteria outlined above, Australia suggests that the following conditions should also apply during a pilot phase:

- the issue of emission credit allocation should be deferred. But activities could be described in National Communication;

- participation during the pilot phase should be open to all signatories to the Convention;

- a time frame and the expected greenhouse benefits of each joint implementation project should be provided.

## **PILOT PHASE EVALUATION**

It will be important to conduct an effective evaluation of the pilot phase, for which a basis should be established at COP1. The evaluation process will need to include objectives and performance indicators, based on the eligibility criteria that are to be applied during the pilot phase.

It is important to establish easily measurable, verifiable and comparable performance indicators of the joint implementation pilot phase. The development of appropriate indicators should take into account the following:

- the net reductions in emissions achieved over time;

the cost effectiveness of reducing emissions;

non-greenhouse benefits of joint implementation, especially to developing countries; and

the effectiveness of emission reduction monitoring and verification arrangements.

This list is not intended to be exhaustive, but is designed to give an indication of the types of elements to be addressed in the pilot phase evaluation process.

The pilot phase evaluation should be based on a number of inputs, including:

reports of joint implementation activities under National Communications;

more detailed project reports provided by individual participants; and

specific case studies that are selected for more detailed analysis.

Reports of joint implementation projects should be publicly available to non-participating countries and non-governmental organisations.

## **OTHER ISSUES**

As previously mentioned, credits should not be allocated during a pilot phase. Work on the formulation of appropriate crediting arrangements should be conducted in parallel to the pilot phase.

It is not appropriate to impose arbitrary limits on participation in joint implementation projects. Because joint implementation is complementary to domestic action, any unnecessary restrictions would hinder the Convention's effectiveness in stabilising global greenhouse concentrations and increase the cost of global response measures.

## **CONCLUSION**

A phased approach, commencing with a pilot phase, is the best way to facilitate the early development of joint implementation as an effective instrument in meeting the Convention's objective. Specifically, it will give participating countries the opportunity to explore and demonstrate the benefits of joint implementation activities in a practical fashion. At the same time, it will enable conceptual and practical difficulties to be identified and addressed in a progressive manner.

Australia has outlined a pilot phase that would focus on activities with unambiguous benefits, but still allow sufficient flexibility for a wide variety of projects to take place. We consider that it is time to move the joint implementation debate forward through the early establishment of a pilot phase.



PAPER NO. 3: AUSTRIA

After the detailed discussion we had at the occasion of our last meeting, we welcome this renewed opportunity to comment on the critical and important issue of the development of criteria for joint implementation under this convention. We are in this context grateful for the detailed new document prepared by the secretariat for this session of the INC and the helpful introduction given by the ES. We have also carefully studied the various submissions by delegations circulated in docs. A/AC.237/MISC.33/ and Adds.

We have provided detailed comments during INC 8 as contained in Misc.33/Add.2 and I would not like to go over those again. Nevertheless some fundamental elements need to be underlined once again. The issue of joint implementation is closely related to the ultimate objective of the Convention as contained in Art.2. In implementation of this objective different groups of parties to the Convention have undertaken different levels of obligations. The provisions of Art. 4.2 are directed at those parties which are committed to adopt policies and measures aiming at returning to previous levels of greenhouse gas emissions by the end of this decade, namely Annex I Parties. The actions and the results of possible joint actions by those parties can therefore be measured and compared reliably against each other, provided that we prepare adequate rules and criteria for joint implementation.

Obligations of developing country parties under the Convention are not defined in the same terms as those of Annex I Parties

and do not contain the same commitment for action. The current text of the Convention also does not provide for the possibility of JI among Annex I and developing country parties. Taking this into account the emphasis of our work until COP I should be to develop adequate and clear rules, criteria and guidelines for joint implementation among Annex I Parties. As the Convention may develop in the future we could come back and revisit the question of how to make Joint implementation among Annex I and developing country Parties possible in the framework of this Convention. This view brought forward during INC 8 not only by Austria, but by a number of other countries both Annex I and developing countries is not reflected in the Secretariat's paper. We would have liked to see that important aspect maintained.

In light of the above comments we would like to offer some additional thoughts on the new documents before us, especially on the set of proposed criteria. We can support several aspects covered in the document. We are in particular in agreement with criteria 2,6 and 10. We think however that the whole set of criteria has to be further elaborated and specified, before JI activities under the Convention can start. We would therefore like to make some comments on several of the proposed criteria.

#### Criterion 1

We agree that JI refers mainly to joint action to implement policies and measures . Art. 4.2.e referring to harmonization of instruments should however also be taken into account. JI should therefore only be possible between countries having the same level of commitments. This should also be stated clearly in the criteria.

#### Criterion 4

Building on the apparent agreement that Annex I countries

should undertake appropriate national actions, JI criteria should highlight, that JI activities could only be undertaken in addition to domestic action.

#### Criterion 5

This is indeed one of the critical issues to be dealt with in conjunction with JI. It will have to be spelled out more clearly how JI can avoid to become a diversionary device detrimental to the undertaking of domestic action. One of the elements that would have to be included would be the consideration of the overall environmental benefit and the contribution of the achievement of the ultimate objective of the Conv as expressed in Art.2. We would tend to see JI as the instrument of achieving what we would like to call "incremental environmental benefits".

#### Criteria 6 and 9

Those criteria have to be taken together. If JI can address any GHGs or combinations thereof the possibility to achieve real and measurable results could be jeopardized. In particular the use of GWPs, such as for instance in weighting CO2 emissions against Methane emissions when applying JI, should be avoided. The basis for the evaluation of environmental benefits should be formed by clear and unequivocal parameters. Anything else would make the assessment of the overall environmental benefits of JI action virtually impossible. Those two criteria would need further thought and redrafting taking into account the aspects mentioned above.

#### Criterion 7

The environmental effects should at least be given equal if not more prominent status than the social and economic effects when dealing with JI. The only justification for JI can be the

achievement of "incremental environmental benefits" that would not occur through national action alone.

#### Criterion 11

In view of priority to be given to national action this issue has to be approached very cautiously. We have yet to see a practicable system for crediting which can reliably distribute the credit without creating some of the pitfalls (impact on national action, measurement of environmental benefit) mentioned above.

#### Criterion 12

Reporting on JI activities will prove critical to the success and credibility of that instrument. Reporting guidelines should therefore be part of the initial set of criteria.

The phased approach which is proposed in paras 47 and 48 of Doc. 49 could be a possibility to gain experience in implementing JI between Annex I Parties, but in our view any "experimental phase" without rules and criteria for JI adopted by COP 1 or any following COP should not be allowed under the umbrella of the FCCC. Experimental activities under the Convention should therefore only start after COP I. Any eventual experimental phase of JI would have to be extensively documented to facilitate the evaluation of advantages and disadvantages in applying JI. Without a detailed set of guiding principles, criteria and guidelines, such an evaluation would be difficult to undertake.

The secretariate should on the basis of the discussion at this session of the INC, prepare a revised version of the set of criteria, so that work can continue at INC 10.

PAPER NO. 4: CANADA

**Background:**

At INC 9 it was agreed that countries could provide comments on criteria for joint implementation (additional to their INC 9 interventions) to the INC Secretariat by April 30, 1994.

As stated at INC 9, Canada continues to support the concept of Joint Implementation as a mechanism that allows all parties to work towards meeting the objectives of the Framework Convention on Climate Change. It is Canada's view that Joint Implementation can produce considerable benefits for all participants. This concept offers an opportunity for international cooperation on projects to limit emissions of greenhouse gases and protect and enhance greenhouse gas sinks and reservoirs in a globally cost-effective manners. Canada also believes that Joint Implementation projects can open up new sources of private financial and technological resources. These are distinct from, and in addition to, any assistance to be provided through the Convention's financial mechanism.

Canada also stated at INC 9 its support for the concept of a phased approach to determining criteria for joint implementation - one in which a pilot project phase would give Parties the opportunity to build experience with the operation of Joint Implementation.

We are pleased to informally offer some thoughts and questions below on the objectives of a pilot phase, possible parameters, incentives and institutional arrangements. Canada's official input to the development of criteria for joint implementation will continue to be presented at upcoming INCs.

**Objectives:**

A pilot phase for JI could serve a number of objectives:

1. to build experience which would move us towards a longer term, more mature JI mechanism internationally which captures the environmental and economic benefits of internationally coordinated actions to mitigate climate change.
2. to build experience which would test and evaluate methodologies for measuring, tracking and verifying the project results and benefits of JI.

3. to encourage early development and implementation of cooperative, voluntary projects between countries resulting in net, long-term reductions of greenhouse gas emissions, as well as economic and environmental benefits for both countries.
4. to encourage private sector investment and innovation in the development and diffusion of technologies for mitigating climate change.
5. to encourage early private sector involvement in meeting global climate change commitments.

**Parameters for a Pilot Phase:**

**1. Duration/Evaluation**

In determining the length of a pilot phase, two factors should be reflected: enough time should be allowed in order to gain real experience with JI projects; yet the duration must also reflect the necessity to maintain incentives for participation.

The evolution of the pilot phase into a mature JI system would depend on effective evaluation of the pilot phase. When will this evaluation take place? How will it be done, and by whom? What are the criteria for evaluating the pilot phase?

**2. Eligible Participants**

Which countries should be eligible to participate? Only those that have signed the Convention? Only those that have ratified the Convention?

If a country meets the eligibility criteria, then which entities of that nation should be allowed to participate? Any company, organization or group incorporated under or recognized by the laws of that country? Any national, provincial, state or municipal entity of that country? Any citizen or resident of that country?

**3. Pilot Phase Incentives**

There are a number of potential incentives for investors and hosts to participate in a JI pilot phase. For example,

- The experience and learning gained by countries would contribute directly to shaping Joint Implementation in the post-pilot period.
- Investors would be well positioned in emerging markets for international greenhouse gas offset projects.

- Hosts would be well positioned to seek the most appropriate technologies and investors/partners to assist in meeting hosts environmental targets, as well as economic and social development priorities.
- In the context of a rigorous framework for reporting, monitoring and evaluating JI pilot phase projects, investors and hosts would be well-positioned to benefit from any allocation of emission reduction credits during or after the pilot phase.

The key incentive of credit for emission reductions would need to be discussed in the context of setting up a JI pilot phase. What is the definition of credit? Would credits be allowed/offered during a pilot phase? If yes, what framework would underpin the allocation of credits? How would credits be shared? If COP 1 were to decide that a JI pilot phase without credit would be established, how would the door remain open to credits for use in the post-pilot era?

#### **4. Pilot Project Criteria**

If the pilot phase is intended to offer a bridge to the development of a more mature JI system, the criteria should "test" projects in a meaningful way. They would therefore address fundamental concerns about JI such as whether such projects could produce real, measurable, long-term, and net reductions in greenhouse gas emissions, as well as whether they are consistent with host country national priorities for sustainable development.

On the other hand, the criteria chosen would also relate to the incentives for participating in the pilot project. For example, if the prospect of receiving credit for a pilot phase projects in future was highly uncertain, very complicated reporting instructions might limit participation in a pilot phase.

With these general comments in mind, possible criteria for pilot projects are outlined below:

- (a) have the support of the government of the host country;
- (b) follow a rigorous framework for reporting, monitoring and evaluation;
- (c) include information sufficient to estimate current and future net greenhouse gas emissions with and without the project. Methodological transparency would be very important - in that context, the pilot phase would design a methodological framework;

- (d) contain adequate provisions for tracking net greenhouse gas emissions resulting from the project and periodically verifying whether actual results are consistent with expected results. The pilot phase would design a methodological framework for such work;
- (e) provide adequate assurance that actual net greenhouse gas reduction benefits accumulated over time would not be lost or reversed. Capacity building in the host country would be important to ensuring long-term, sustained emissions reductions;
- (f) offer information supporting "incrementality" of emissions reductions (i.e., that the emissions reductions would not reasonably have occurred without the project);
- (g) contains adequate provisions for third party verification of the actual net greenhouse gas emissions resulting from the project. In other words, projects would be subject to the possibility of an audit;
- (h) identify and where possible quantify any associated non-greenhouse gas environmental impacts/benefits, as well as economic and social implications for the host country.

#### **5. Pilot Phase Institutional Arrangements**

In order for a JI pilot phase to meet its objectives, an institutional framework would need to be established. Such a framework could include the following steps:

- Participants report to their governments on projects, following agreed criteria.
- Host and investor governments collect, evaluate and verify this information.
- Host and investor governments then make the information available for international assessment.
- An international body (which one?) receives this information from governments, evaluates the results of JI projects and prepares an assessment report for the COP or appropriate Subsidiary Body.

This approach would put the onus first and foremost on project participants to demonstrate that they have met the project criteria and reporting guidelines, thereby avoiding the creation of a large international review body.



PAPER NO. 5: GERMANY

1. First of all the German delegation would like to congratulate the Secretariat for its very useful paper on possible principal criteria on joint implementation, which we generally support. In our view, the considerations are well structured and provide a balanced documentation of the discussion so far. We support the idea of a step-by-step approach, which means to start firstly with the discussion of some general criteria on which a consensus might be achievable, e.g. on the definition of joint implementation and its applicability, before entering into institutional and procedural details. In addition to the statement of the European Union, let me give some further comments on the proposed list of criteria.
2. We always had the understanding that the basic idea of the concept of joint implementation is emission crediting. Modifications of this basic model will be necessary when transferring it to the application of joint implementation under the FCCC.
3. As an instrument under the Convention, joint implementation is meant to contribute to achieving the Convention's objective. Joint implementation can do this in particular by helping to reduce the cost of meeting reduction obligations and in this way gives the Contracting Parties greater economic flexibility for manoeuvre to take on ambitious emission reduction commitments. Moreover, joint implementation is designed to initiate and promote cooperation among Contracting Parties in reducing greenhouse gases by favouring processes of development (e.g. via the transfer of technology), which in turn increases the options for a reduction in emission of greenhouse gases and thereby sustainable development.

There should be a common understanding among the Contracting Parties that the improved cost efficiency achieved by joint implementation must be used to improve climate protection.

4. As has been stated by the European Union, we hold the view that joint implementation should not be used for fulfilling the present commitments of the Convention, but only for further reduction commitments.  
This does not necessarily mean that joint implementation could not be applied before the year 2000. But an application before 2000 would require clearly defined reduction commitments further-reaching than the present obligations in the Convention. As we clearly stated in our intervention on the review of adequacy, we hope such future reduction commitments will enter into force before the year 2000.
5. Since the introduction of joint implementation could open considerably more cost effective ways for the investing country to reduce greenhouse gases, consideration could be given to a certain degree of "over achievement" where the emission reductions achieved are not fully offset against the reduction obligations, but can rather be discounted by a certain set percentage.
6. The Convention does not restrict joint implementation to Annex I Parties: Developing countries can also become partners in joint implementation projects even if they have not taken on reduction commitments. In this context we want to stress our support for the possible criterion 3 in the Secretariat Document 49.

Participation in joint implementation must always be voluntary; no Contracting Party should be forced to accept projects which correspond to certain criteria. Conditions must be established which allow voluntary action by joint implementation partners on the basis of equal rights. Joint implementation projects undertaken in the private sector should be subject to confirmation by relevant national bodies.

For Annex I countries, specified shares of the various reduction commitments should be agreed upon which should not be met by joint implementation projects but only by measures on the state's own territory. We therefore fully support the

possible criterion 4. Thereby we can also ensure the necessary incentives for further development of new and innovative technologies.

7. Calls have often been made for joint implementation projects to be subject to a comprehensive socio-economic and environmental impact assessment before they are put into practice in order to minimize any negative effects. We believe that the Contracting Parties involved are best able to ensure that these aspects are taken into account and promoted. These aspects, therefore, should be left to their responsibility. We would suggest to add this consideration to the comments on possible criterion 7. This also corresponds with the possible criteria 3 und 5 in the Secretariat's document.
8. Joint implementation, of course, must be kept clearly distinct from existing financial obligations and the provision of technical assistance arising from Art. 4.3, 4.4 and 4.5 of the Convention. Joint implementation must be in addition to the implementation of these obligations. The same holds true for official development aid.
9. On the basis of the comprehensive approach of the Convention, joint implementation is, in principle, not limited to certain greenhouse gases. At a later stage, it may be useful, by using emission equivalents (e.g. global warming potential), to offset various reduction levels against one another. However, as we stated earlier, there exists considerable scientific uncertainty on these methodologies. Therefore, and in order not to complicate matters particularly in the initial phase, the reductions of various greenhouse gases as a result of joint implementation projects should, in the first phase, only be offset against the specific reduction obligations set for each individual greenhouse gas. Offsetting via emission equivalents should only be applied once a secure scientific basis has been established.
10. We support the suggestions also mentioned in the Secretariat's document for a pilote phase. We think that pilot projects are

useful to get a broader range of experience for developing the concept of joint implementation. We think that during such a pilot phase no crediting arrangements should apply until further reduction commitments will enter into force.

11. With regard to institutional and procedural aspects we hold the view that joint implementation should be dealt with by existing bodies under the Convention to prevent duplication of institutions. The competences of the body entrusted with this task should be limited to confirming that a notified joint implementation project meets the agreed criteria.

A more detailed outline of the German position with regard to joint implementation is given in a paper annexed to our statement.

German Delegation

Discussion paper on  
"Joint Implementation"

## 1. Introduction

Article 4.2 a and b of the Framework Convention on Climate Change gives the Contracting Parties the possibility of implementing joint policies and measures to meet their obligations (joint implementation, hereinafter referred to as ji). The Framework Convention on Climate Change itself does not provide any more detailed definition of ji and provides no specific criteria on how it is to be structured. In Article 4.2 d it merely states that the Conference of Parties (CoP) is to decide on criteria for the practical application of ji at its first meeting.

This paper is an attempt to define and formulate these criteria. Of course, the definition of ji and the criteria for its structure must be derived from the general principles of the Convention (Article 3) and be geared in particular to the ultimate objective of the Convention formulated in Article 2 (stabilisation of greenhouse gas concentrations at a level at which hazardous anthropogenic disturbances of the climate system are prevented).

A whole range of ji principles can be derived from this (section 3). Moreover, it is necessary to determine criteria for the practical structure and the enforcement of ji. The aspects to be dealt with in this regard (section 4) include:

- institutional issues;
- the procedure for determining and confirming that ji projects correspond to the Convention and the criteria to be laid down;
- the procedure and content of monitoring, reporting and success-control;
- the question of the allocation of emission credits and/or credits for the formation of sinks among the parties involved;
- the consequences of non-compliance.

## 2. Definition of joint implementation

In this paper ji is understood to be a system in which one Contracting Party to the Convention is also able to meet its obligations to reduce emissions of greenhouse gases by taking measures on the territory of another Contracting Party. The basic thought behind this concept is that of emission trading, i.e. the consideration that by allowing mutual exchanges of this kind between Contracting Parties, a fixed overall reduction objective can be achieved at a lower cost than would be the case if there were a rigid system with minimum obligations for each party. However,

the following modifications of this basic model will be necessary when transferring it to the application of ji under the Framework Convention on Climate Change.

### 3. Principles for joint implementation

- 3.1 The ultimate objective of the Convention - in conformity with the relevant provisions of the agreement - is the stabilisation of concentrations of greenhouse gases in the atmosphere at a level which prevents hazardous disturbances of the climate system, with this level being reached within a timescale which allows ecosystems to adapt naturally to climate change. The scientific results available up to now - in particular the work of the IPCC - make it clear that efforts must be made to achieve high standards for future reduction obligations if this objective is to be achieved. As an instrument under the Convention, ji must contribute to achieving the Convention's objective. Ji can do this in particular by helping reduce the cost of meeting reduction obligations, and in this way gives the Contracting Parties greater economic room for manoeuvre to make more stringent emission reduction objectives obligatory. Moreover, ji is designed to initiate and promote cooperation among Contracting Parties in reducing greenhouse gases by favouring processes of development (e.g. via the transfer of technology) which in turn increase the options for a reduction in emissions of greenhouse gases.



There should be a common understanding among the Contracting Parties that the improved cost efficiency achieved by ji must be used to improve climate protection.

3.2 The need for a pilot phase notwithstanding, ji should only be used after reduction obligations (quantifiable objectives and the timescale involved) to implement the stabilisation objective pursuant to Article 2 of the Convention have been clearly defined by the CoP. Present obligations do not provide an adequate framework for ji. We are going on the assumption that the obligations presently contained in the Convention for the limitation of greenhouse gas emissions should be implemented at a domestic level without, as yet, recourse to ji.

3.3 Article 3.1 of the Framework Convention on Climate Change states that the Contracting Parties are determined to protect the climate system for the good of present and future generations on the basis of justice and in line with their common, but different possibilities and their differing capabilities. The industrial countries are to take the lead. Article 3.4 stresses the rights of all countries to sustainable development.

For the structuring of ji, various standards could be derived from the principles of justice and responsibility for the three groups of Contracting Parties defined by the

Convention (industrialised countries, developing countries, countries in transition).

In this way, developing countries can also become partners in ji projects even if they have not entered into reduction commitments. For Annex I countries, specified shares of the various reduction commitments should be set which must not be met by ji projects but only by individual national measures. Consideration could also be given to determining certain strategies to be implemented in the home country.

- 3.4 Since on the introduction of ji there are considerably more cost effective ways for the investing country to reduce greenhouse gases, consideration could be given to certain degree of "over achievement" where the emissions reductions achieved are not fully offset against the reduction obligations but can rather be discounted by a certain set percentage.
- 3.5 Ji should basically be open to all Contracting Parties. The basic advantages of ji would be unnecessarily curbed if it were limited Annex I or even Annex II countries. Moreover, the Convention does not contain any provision for such a limitation but rather, in Article 4.2, opens up the possibilities of ji to all Contracting Parties.

- 3.6 Participation in ji must always be voluntary; no Contracting Party should be forced to accept projects which correspond to certain standards.

The voluntary nature of participation in ji projects takes account of the reservations a number of countries feel towards it and is also a suitable way to solve a whole range of existing problems.

The efficiency of market processes largely depends on their voluntary nature. The voluntary nature of ji is the best guarantee both that ji projects are compatible with the economic programme and development priorities of the various recipient countries and also that emission reductions are cost effective for the investor.

From this, we can conclude that provisions for the CoP to determine an international institution to ensure the cost efficiency of ji projects or to issue a "compatibility certificate" for ji projects are not useful. Rather the conditions must be established which allow voluntary action by ji partners on the basis of equal rights. Ji projects undertaken in the private sector should be subject to set confirmation by relevant national bodies.

- 3.7 Ji projects must make a clearly delimited contribution to stabilising concentrations of greenhouse gases in line

with Article 2 of the Convention. In order to do this, emission reductions or the binding of greenhouse gases in sinks brought about by ji projects must be able to be determined during the lifetime of a project and on an acceptable scientific basis; ji projects must also lead to a netto reduction in emissions of greenhouse gases. The effectiveness of a ji project with regard to limiting greenhouse gases should be assessed on a project-by-project basis. The demand for project assessment on the basis of national business as usual scenarios (base-line scenarios) and national reduction plans do not seem to be practicable.

If a project deals with the clean-up or modernisation of existing plants or facilities, the emission calculation on the basis of a comparison between the situation before and after the measure was taken should be relatively unproblematic. Difficulties arise in calculating the level of emission reduction which can be attributed to a ji project in cases where plants and facilities are being expanded or reconstructed since there is no reference basis for such projects and the emission reduction potential of the project still has to be determined before any assessment can be made. Practical solutions must be found for these projects.

3.8 Economic efficiency is an important concern of the Convention in the implementation of the measures to protect the climate. Article 3.3 stresses that the measures should be structured in a way which entails lowest possible costs, with consideration given to socio-economic interplay. Article 3.4 mentions economic development as a major prerequisite for measures to combat climate change. Article 3.5 calls for sustainable economic growth and sustainable development for all Contracting Parties, in particular for developing countries, so that these countries are in a better position to deal with the problems entailed by climate change.

Ji finds justification as an instrument of the Convention in particular because it actively promotes these economic and development issues as laid down in the Convention. Moreover, ji is a fundamentally suitable instrument in that it provides incentives

- to realise effective projects at low cost and
- to promote the transfer of technology and investment from industrialised countries to economically weaker countries.

In order, however, to spark off the necessary initiatives and activities required to achieve this objective, it is

necessary to ensure as wide, as transparent and as flexible access as possible to the "market" for ji projects. Thus, approval should basically be given for projects agreed at international level, as well as projects initiated in the private sector and projects arranged and/or initiated by an international service body (broker). The international service body would have the advantage that, by pooling resources, it could also allow firms and organisations to take part in ji projects which on their own do not fulfill the necessary preconditions for international cooperation projects (small and medium-sized companies).

- 3.9 Ji must be kept clearly distinct from existing financial obligations arising from the Convention; ji must complement obligations of this kind. A "redirection" of financial resources arising from existing obligations on the part of industrialised countries to ji projects is not compatible either with the principle of justice set down in Article 3.1 or with Article 4.3 of the Convention and would bring industrialised countries advantages and developing countries disadvantages over the status quo.

basically , funding from official development aid should not be used to finance projects aimed at receiving emission credits.

Considerations only to allow those industrialised countries to take part in ji which contribute a certain minimum amount to development aid, are not helpful in this regard and therefore should not be pursued any further.

4. **Criteria for the structure of a joint implementation system**

The following proposals are still very provisional and are not meant to present a complete picture of the situation. To deal with ji, it will be necessary to involve both national bodies and international bodies either set up or commissioned by the CoP. A sensible structure of these bodies and the necessary procedures and contents they require could best be developed on the basis of practical experience. The clearer the conception of the type of ji projects envisaged, the more successful the structure of ji as an effective instrument of the Convention. Thus, before a ji system is adopted definitively, a pilot phase of learning-by-doing should be planned in order to break out of theoretical discussion and develop ji at a practical level.

This means that the institutional and procedural provisions must be

- transparent in order to promote trust in ji,

- practicable, in other words the provisions must be geared towards the possibilities of the Contracting Parties and must not set up any practical hurdles to access to them,
- efficient, in other words the transaction costs which arise should be kept as low as possible.

- 4.1 The ji project partners must be Contracting Parties; non-Contracting Parties should not be permitted to be involved in ji projects.
- 4.2 It should be permitted for ji projects to include basically both measures to reduce emissions<sup>and</sup> provided suitable calculation measures can be agreed upon - measures to form sinks.
- 4.3 On the basis of the text of the Convention, ji is basically not restricted to certain greenhouse gases. At a later stage, it may be useful, by defining emission equivalents (e.g. Global Warming Potential), to offset various reduction levels against one another. In order not to complicate matters in particular in the initial phase, the reductions of various greenhouse gases as a result of ji projects should, in the first instance, only be offset against the specific reduction obligation set for each individual greenhouse gas. Offsetting via emission equiva-



lents should become an objective once a secure scientific basis has been established for it.

4.4 Ji projects may be initiated and applied at three levels:

- directly at governmental level by cooperation between two or more Contracting Parties;
- at the level of private companies and organisations;
- at the level of an international service body which could take on the rôle of a broker.

4.5 The structure of a ji project, for example regarding the distribution of costs or the allocation of emission credits respective to projects, should basically be a matter for the ji partners.

Measures are all the more effective the more they combined with consistent strategies and included in other policy areas.

Calls have therefore often be made for ji projects to be subject to a comprehensive socio-economic impact assessment before they are put into practice in order to minimise any negative effects. This however would involve a hardly justifiable level of effort and would not be prac-

ticable. The Contracting Parties involved are best able to ensure these aspects are taken into account and promoted.

- 4.6 The duties and competences of a central institution to be commissioned by the CoP should first of all be limited to determining and confirming that the criteria are being met and receiving and booking the emission reductions achieved by ji projects as notified by the Contracting Parties involved, and to reporting these to the CoP. Responsibility for monitoring and success-control should basically lie with the Contracting Parties involved. The central body, however, should have the possibility of double checking. The central body may also take on further duties, such as for example arranging ji projects and providing other support functions to reduce transaction costs.

PAPER NO. 6: GREECE  
(On behalf of the European Community and its member States)

1. On behalf of the European Union, we would like once again to thank the secretariat for its document A/AC.237/49. This time our thanks are even more heartfelt because we are conscious of the extreme difficulty of the task the secretariat has faced on this particular issue.
2. Joint implementation, as we all know, is a complex issue with far-reaching political implications. We have already made general comments on the concept of joint implementation, as is noted in the conclusions of the Committee at its eighth session. A more detailed paper expressing the outcome of our common reflection will be available during the course of the day for your consideration. This statement will only give the general lines of our position.
3. We repeat our position that was reiterated during INC 8: the European Union considers that in order to fulfil the specific commitment of Annex I parties to adopt policies and take measures with the aim of returning individually or jointly emissions to their 1990 levels by the year 2000, these parties must limit their greenhouse gas emissions at home through their own actions and that this commitment should not be met by joint implementation projects.
4. If we really want to develop joint implementation into a useful instrument in helping to achieve the final objective of the Convention, we have to build confidence amongst all parties.

Some argue, on legal grounds, that the Convention allows joint implementation to be used now. Others say that the Convention does not require to return emissions to their 1990 levels by the year 2000 and that there would therefore be no problem in using joint implementation right away.

That would be very damaging for the credibility of Annex I parties. This is why we say that we should refrain from talking about crediting of joint implementation towards the current commitments. If we take too much of a short-term view, we will harm the potential long-term benefit of joint implementation.

5. Joint implementation offers an opportunity to reduce global emissions in a cost-effective manner. New investments can be generated from industrialized countries towards other COP countries. Joint implementation could play a significant role in implementing further reduction commitments beyond those currently in the Convention.

6. We would be in favour of considering an experimental or pilot phase for joint implementation along the lines of paragraph 47 of the secretariat document but must take care to avoid the risk of its development in the wrong direction.

The secretariat has elaborated a set of possible criteria which, in our view, are broadly along the right lines, although they are susceptible to refinement. We have the following preliminary specific comments:

- Criteria 1 and 4 need to be considered in conjunction with the review of future commitments. Joint implementation might in future provide a basis for Annex I parties to enter into additional commitments over and above those realized at home. A significant part of the activities should be undertaken domestically.
- Criterion 6 would need to be strengthened and expanded to achieve its objective - perhaps drawing from some of the text which follows in the commentary, and adding that the parties involved should have communicated to the COP the information required under Article 12, including inventories, reports and projections.
- Criterion 9 would need to be reformulated along the lines of the text in the commentary so as to include only gases where agreed methodologies exist and to ensure transparency.
- On criterion 11, the issue of crediting looks difficult at this stage for the reasons given in paragraph 41. As suggested this might be left aside for further examination until a later phase.
- On criterion 12, we would strongly support the need for reporting on the outcome of projects as well as for communicating relevant information in advance.

The criteria for the pilot phase should naturally be approved by the first COP.

A careful evaluation of the experience gained during the pilot phase by the COP and its subsidiary bodies will help in the gradual elaboration of detailed criteria to be decided, as appropriate, by the following COPs.

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**EUROPEAN UNION  
10 FEBRUARY 1994**

**POSITION PAPER  
ON  
JOINT IMPLEMENTATION**

## Introduction

1. With this paper the European Union (EU) wants to offer its views on possible criteria for joint implementation (JI) to the foreseen deliberation at the 9th session of INC. However, it should be stressed that the views expressed in the paper do not necessary exclude that Member States could have more specific views on the concept of JI.

## I. Definition of JI

## Definition

2. JI should be understood as one of the means to be developed under the Convention by which contracting Parties of the Framework Convention on Climate Change (FCCC) jointly meet its ultimate objective. According to this interpretation, fulfilling a certain part of the obligation to reduce greenhouse gas emission of one Party by a reduction measure <sup>(1)</sup> in the territory of another Party would therefore be central for JI. JI could imply that Annex I Parties which committed themselves to limit emissions of greenhouse gases by a given date, can in principle (depending on the criteria yet to be formulated) deduct from their commitments the emission reduction that they have realised by JI projects on territories of other Parties.

Regional Economic  
Integration  
Organisations

3. Action taken within a regional economic integration organisation is considered by the Convention (see footnote 1 to Article 4.2.(a)) as equivalent to national action, and is thus not subject to the criteria for JI which are to be decided upon by COP 1. However, bilateral or multilateral actions outside the territory of such a regional economic integration organisation undertaken under JI arrangements by Parties that are members of a regional economic integration organisation would be within the scope of such criteria.

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<sup>(1)</sup> Throughout this paper terms like "emission reduction measure" or "reduction of emissions" should be taken to also refer to policies and measures to enhance greenhouse gas sinks with equivalent results unless the context makes clear that the distinction should be made.

## II. General considerations and underlying principles

### Participation

4. JI should be open to all Contracting Parties. The basic possible advantages of JI would be unnecessarily curbed, if JI were limited to Annex I or even Annex II Parties. Moreover, the Convention does not contain any provision for such a limitation but opens up the option of JI to all contracting parties in art. 4.2. The provision that criteria should be established by the COP before JI could be recognised as a contribution to the achievement of the ultimate objective of the Convention was, however, deliberately included to ensure that application of this concept would be in the interest of achieving this objective and in the interest of all Parties.

### Future Commitments

5. Joint as well as individual implementation of the Convention, is bound by the principle of common but differentiated responsibility and equity in accordance with respective capabilities, presently embodied in the Convention as its first principle. According to this principle, Annex I Parties must take the lead in combatting climate change and its adverse effects. With regard to the content of the commitment in art. 4.2a and 4.2b the EU strives for a decision of the COP to clarify that art. 4.2a and 4.2b is to be read as a commitment to adopt policies and take measures with the aim of returning individually or jointly greenhouse gas emissions to their 1990 levels by the year 2000. Regarding any future commitments all Parties should implement a significant and specified share through measures taken on their own territories. In relation to the ultimate objective of the Convention - stabilization of greenhouse gas concentration at a level that would prevent dangerous anthropogenic interference with the climate system -the real challenge is to control and further reduce global emissions and the commitment requested of developed countries is only a first step in that direction.

### Present commitment

6. Therefore the EU considers that in order to fulfil the specific commitment of Annex I Parties (contained in art. 4.2b) to adopt policies and take measures with the aim of returning their emissions, individually or jointly, to their 1990 levels by the year 2000, these Parties must limit their greenhouse gas emissions at home through their own actions and that this commitment should not be met by JI projects. This is not to say that in the meantime Parties should not put into practice or prepare JI projects but the emission reductions achieved by these projects should be additional to the present commitment. In the EU view, the concept of JI should contribute to further emissions reductions beyond the current commitments; the concept should be defined by the COP and evolve as part of the further evolution of the Convention.



## Voluntariness

7. Participation in JI must always be voluntary; no contracting Party should be forced to accept a project only because it meets the criteria and standards for JI projects set up by the COP. This also means that JI projects undertaken in the private sector must be endorsed by the relevant national authorities. The voluntary nature of JI is the best guarantee with regard to ensuring that JI projects are compatible with the economic programme and development priorities of the various "host"-Parties. JI arrangements must be designed in a way to allow all Parties to negotiate a fair deal which meets the interests of the Parties involved. Therefore, transparency of institutional and procedural arrangements as well as the availability of information (e.g. on alternative technologies) is of major importance. However, with regard to a possible lack of information it should be noted that according to art. 12.7 of the Convention the COP has to arrange for the provision to developing country Parties of i.a. information on the financial and technical needs associated with proposed projects.

## Private Sector

8. Any system of emissions crediting within the context of the Convention must operate at the level of the contracting Parties themselves in as much as the Parties alone have committed themselves to emission limitations. This does not, of course, exclude the possibility that private enterprise might implement such actions since the mobilisation of private sector capital offers important opportunities for future action. But it will be for the Parties themselves to determine how to incorporate private sector actions within their formal JI arrangements, subject to certain conditions at project level which the COP may wish to lay down.

Potential benefits  
of JI

9. As an instrument of the Convention JI should contribute to the Convention's ultimate objective. JI could do this mainly for three reasons:

- a) JI is intended to initiate and promote cooperation among contracting Parties - in particular between developed countries and countries with economies in transition or developing countries - in reducing greenhouse gas emissions. By encouraging investments in efficient technologies, especially in countries which otherwise would not introduce these technologies in the near future, JI could generate substantial new flows of investments from developed countries towards participating countries. The transfer of technology and know-how would have positive development effects if projects fit in the development priorities of the participating Parties. Moreover, JI projects generally would contribute to improving the capacity of participating Parties to control greenhouse gas emissions as well as to achieving other environmental objectives.
- b) JI could offer an opportunity to reduce the total costs of abating global greenhouse gas emissions. Thereby, JI could help to achieve an additional and/or quicker tightening up of the reduction obligation because the flexibility inherent to JI could make it easier for contracting Parties to commit themselves to more far reaching emission reductions. Thereby quicker stabilisation of the greenhouse gas concentration and, thus, the ultimate objective of the Convention, could be promoted.
- c) According to paragraph 7 a JI-project will only be implemented if the participating Parties agree on the conditions and it can be expected that all participating Parties will look to conserve for their own interests. There are good reasons to assume that JI-projects will only be realised in win-win-situations.

Potential risks  
of JI

10. Without adequate criteria JI could entail risks:

a) Regarding the ultimate objective of the Convention, short-term benefits of JI may be offset in the longer-term, if technical innovation, structural change and lifestyle evolution are not fostered by the necessity to fulfil unambiguous commitments. For example, when evaluating cost/benefit ratio of actions in developed countries (especially innovative actions), the future impact of these actions (though very difficult to estimate) should never be overlooked, particularly when they change the technological model that three quarter of the world's population (in the developing countries) will subsequently copy.

b) With regard to cost estimates for possible actions as reference to prove the cost-effectiveness of JI-projects the concern is expressed that such estimates may not reflect the real cost/benefit ratio. On the one hand, they may not include the full range of benefits of actions taken in the developed countries because of the tendency to avoid taking difficult policy decisions. On the other hand, they may not give a comprehensive picture of the costs of actions in developing countries (socio-economic side effects, transaction costs).

c) Finally, it has already been pointed out, that JI could erode the readiness of Annex II Parties to contribute to the financial mechanism of the Convention, by diverting funds that would otherwise have been allocated to such mechanisms. The financial obligations stated in the Convention should not be mixed up with JI. They are different and independent obligations.

### III. Suggestions for criteria

11. Clear and unambiguous criteria are needed to ensure credibility of JI. The criteria proposed in this paper might meet the above-mentioned concerns. They should be agreed by the COP and applied in a context of transparency, verification and reporting. The COP and/or its subsidiary bodies should agree on the technicalities related to JI. Guidelines for the definitions of these criteria are given hereafter:

CRITERIA REGARDING ADDITIONALITY:

- |                                 |  |
|---------------------------------|--|
| Positive results                | 12. JI-projects must produce verifiable positive net results in terms of reducing GHG emissions on a project basis.  |
| Significant and specified share | 13. JI activities should be in addition to national actions in so far as Annex I Parties should implement a significant and specified share of any future commitment in the convention or a protocol through measures taken on their own territories. A mechanism to ensure a proper balance between actions developed countries take at home and actions taken under a JI regime should be found. <sup>(2)</sup>  |
| Financial obligations           | 14. Funding for JI should be separate from, and additional to, the existing financial obligations of Annex II Parties under the Convention, especially the new and additional financial resources mentioned in Article 4.3 (including the transfer of technology) to meet the agreed full incremental costs of implementing measures covered by Article 4.1 and that are agreed between a developing country Party and the operating entity of the financial mechanism. The same applies to ODA. Investor countries should not reallocate financial resources from their ODA to finance JI-projects in order to gain emission credits. |

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<sup>(2)</sup> A significant and specified share may not necessarily be defined as a certain percentage of a future commitment. For example, such a requirement could also be formulated in terms of certain programmes or types of emission reduction measures which in any case would have to be realized at home. Further options to ensure a proper balance between actions at home and JI-activities could be a scheme of dual commitments or a scheme where reductions at home and reductions by JI-projects will be weighted differently. However, these options still need further consideration.

CRITERIA REGARDING ENVIRONMENTAL EFFECTIVENESS:

- Base-line                    15. A crucial prerequisite to evaluate the effectiveness of JI-projects is the definition of a base-line which is needed to assess the incremental impact of a project on greenhouse gas emissions and sink capacity. Base-line information should only refer to the project itself and its direct impact on greenhouse gas emissions and sink capacity. It should be defined very carefully in order to avoid potential complications. If a project deals with the clean-up or modernisation of existing plants or facilities, the emission calculation on the basis of a comparison between the situation before and after the implementation of the measure should be relatively unproblematic. Difficulties arise in calculating the level of emission reduction which can be attributed to a JI-project in cases where plants or facilities are being expanded or newly constructed since there is no existing reference basis. There is a need for agreed methodologies for the assessment of the emission reduction potential of such projects. This for example could be done by agreeing on a positive list.
- Life time                    16. Furthermore, criteria need to be developed with respect to the life time of projects to be used under JI arrangements. In principle, "credits" should have a limited life time (not exceeding the life time of the JI investment project). Credits should not preempt the actual reductions which are achieved.
- Scientific basis            17. Only activities where a sound scientific basis exists for calculating reductions of emissions, as determined by the COP, should be included. This should be confined to measures relating to gases where agreed methodologies exist.

**CRITERIA REGARDING TRANSPARENCY AND VERIFIABILITY:**

- |                                    |   |
|------------------------------------|---|
| Arrangement<br>between the Parties | 18. JI would need to be the subject of a formal arrangement between the Parties concerned.  |
| Transparency                       | 19. To guarantee transparency Parties to a JI arrangement should have communicated to the COP the information required under Article 12. In particular this must include inventories, programmes of measures, baseline data and specific requirements determined by the COP which are necessary to verify that a project meets the agreed criteria. National communications should provide separate information on JI activities (parallel reporting). This information should show that JI is closely integrated with steps taken to implement the convention.   |
| Verification                       | 20. JI would need to be subject to verification and approval by the COP or a subsidiary body, which would need to determine that all criteria were satisfied before "scoring" the action against a Party's commitments.<br><br>21. Partners should also take into account that an appropriate "capacity building" might be useful to help insure that the investment has the infra-structural support necessary for actually achieving the desired reduction in emissions. This and other possible issues should be the responsibility of the Parties involved. These issues could be included in the reporting to the COP or other responsible body. |

**IV. The organizational structure of JI.**

- |                 |  |
|-----------------|--|
| Monitoring body | 22. There is a need for approval of national JI activities on behalf of the COP. The COP should assign a responsible body within the existing institutional arrangements of the convention. The competence and duties as well as the structure of this body have also to be decided upon by the COP. The EU considers that the main tasks of this body should be the final approval of projects according to criteria decided by the COP, and the accounting of the reductions of greenhouse gas emissions achieved by JI projects notified by the Parties involved. It should be made clear that there is no room to reject the approval, if all criteria are satisfied. The body should in addition be allowed to offer services, e.g. providing support and information to facilitate project arrangements. |
|-----------------|--|

## V. Pilot period

### Registration

23. In the light of the outstanding problems and uncertainties connected to the use of JI, the concept of JI needs to be tested during a pilot period. Pilot projects could be registered as international contributions by the sponsoring Party.

### Learning Phase

24. The pilot period should be designed to provide practical experience on sensible structures for procedures and contents. An evaluation by the COP and its subsidiary bodies of the pilot period should focus on aspects like reporting and monitoring. To the extent possible in a pilot project the evaluation could also include:

- a) what practical arrangements can avoid the risks of JI, in particular how "double counting" can be prevented,
  - b) an assessment of the impact of the JI project on actions that the donor Party has implemented at home including information on the unit costs per ton of emission avoided,
  - c) an assessment of how cost-effective JI is in practice taking into account e.g. the infra-structural needs,
  - d) an assessment of the contribution of the JI project to the development of new technology.
-

INTERVENTION DE L'UNION EUROPEENNE SUR "L'APPLICATION CONJOINTE"

1- Au nom de l'Union Européenne, nous souhaiterions remercier le Secrétariat une fois encore pour son document A/AC.237/49. Cette fois, nos remerciements sont encore plus cordiaux, car nous sommes conscients de l'extrême difficulté qu'a du rencontrer le Secrétariat sur cette question particulière.

2- L'application conjointe, comme nous le savons tous, est une question complexe avec de profondes implications politiques. Nous nous sommes déjà prononcés sur la mise en oeuvre conjointe à l'occasion de la huitième session du Comité, comme le mentionnent les conclusions, lors de notre intervention sur le sujet 2(d).

3- Nous redéclarons la position que nous avons réaffirmée à l'occasion du 8ème CIN : l'Union Européenne considère que les Parties de l'Annexe I doivent limiter leurs émissions de gaz à effet de serre chez elles, au travers d'actions domestiques, pour respecter l'engagement spécifique à ces Parties (contenu à l'article 4.2(b)) et que cet engagement ne devrait pas être réalisé par le biais de projets d'application conjointe.

4- Si nous voulons que l'application conjointe soit développée comme un instrument utile pour atteindre l'objectif ultime, nous devons créer la confiance entre toutes les Parties.

Certains prétendent, sur des bases légales, que la Convention autorise l'utilisation de l'application conjointe dès maintenant. D'autres disent que la Convention ne demande pas de ramener les émissions en l'an 2000, à leur niveau de 1990, et qu'il n'y aurait donc aucun problème à utiliser l'application conjointe immédiatement.

Ce serait dommageable pour notre crédibilité. C'est pourquoi nous disons que nous devrions éviter de parler de créditer les actions d'application conjointe en déduction des engagements actuels. Si nous adoptons une vision à trop court terme, nous allons mettre en péril les avantages potentiels à long terme de l'application conjointe.

5- L'application conjointe offre une opportunité de réduire les émissions globales de façon efficace, économiquement. De nouveaux investissements pourraient ainsi être réalisés par des pays industrialisés dans d'autres pays Parties.

6- Nous serions favorables à une période pilote ou expérimentale pour une application conjointe, dans l'esprit du paragraphe 47 du document du Secrétariat mais nous devons veiller à prévenir le risque qu'elle se développe dans la mauvaise direction.



Le Secrétariat a élaboré un ensemble de critères possibles qui, selon nous, sont, en gros, conformes à nos vues, même si on pourrait leur apporter des améliorations.

Nous pouvons faire les commentaires préliminaires spécifiques suivants :

- Les critères 1 et 4 doivent être examinés en liaison avec l'élaboration d'engagements futurs. L'application conjointe ne devrait pas être utilisée pour satisfaire aux engagements existants pour l'an 2000. Elle pourrait, dans l'avenir, servir de base pour les pays de l'Annexe I à l'acceptation d'engagements additionnels, en outre de ceux mis en oeuvre chez eux. Il devrait y avoir un équilibre raisonnable entre les activités mises en oeuvre chez soi et à l'étranger.

- Le critère 6 doit être renforcé et étendu afin de bien atteindre son but, peut-être en extrayant une partie de texte du commentaire qui suit, et en ajoutant que les Parties impliquées devraient avoir communiqué à la Conférence des Parties les informations requises au titre de l'article 12 incluant les inventaires, programmes et projections.

- Le critère 9 doit être reformulé dans l'esprit du texte du commentaire, afin d'inclure seulement les gaz pour lesquels existent des méthodologies agréées, afin de garantir la transparence.

- Concernant le critère 11, la notion de crédit paraît délicate, à ce stade, pour les raisons exposées au paragraphe 41. Comme il est suggéré, ceci pourrait être laissé de côté jusqu'à un examen ultérieur.

- Concernant le critère 12, nous serions tout à fait d'accord pour exprimer la nécessité de fournir des informations sur les conséquences du projet, ainsi que sur la communication de toute information pertinente, au préalable.

Ces critères, valides pour la période pilote, devraient naturellement être approuvés par la CdP.

L'expérience acquise pendant la phase pilote devrait concourir à l'élaboration progressive de critères détaillés devant être adoptés, si opportun par les CdP suivantes.

Voici les lignes générales de notre position. Un texte plus détaillé exprimant le résultat de la réflexion que nous avons menée, afin que vous puissiez en prendre connaissance, devrait être disponible rapidement./.

## **PRISE DE POSITION RELATIVE AUX APPLICATIONS CONJOINTES**

### **Introduction**

1. Dans ce texte, l'Union Européenne souhaite faire part de sa position sur les critères pouvant régir une mise en oeuvre conjointe de la Convention, en vue des délibérations organisées sur ce thème à la 9ème session de l'INC. Il convient cependant d'insister sur le fait que les opinions générales exprimées ici n'empêchent pas nécessairement les Etats Membres d'avoir des vues plus spécifiques sur le concept des applications conjointes.

### **I. Définition de l'application conjointe**

#### **Définition**

2. Le concept d'application conjointe devrait être interprété comme l'un des moyens à développer dans le cadre de la Convention pour que les Parties contractantes de la Convention Cadre des Nations Unies sur les Changements Climatiques contribuent ensemble à la réalisation de son objectif ultime. Selon cette interprétation, la fonction principale de la mise en oeuvre conjointe serait de satisfaire une certaine part des engagements de réduction d'émission de GES d'une Partie contractante au moyen d'une mesure de réduction (1) prise sur le territoire d'une autre Partie contractante. Dans ce cadre, les Parties de l'Annexe I s'étant engagées à limiter les émissions de GES à une date donnée pourraient donc, en principe (selon des critères encore à définir), déduire de leurs engagements les réductions d'émission qu'elles ont réalisées grâce à des projets de mise en oeuvre conjointe sur le territoire d'autres Parties.

#### **Organisation d'intégration économique régionale**

3. Toute action entreprise dans le cadre d'une organisation d'intégration économique régionale est considérée par la Convention (voir note en bas de page N°1 à laquelle renvoie l'Article 4.2.(a)) comme l'équivalent d'une action nationale; elle n'est donc pas soumise à l'application des critères régissant la application conjointe qui doit être décidé à la première session de la Conférence des Parties. Cependant, des actions bilatérales ou multilatérales extérieures au territoire d'une telle organisation d'intégration économique régionale seraient régies par de tels critères si elles sont entreprises dans le cadre d'accords d'application conjointe par les Parties membres d'une organisation d'intégration économique régionale.

### Participation

4. Les applications conjointes devraient être accessibles à toutes les Parties contractantes. Les principaux avantages potentiels de l'application conjointe seraient inutilement restreints si l'accès aux applications jointes était limité aux Parties de l'Annexe I, voire de l'Annexe II. En outre, la Convention ne contient aucune disposition relative à une telle limitation ; elle offre au contraire, à l'Article 4.2, l'option d'applications conjointes à toutes les Parties contractantes. Mais une clause y fut délibérément inscrite pour assurer que la mise en oeuvre de ce concept se ferait dans un sens favorable à l'objectif ultime de la Convention et dans l'intérêt de toutes les Parties contractantes; cette clause indique que des critères devraient être définis par la Conférence des Parties avant que les applications conjointes puissent être reconnues comme une contribution à l'accomplissement de cet objectif.

### Engagements futurs

5. Tant les applications conjointes que les applications individuelles de la Convention sont soumises au principe des responsabilités communes mais différenciées et de l'équité en fonction des capacités respectives, désormais incorporé dans la Convention comme premier principe. Selon ce principe, les pays de l'Annexe I doivent être à l'avant-garde de la lutte contre les changements climatiques et leurs effets néfastes. Quant au contenu des engagements souscrits aux Articles 4.2.(a) et 4.2.(b), l'Union Européenne s'efforce d'obtenir de la Conférence des Parties une décision clarifiant l'interprétation de ces Articles 4.2.(a) et 4.2.(b) comme un engagement d'adopter des politiques et de prendre des mesures dans le but de ramener individuellement ou conjointement les émissions de GES de l'an 2000 à leur niveau de 1990. En ce qui concerne les engagements futurs, quels qu'ils soient, toutes les parties devraient en remplir une part significative et spécifique au moyen de mesures prises sur leur propre territoire. Compte tenu de l'objectif ultime de la Convention - objectif de stabilisation des concentrations de GES dans l'atmosphère à un niveau qui empêche toute perturbation anthropique dangereuse du système climatique-, le véritable défi est de parvenir à contrôler et à réduire plus encore les émissions globales; l'effort actuellement requis de la part des pays développés n'est donc qu'un premier pas dans cette voie.

### Engagement actuel

6. C'est pourquoi l'Union Européenne considère que, pour remplir l'engagement spécifique des Parties de l'Annexe I (stipulé à l'Article 4.2 (b)) d'adopter des politiques et de prendre des mesures dans le but de ramener individuellement ou conjointement les émissions de GES de l'an 2000 à leur niveau de 1990, ces Parties doivent limiter leurs émissions domestiques de GES au moyen de leurs propres actions et que cet engagement ne devrait pas être satisfait au moyen de projets d'application conjointe. Ceci ne signifie pas que, dans cet intervalle de temps, les Parties devraient s'interdire de mettre en oeuvre ou de concevoir des projets d'application conjointe, mais les réductions d'émissions atteintes grâce à ces projets devraient venir s'ajouter à l'engagement actuel. Le point de vue de l'Union Européenne est que le concept d'application conjointe devrait

contribuer à des réductions d'émission allant au-delà des engagements actuels; ce concept devrait être défini par la Conférence des Parties et évoluer à l'avenir comme partie intégrante de l'évolution de la Convention.

### Engagement volontaire

7. La participation à une application conjointe doit toujours être un acte volontaire; aucune Partie contractante ne devrait être contrainte d'accepter un projet pour la seule raison qu'il satisfait aux critères et normes régissant les projets d'application conjointe établis par la Conférence des Parties.

Ceci signifie également que les projets d'application conjointe entrepris dans le secteur privé doivent être avalisés par les autorités nationales compétentes. Le caractère volontaire des applications conjointes est la meilleure garantie pour que les projets d'application conjointe soient compatibles avec le programme économique et les priorités des différents pays-Parties d'accueil en matière de développement. Les dispositions relatives aux applications conjointes doivent être conçues de façon à permettre à toutes les Parties la négociation d'une transaction équitable conforme aux intérêts des Parties contractantes. C'est pourquoi la transparence des dispositions institutionnelles et procédurales et l'accessibilité de l'information (notamment sur les technologies alternatives) revêtent une importance capitale.

Au cas où des informations feraient, malgré tout, défaut, il convient de souligner que, en vertu de l'Article 12.7 de la Convention, il incombe à la Conférence des Parties de prendre des dispositions pour assurer aux pays en développement Parties, un concours portant, notamment, sur la fourniture des informations relatives aux moyens techniques et financiers nécessaires à l'exécution des projets proposés.

### Secteur privé

8. Tout système de crédit d'émission opérant dans le cadre de la Convention doit intervenir au niveau des Parties contractantes elles-mêmes, puisque seules ces dernières se sont engagées à des limitations d'émission. Bien entendu, ceci n'exclut pas la possibilité pour des entreprises privées de mettre en œuvre de telles actions, la mobilisation du capital privé offrant d'importantes perspectives d'action future. Mais il appartiendra aux Parties elles-mêmes de déterminer comment faire intervenir les initiatives du secteur privé au sein de leurs dispositions officielles en matière d'application conjointe, tout en respectant les conditions particulières relatives aux projets eux-mêmes que la Conférence des Parties souhaiterait définir.

### Avantages potentiels des applications conjointes

9. Etant un instrument de la Convention, les applications conjointes devraient contribuer à l'objectif ultime de la Convention.

Les applications conjointes pourraient y contribuer essentiellement de trois façons:

(a) l'application conjointe est destinée à engager et promouvoir la coopération entre les Parties contractantes - en particulier entre les pays développés et les pays d'économie en transition ou en développement - dans le processus de réduction des émissions de GES. En encourageant les investissements dans des technologies efficaces, tout spécialement dans les pays qui, dans d'autres conditions, n'auraient pas connu chez eux un développement rapide de ces technologies, l'application conjointe pourrait engendrer de nouveaux flux d'investissements substantiels vers les pays contractants en provenance des pays développés. Le transfert de technologie et de savoir faire aurait des impacts favorables en matière de développement si les projets s'inscrivent dans les priorités de développement des Parties contractantes. En outre, les projets d'application conjointe contribueraient à une amélioration générale de la capacité des Parties contractantes, tant à maîtriser les émissions de GES qu'à répondre à d'autres objectifs environnementaux.

(b) l'application conjointe pourrait être une occasion de réduire les coûts totaux de diminution des émissions de GES. En effet, l'application conjointe pourrait contribuer à un resserrement plus rapide, ou additionnel, de l'obligation de réduction d'émission parce que sa flexibilité caractéristique pourrait faciliter, pour les Parties contractantes, les engagements individuels à des réductions d'émission supplémentaires. Ainsi pourraient être favorisés la stabilisation plus rapide des concentrations de GES et, par là, l'objectif ultime de la Convention.

(c) conformément au paragraphe 7, un projet d'application conjointe ne se réalisera que si les Parties associées sont d'accord sur les conditions de sa mise en oeuvre et l'on peut s'attendre à ce que toutes les parties engagées tentent d'y ménager leurs intérêts propres. Il y a de bonnes raisons de supposer que les projets d'application conjointe ne se réaliseront qu'à l'avantage de chacun des participants.

Risques potentiels des applications conjointes

10. Au cas où elles ne seraient pas régies par des critères adéquats, les applications conjointes pourraient comporter certains risques :

(a) Sur le plan de l'objectif ultime de la Convention, les avantages à court terme apportés par une application jointe risquent d'être contrebalancés par des inconvénients à long terme, si l'innovation technique, le changement structurel et l'évolution des modes de vie ne sont pas encouragés par la nécessité de remplir des obligations dépourvues d'ambiguïté. Par exemple, lorsqu'on procède aux évaluations des rapports coûts/bénéfices d'actions menées dans les pays développés (surtout des actions innovantes), les estimations des effets à long terme de ces actions (bien qu'elles soient très difficiles à faire), ne devraient jamais être traitées à la légère, surtout lorsque ces actions contribuent à modifier le modèle technologique qui sera ultérieurement copié par les trois quarts de la population mondiale (dans les pays en développement).

(b) Quant aux estimations des coûts des actions envisagées auxquelles on procède pour prouver l'efficacité-coût des projets d'application jointe, on peut craindre que ces estimations ne reflètent pas les véritables rapports coûts/bénéfices. D'une part, toute l'étendue des avantages d'actions de réduction d'émission envisageables dans les pays développés risque de ne pas être prise en compte, à cause de la tendance générale à éviter de prendre des décisions politiques difficiles. D'autre part, tous les coûts des applications conjointes dans les pays en développement risquent de ne pas être complètement reflétés dans ces évaluations (effets socio-économiques indirects, coûts de transaction).

(c) Finalement, il a déjà été souligné que les applications jointes pourraient avoir comme effet d'éroder la volonté des Parties de l'Annexe II en matière de contributions aux mécanismes financiers de la Convention, en détournant des fonds qui, autrement, auraient été alloués à de tels mécanismes. Les obligations financières établies dans le cadre de la Convention ne devraient pas être confondues avec des financements d'applications jointes. Il s'agit d'obligations différentes et indépendantes.

### **III Propositions de critères**

11. Des critères clairs et sans ambiguïté sont nécessaires afin de garantir la crédibilité de l'application conjointe. Ils devraient être adoptés par la Conférence des Parties (CdP) et appliqués de façon transparente, dans l'idée de pouvoir réaliser des vérifications et des rapports. La CdP et/ou ses organes subsidiaires devraient se mettre d'accord sur les aspects techniques liés à l'application conjointe. Des lignes directrices pour la définition de critères sont données ci-dessous.

#### Critères concernant l'additionalité

##### Résultats positifs

12. Les projets d'application conjointe doivent se traduire par des résultats nets, positifs, vérifiables, en terme de réduction d'émissions de GES, pour un projet donné.

##### Part significative et définie

13. Les activités d'application conjointe devraient être additionnelles par rapport aux actions domestiques dans la mesure où les Parties à l'Annexe I devraient mettre en oeuvre au travers de mesures prises sur leur propre territoire une partie significative et définie de quelque engagement futur que ce soit dans le cadre de la Convention ou d'un protocole. Un mécanisme assurant un équilibre approprié entre les actions prises par les pays développés chez eux et les actions d'application conjointe, devrait être créé (2).

##### Obligations financières

14. Les fonds pour l'application conjointe devraient être séparés et additionnels par rapport aux obligations financières existantes des Parties à l'Annexe II prévues par la Convention; c'est en particulier le cas des ressources financières, nouvelles et additionnelles mentionnées à l'Article 4.3 (qui incluent le transfert de technologies) destinées à couvrir les coûts incrémentaux agréés pour la mise en oeuvre des mesures visées à l'article 4.1 et qui font l'objet d'un accord entre un pays Partie en développement et l'entité en charge du fonctionnement du mécanisme financier. La même condition vaut pour l'APD. Les pays donateurs ne devraient pas allouer les ressources financières de leur APD pour financer les projets d'application conjointe, avec, pour but, d'en obtenir des crédits d'émissions.

## Critères concernant l'efficacité environnementale

### Références

15. Un préalable crucial à l'évaluation de l'efficacité de projets d'application conjointe est la définition d'une référence permettant de déterminer l'impact incrémental d'un projet sur les émissions de GES et sur la capacité des puits. Les informations de référence devraient uniquement se référer au projet lui-même et à son impact direct sur les émissions de GES et sur la capacité des puits. Cette référence devrait être définie avec beaucoup de précautions afin d'éviter toute complication éventuelle. Si un projet concerne la refonte ou la modernisation d'usines ou d'installations existantes, un calcul basé sur une comparaison des émissions entre la situation avant et après la mise en oeuvre de la mesure ne devrait pas poser trop de problèmes. Des difficultés apparaissent dans le calcul des niveaux de réduction d'émissions attribuables à un projet d'application conjointe, dans les cas où les usines et les installations sont étendues ou créées ex nihilo, dans la mesure où dans ce cas, il n'existe pas de référence. Il faut établir des méthodologies agréées pour la détermination du potentiel de réduction d'émissions dans le cas de tels projets. Ceci pourrait par exemple se faire en se mettant d'accord sur une liste positive.

### Durée de vie

16. En outre, il faut développer des critères concernant la durée de vie des projets mis en oeuvre sur une base contractuelle. En principe, les "crédits" devraient avoir une durée de vie limitée - n'excédant pas la durée de vie du projet d'investissement d'application conjointe. Les crédits ne devraient pas excéder les réductions réellement réalisées.

### Base scientifique

17. Seules les activités pour lesquelles une base scientifique valide existe pour calculer les réductions d'émissions, telles qu'elles seront déterminées par la CdP, devraient être incluses. Notamment, il ne faudrait prendre en considération que les gaz pour lesquels des méthodologies agréées existent.

## Critères concernant la transparence et la vérifiabilité

### Formalisation entre les Parties

18. L'application conjointe nécessiterait un contrat formel entre les différentes Parties concernées.

### Transparence

19. Afin de garantir la transparence, les Parties à un projet d'application conjointe devraient avoir communiqué à la CdP les informations demandées à



l'Article 12. En particulier, ceci doit comprendre les inventaires, les programmes de mesures, les données de référence et recommandations spécifiques fixées par la CdP, qui sont nécessaires pour vérifier qu'un projet respecte les critères agréés. Les programmes nationaux devraient fournir des informations séparées sur les activités d'application conjointe - "parallel reporting". Ces informations devraient démontrer que l'application conjointe est étroitement liée à la mise en oeuvre du processus graduel de la Convention.

#### Vérification

20. L'application conjointe nécessiterait de pouvoir être vérifiée et approuvée par la CdP ou un organe subsidiaire, qui devrait déterminer que tous les critères sont satisfaits, avant de décompter cette action des engagements d'une Partie.

21. Les partenaires pourraient également prendre en compte le fait qu'un soutien à la formation pourrait être utile pour s'assurer que l'investissement repose sur des infrastructures nécessaires pour réellement atteindre la réduction d'émissions désirée. Cette notion ainsi que tout autre question possible devrait relever de la responsabilité des Parties concernées. Ces questions pourraient faire partie des informations fournies à la CdP ou à tout autre organe responsable.

#### **IV. La structure chargée de l'organisation de l'application conjointe**

22. Il est nécessaire que les activités d'application conjointe soient approuvées pour le compte de la CdP. La CdP pourrait assigner ce rôle à un organe responsable, parmi les organes institutionnels déjà prévus par la Convention. La compétence et les obligations, de même que la structure de cet organe, doivent également être décidées par la CdP. L'Union Européenne considère que les principales tâches de cet organe devraient être l'approbation finale de ces projets conformément aux critères décidés par la CdP, ainsi que la comptabilité des réductions d'émissions de GES accomplies par des projets d'application conjointe, notifiés par les Parties concernées. Il devrait être indiqué clairement qu'aucune possibilité de rejet de cette approbation ne pourrait exister, dès lors que tous les critères seraient satisfaits. L'organe devrait, en outre, être autorisé à fournir des services, par exemple, tel l'apport d'un soutien et d'informations pour faciliter la conclusion de projets.

#### **V. Période pilote**

##### Enregistrement

23. A la lumière des problèmes actuels et des incertitudes liées à l'utilisation de l'application conjointe, le concept d'application conjointe doit être testé pendant une période pilote. Des projets pilotes pourraient être enregistrés comme contributions internationales par la Partie qui investit.

## Phase d'apprentissage

24. La période pilote devrait être prévue pour fournir des expériences pratiques concernant la structuration adéquate des procédures et du contenu des projets. Une évaluation par la CdP et de ses organes subsidiaires concernant la période pilote devrait se focaliser sur les questions touchant aux informations et au suivi de ces projets.

Dans la mesure du possible, dans un projet pilote, l'évaluation devrait aussi porter sur :

- a) les solutions pratiques, permettant d'éviter les risques de l'application conjointe, en particulier le risque de "double-comptage" ;
- b) la détermination de l'impact d'un projet d'application conjointe sur les actions mises en oeuvre par un pays Partie donneur, chez lui, indiquant des informations sur les coûts unitaires par tonne évitée ;
- c) la détermination de la façon dont sont pris en compte, dans la pratique, certains coûts, par exemple ceux liés aux besoins d'infrastructures, dans l'évolution de l'efficacité économique d'actions d'application conjointe;
- d) la détermination de la contribution des projets d'application conjointe au développement de nouvelles technologies./.

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(1) Tout au long de ce texte, des expressions comme "mesure de réduction d'émission" doivent être considérées comme se recouvrant également les politiques et mesures de renforcement des puits de GES ayant des résultats équivalents, à moins que le contexte indique clairement qu'une distinction doit être faite.

(2) Une part significative et définie peut ne pas être nécessairement définie comme un certain pourcentage d'un engagement futur. Par exemple, une telle recommandation pourrait également être formulée en terme de programmes ou de types de mesures de réduction d'émissions qui devraient de toute façon être réalisés chez soi. D'autres options pour garantir un équilibre entre les actions chez soi et celles mises en oeuvre conjointement pourraient être un système d'engagements doubles ou un système où des réductions chez soi et des réductions par des projets d'application conjointe auraient un poids différent. Toutefois, ces options doivent être étudiées plus avant.

## PAPER NO. 7: NETHERLANDS

1. Introduction

The concept of joint implementation (JI) was introduced into the intergovernmental negotiations for the Framework Convention on Climate Change (FCCC). Since the costs of reducing greenhouse gas emissions differ widely between countries, it was seen as a means to increase the cost-effectiveness of an international approach. The Convention states that the Conference of the Parties (CoP) is to establish criteria for JI. The subject has been discussed by the Parties in the their INC meeting of August 1993 and February 1994. It was clearly felt that JI not only has great potential and advantages but also entails risks. Benefits are in the transfer of technology, efficient use of scarce resources, and in the contribution to a more sustainable development. Risks are in the fact that developed countries can avoid or delay changing their production and consumption patterns, and in insufficient monitoring and control of the actual emission reductions. This awareness confirmed the need for adequate but flexible criteria.

INC IX requested the interim secretariat to provide further documentation on the issue for consideration at the tenth session, taking into account a.o. all the views expressed and submissions made during INC IX, and any further comments which Parties or other Parties or other member States may have transmitted to the interim secretariat before 30 april 1994.

The coming months the Netherlands' view on JI and pilot projects will be further elaborated with the intention to publish its view for public review before this summer (see also par. 4 of this note). With this policy note The Netherlands already gives some preliminary views.

2. INC IX on a pilot phase for Joint Implementation

During INC IX (February 1994) it appeared that JI had remained a sensitive issue in the international discussion. Nevertheless, there was a general feeling that a testing period or pilot phase might enable the Parties to better assess the potential benefits and risks of JI. Thorough evaluation of experiences would then lead to the formulation of the criteria. Of course, even in the pilot phase there should be some general, flexible criteria. However, the emission reductions achieved should not be credited.

The European Union (EU) expressed the opinion that such a phased approach would be an excellent way to gain experience. It was stressed that the criteria for the pilot phase should be approved by CoP-1. In a separate document the EU presented an elaboration of its views. Special attention was asked for monitoring and reporting in the pilot phase, for the role of the subsidiary bodies therein and for the extensive evaluation

process.

The Netherlands' delegation -in addition to the EU statement- also emphasized the importance of a limited testing period on the basis of preliminary criteria established by CoP-1 (see Annex). It was argued that CoP-1 should decide that no 'crediting' for JI reductions with respect to present commitments in the Convention (art. 4.2. a/b) should be used. The Netherlands stated clearly at INC IX that present commitments under the FCCC should entirely be realized with domestic measures. It was proposed that in elaborating the pilot phase special attention should be given to the development of incentives to include the private sector in JI. Furthermore, it was suggested that projects which have begun before or during the pilot phase, but which give a long term and positive effect and fit into future criteria, should not be excluded from reporting and possible future crediting towards further reductions obligations under the Convention, just because they were started as experimental projects. This is important if the private sector is to be stimulated to invest in pilot projects now.

Specifically INC IX asked the interim-secretariat to prepare documents on a phased approach for JI and especially for a proposed testing programme. Pilot phase documentation should address objectives, a list of possible criteria and institutional arrangements. As a support for the work of the interim-secretariat Parties were given the opportunity to submitted documentation before 30 April 1994.

### 3. CoP-1 decisionmaking on a pilot phase

At INC IX The Netherlands suggested that in their national communications Parties could report seperately on their pilot projects. After termination of the pilot phase a thorough evaluation should be carried out in the context of the CoP and its subsidiary bodies. On the basis of the outcome of such an evaluation the CoP could decide on the next JI phase in which more elaborate criteria should guide Parties. In such a way experience could be gathered with respect to several aspects of JI before a decision has to be taken on more definite JI arrangements. Such a phased approach implies that issues such as 'crediting' against commitments under the FCCC are dealt with and agreed upon at a later stage.

As has been asked for by INC IX the interim secretariat should provide INC X with documentation on a pilot phase. This documentation should address objectives, a list of possible criteria and institutional arrangements. In addition to the Netherlands' INC IX statement it is suggested here that the pilot phase could be developed along the following lines.

With respect to the criteria for the pilot phase (which should be dealt with in the secretariats documentation for INC X and) which should be decided by CoP-1 the following criteria/guidelines seem relevant:

- pilot projects could be officially registered in a

- national Pilot Phase Programme (PPP);
- registering in a PPP of the investing country requires the involvement of the hosting government. The hosting government should formally be informed. In case of objections no registering will take place;
- to be registered as pilot project in the national PPP requires a adequate monitoring and reporting mechanism as part of the project, especially with respect to the emission reductions which could be attributed to the project and which methodology has been used to count the claimed reductions;
- furthermore, information should be provided on the way the project is funded;
- also should be reported on the outcome of a general environmental assessment;
- finally, information should be provided on aspects of technology transfer to hosting countries as a result of the project.

To ensure transparency with respect to the pilot phase it is suggested that Parties who want to participate in the pilot phase present their PPP (or individual projects) at CoP-1 on the basis of the CoP-1 decision on the criteria for the pilot phase. Furthermore, for each subsequent CoP meeting Parties will submit a progress report and ultimately their final PPP evaluation report. Reviews of such reports by the CoP could be prepared by a subsidiary body of the CoP.

Parties may feel that organizing its own PPP might be too burdensome. Therefore the use of an internationally organized PPP could be considered where Parties can register their pilot projects. Parties who develop their national PPP should coordinate their activities with these internationally co-ordinated efforts. Ultimately, national PPP's could be integrated in an international register. Furthermore, international registering of projects might contribute to a broader involvement of and cooperation between countries. This registering of projects could take place under the FCCC.

#### 4. Netherlands' policy on developing a pilot phase

In its Second Environmental Policy Plan (EPP-2, December 1993) the Netherlands' government announced to start pilot projects to gather experience with JI. Before the summer the governments' proposal will be published for public review until the end of this year. Furthermore, consultations with interested parties will be started to work on further details of the Netherlands' Pilot Phase Programme (PPP). The Netherlands intends to present its PPP at CoP-1 following the CoP decision on the pilot phase and its criteria. The coming months up to CoP-1 will be used to elaborate the Netherlands' PPP, taking into account the progress to be made at INC X and XI. Attention will be given to the involvement of parties outside the central government. Potential projects will be discussed

between national governments and other parties involved. The role of the Netherlands' government in its PPP will preliminary have a facilitating nature. Furthermore, the government will play a certain role in selecting and implementing pilot projects. The Netherlands PPP will last for a limited period after which the programme will be evaluated.

#### Current thinking about the PPP

During the PPP period pilot projects could be registered by a panel. In this panel representatives of the central government and other parties can take a seat. To become registered as a pilot project the project proposal (or information on current projects) could be submitted in advance to the panel, together with project baseline information. Furthermore, in the proposal external verification of the claimed outcome of the project should be ensured. The panel can decide whether or not a submitted project will be registered in the PPP. On registered projects parties can submit a progress report to the panel. The panel will subsequently compile a progress report to be submitted by the national government to future CoP sessions.

One of the options to be discussed in The Netherlands' PPP is testing a multilateral facility (in which the Netherlands will participate). Parties could voluntarily contribute to such a facility in terms of a fixed amount of money per ton CO<sub>2</sub> reduction ('intervention price'). The fund can finance projects. In case reductions will be realized with a lower amount of money than the 'intervention price' a 'global dividend' will be left which can be used to finance other projects in hosting countries or could be transferred to their governments. In the pilot phase such a facility could be tested on a small scale. Both representatives of governments of the investing country and hosting countries should participate in governing the fund.

#### 5. In conclusion

The Netherlands are prepared to contribute to an JI pilot phase on which CoP-1 has to decide upon. It will be of importance that INC X and XI will prepare CoP decisionmaking. As a first but crucial step the interim-secretariat should -as has been asked for by INC IX- provide INC X with a possible outline of the main elements of a pilot phase.

With this policy note The Netherlands hopefully has made a modest contribution which might be useful for the interim-secretariat. The secretariat has been asked to distribute this contribution among the INC delegations. In the coming months The Netherlands will work out their PPP which will be presented at CoP-1. Comments on this policy note will be regarded as extremely valuable.

## Intervention by The Netherlands on Joint Implementation

### 1. Introduction

In addition to the remarks made on behalf on the European Union earlier today by Greece, which The Netherlands of course fully supports, we would like to make some additional comments.

First of all we would like to underline the importance of having an extensive dialogue on this subject. In this respect we welcome the contributions submitted by many Parties to the INC secretariat which made it possible to the secretariat to prepare INC document A/AC.237/49. We furthermore welcome other contributions from scientists and NGO's which have recently been made in international meetings. In this respect we would like to draw the Working Group's attention to an international conference that will be held in the Netherlands on joint implementation from 1-3 of June of this year. An announcement on the conference is available at the back of the room. Furthermore a report is available on a Polish/Dutch research project on joint implementation.

As you all could read in 'Eco' today, the Dutch and the US governments supported the organization of informal consultations on the issue of criteria for JI by the Woods Hole Research Center. The consultations took place in Bermuda during Jan. 9-11 and the papers prepared as background document to that meeting are available through the Woods Hole Research Center. 200 copies are available here and I request the Secretariate to circulate this document to delegates and observers attending this session of the INC. Of course the views expressed in the document are the views of the authors and in no way bind the Dutch and US governments, the Woods Hole Research Center or any of the participants in the Workshop.

### 2. Phased approach

Before discussing the criteria proposed in document A/AC.237/49 we would like to emphasize the need for a phased approach, beginning with a pilot phase under the convention. We suggest that CoP-1 decide to launch a pilot phase for joint implementation for say three years, for which preliminary criteria should apply. CoP1 should also decide that no 'crediting' for joint implementation reductions with respect to present commitments in the Convention should be allowed. Indeed, we feel that the issue of crediting under FCCC should only be dealt with after criteria have been agreed upon on the basis of experience gathered during a pilot phase. During the pilot phase, joint implementation projects should be documented, registered and their results reported on.

In national communications parties could report separately on these projects. After termination of the pilot phase a thorough evaluation should be carried out in the context of the CoP and its subsidiary bodies. On the basis of the outcome of such an evaluation, the CoP could decide on a next joint implementation phase in which more elaborate criteria should guide Parties. In such a way we can gather experience with respect to several aspects of joint implementation before we have to decide on more definite joint implementation arrangements. Such a phased approach implies that issues such as 'crediting' against commitments under the Climate Convention, are dealt with and agreed upon at a later stage. In our view control of global emissions of greenhouse gases in the longer term requires the involvement of developing countries when implementing measures to reduce these emissions. Therefore joint implementation should not be restricted to Annex I Parties.

In elaborating the pilot phase attention should be given to development of incentives to include the private sector in such a phase. We would like to stress that after all it will be the private sector which can become a major partner in providing additional resources and implementing joint implementation projects.

Projects which are begun before or during the pilot phase, but which have a long term and positive effect and fit into future criteria, should not be excluded from reporting and possible future crediting towards further reductions obligations under the Convention, just because they were started as experimental projects. This is important if we are to stimulate the private sector to invest in pilot projects now.

We suggest that the secretariat prepare a technical document for INC X in which the way a pilot phase should operate is elaborated.

### 3. Some comments on the criteria proposed in A/AC.237/49

With respect to criteria 2 we like to stress that funds for joint implementation should be new and additional. The pilot phase could be used to develop more specific criteria in this area.

We agree with criteria 3. Indeed a joint implementation project needs the recognition as such by the national authorities. Nevertheless we like to stress the important role the private sector can play in implementing such projects. Useful legal instruments for making arrangements could be Memoranda of Understanding and bilateral investment agreements.

Although not really necessary for a pilot phase, we would welcome elaboration of criteria 4 for future use. In our view the suggestion of the secretariat that Parties should undertake a fair number of activities domestically needs



further elaboration.

Therefore we would like to support the proposal of the secretariat to develop possible systems to ensure a balance between domestic measures and joint implementation activities. In finding such a balance we furthermore refer to some approaches we outlined in our INC VIII intervention, which is contained in doc. A/AC.237.Misc.33.

We fully agree with criterion 5. Indeed besides cost-effectiveness, equity is an important principle. The criticism referred to in par. 25 and 26 in A/AC.237/49 needs to be taken seriously. Criteria should be developed to ensure that joint implementation is indeed beneficial to all Parties involved. Some suggestions can be made:

- the CoP could make some recommendations with respect to the life time of projects in order to ensure that joint implementation projects fit within the development priorities of 'host' Parties;
- to guarantee that joint implementation projects fit within national priorities of 'host' Parties and to avoid the complicated issue of additionality it might be useful to work for the time being with a list of project categories - agreed upon by the CoP - for which joint implementation is allowed. We like to suggest that the secretariat should elaborate such a pragmatic approach for INC X;
- with respect to criterion 8, we hesitate in using a safety margin when in stead more emphasis should be placed on verification, because only actually realised reductions can be the basis for assessing the results.
- The way criterion 10 is phrased is in our opinion too restrictive. We believe that for several reasons sink enhancement and in particular afforestation might also belong to national priorities of 'host' Parties and would also contribute to controlling global CO2 emissions; of course calculation methods should be agreed upon first.

PAPER NO. 8: NEW ZEALAND

I should like to join other speakers in complimenting the Secretariat on its contribution on joint implementation contained in document A/AC.237/49. I would like to begin this intervention by seeking to put joint implementation into a broader context.

Most of us are only starting to get to grips with the enormous task of achieving the ambitious objective of the Framework Convention on Climate Change (FCCC). It is a task that will require a major effort of all of us.

To achieve the FCCC objective as expeditiously as possible, we will need to use all of the mechanisms which are currently provided for in the Convention. We will also have to consider additional tools, including new and innovative ones. New Zealand's suggestion of a mechanism for cooperation with major transnational business interests in specific industries with significant greenhouse gas implications is one such example.

In our efforts to achieve the FCCC objective, measures involving cooperative efforts are particularly important. This is recognized in Article 3.3 through the statement that "efforts to address climate change may be carried out cooperatively by interested Parties" and the requirement that policies and measures should comprise all economic sectors.

Given the above, it will be no surprise that New Zealand supports joint implementation. We believe it is a mechanism for making significant early progress towards the objective of the Framework Convention on Climate Change (FCCC). It should also facilitate a greater transfer of resources and technology to developing countries than might otherwise occur, including through the financial mechanism.

We believe joint implementation should supplement not supplant other commitments under the FCCC. This means that at least until additional commitments are developed and detailed criteria agreed, no credit should be taken at the international level for joint implementation work.

Taking account of concerns which have been expressed about joint implementation, we believe that a pilot phase period is appropriate. This phase might allow countries with an interest in the concept to explore practical issues. In order to help focus joint implementation activities during such a pilot phase, we believe guidelines are essential. These will help ensure that appropriate activities are pursued. They should also help produce experience of joint implementation which can guide the Conference of the Parties (COP) in taking subsequent decisions on the concept.

My delegation takes the view that joint implementation activities should cover a wide range. We do not count out on any particular activities at this stage. However, we believe that any joint implementation activity should satisfy the following criteria:

- \* be cost effective, voluntary, practical and, to the extent possible, non-bureaucratic.
- \* involve additional finance.
- \* be applicable across a diverse range of projects.
- \* be based upon the principles of efficiency, equity and effectiveness with regard to the FCCC and be subject to full environmental, social and economic assessment.
- \* produce additional and verifiable net reductions in greenhouse gas emissions.

Accordingly, we have no difficulty with most of the Secretariat's suggestions in general. We think the tenth possible criteria whereby Parties shall give priority to joint implementation activities resulting in emissions limitations, is not necessary at this stage. It is important to gain experience of a wide range of possible activities in order to provide an adequate basis for later decisions on the operational phase for joint implementation. To foreclose any options now would not be consistent with the flexibility evident in other suggestions the Secretariat has made.

Moreover, as Canada and the Netherlands have indicated, this criterion seems inconsistent with the voluntary nature of joint implementation at this stage.

One further point we would make with respect to criterion 10, is that we disagree with the view expressed by the Secretariat when it introduced this document, that joint implementation activities aimed at protecting and enhancing sinks and reservoirs may not be consistent with national priorities for sustainable development. We believe that such activities may be a critical part of national development plans. We often hear in other fora how important the sustainable development of forests are for many countries, especially developing countries. Let us not prejudge the priorities of the individual countries involved. Priorities must be up to them to decide.

We have noted with considerable interest the efforts several countries have made to articulate how joint implementation might work. We should like to refer particularly to the United States Initiative on Joint Implementation. We are very supportive of the ground rules the United States has developed. We believe these explicitly address many of the criticisms that have been levelled at the concept of joint implementation. They also provide a good tight framework for consideration of project proposals and appear to be fully consistent with the FCCC.

Practical experience of the United States ground rules, and the experience gained by others, will be most relevant to subsequent debate on joint implementation. We would call on the countries experimenting with joint implementation at present - both as

"investors" and "hosts" - to come forward with details of their experience as activities get underway. Such inputs will be most helpful.

A number of countries have asked whether there should be any particular restrictions on joint implementation activities. My delegation takes the following position on the possibilities that have been articulated to date:

\* participation. Our clear understanding of the FCCC is that joint implementation can occur between any Parties to the treaty.

\* extent of reductions achievable through joint implementation. At this stage, given the absence of specific legally binding net emissions reduction targets and timetables in the FCCC, we believe joint implementation activities should be additional to other actions consistent with the treaty.

\* minimum cost of joint implementation projects. We do not favour any minimum cost for joint implementation projects. Small scale activities may be the only way that some Parties, for example the small island developing states, might benefit from joint implementation. Flexibility is essential to take account of the different types and scale of projects and the circumstances prevailing in the recipient country or countries.

\* type of action. As I have noted already, we favour no restrictions so long as the project is transparent and measurable.

Looking to the future, how should joint implementation move from a pilot phase to an operational phase? We believe consideration of the beginning of an operational phase might be linked to the development of new commitments under the FCCC. It would be appropriate at that time to formally review all joint implementation experience and draw conclusions that might help produce rules for the longer term.

One issue that would need to be addressed in some depth is the question of credit for joint implementation activities in an operational phase. This is a difficult question. We are not averse to arrangements which allow an equitable sharing of benefits between the investor and host countries in respect of their national commitments under the FCCC. At this early stage, we suspect bilateral arrangements for mutually agreeing shares rather than a fixed formula for sharing credit will make the most sense. However, there would need to be a mechanism for either party to seek a review of credit-sharing arrangements if there were good grounds. We believe this suggestion speaks to the concern in paragraph 26 d of the Secretariat paper.

One other point that we should bear in mind is that joint implementation is one form of economic instrument. At the point that discussion about other forms of economic instruments has proceeded far enough for the COP to consider taking decisions on

the use of other instruments, it may be necessary to take another look at joint implementation and consider whether additional changes to our use of it might be made.

In conclusion, New Zealand fully supports the concept of joint implementation and its early, flexible application in a pilot phase. The Government has no current plans to solicit joint implementation partnerships, but may wish to do so in light of the experience of others. We are therefore interested to learn how the widest possible range of experimental activities work out in practice.

PAPER NO. 9: SWEDEN

1. In addition to the Swedish comments given in A/AC.237/Misc.33 we would like to stress that we endorse a pilot phase, during which the different aspects of the concept could be further examined. At the next session the interim criteria for the pilot phase period should be discussed.
2. We would like to inform the secretariat that the Swedish Government has assigned SEK 45.000.000 to be used for activities aiming at an environmentally adapted energy-system in the Baltic states and yet another SEK 95.000.000 for the fiscal year 1993/1994 to be used for similar purposes in the Baltic States and the Eastern Europe. Investments in developing countries could also be financed by the programme. The government has proposed to the Parliament that SEK 87.500.000 should be allocated for the fiscal year 1994/95.

NUTEK (Swedish National Board for Industrial and Technical Development) is responsible for the programme.

The overall goal is to promote cost-efficient activities which have a sustainable impact on the emission of especially carbon dioxide but also acidifying substances. The enlargement of the programme will primarily target the Baltic rim area and areas where contacts have been established earlier. Special attention will thus be paid to the three Baltic States, St. Petersburg and Kaliningrad in Russia, the northern coast of Poland and the Katowice area.

The resources will be used to introduce new procedures and systems by direct investments in conversion to renewable fuels and in equipment for energy efficiency. Thus a spearhead and based for future activities will be formed. This first part of the programme will further be divided in a pilot stage and a completion stage. In the pilot stage the main goal is to have one activity of each kind in progress in each of the countries before the heating season 1993/94.

3. The programme includes elements of "joint implementation" activities. Provided that our partner States agree, these projects could be part of the work during a pilot phase of joint implementation actions under the FCCC.

PAPER NO. 10: UNITED STATES OF AMERICA

PUBLIC NOTICE

Announcement of Groundrules for U.S. Initiative on Joint Implementation

ACTION: Final Groundrules

SUMMARY: The U.S. Climate Change Action Plan, announced by President Clinton on October 19, 1993, set forth a series of measures designed to return U.S. greenhouse gas emissions to 1990 levels by the year 2000 through domestic actions alone. Recognizing the enormous potential for cost-effective greenhouse gas emission reductions in other countries, the Administration also called for a pilot program -- the U.S. Initiative on Joint Implementation [USIJI]-- to help establish an empirical basis for considering approaches to joint implementation internationally and thus help realize the potential of joint implementation both to combat the threat of global warming and to promote sustainable development.

Federal Register Public Notice 1918 (volume 58, No. 241 on pages 66057 - 66059 of December 17, 1993), set forth draft Groundrules for the U.S. Initiative on Joint Implementation as directed by the President in the U.S. Climate Change Action Plan, to provide criteria for the operation of a pilot program. This notice provides the final Groundrules, together with a summary of and response to comments on the draft Groundrules.

FOR FURTHER INFORMATION CONTACT: Daniel A. Reifsnyder, Director, Office of Global Change, OES/EGC, Room 4333, Department of State, 2201 C Street, Washington, D.C. 20520-7818, telephone: (202) 647-4069, facsimile: (202) 647-0191.

SUMMARY OF AND RESPONSE TO COMMENTS ON THE DRAFT GROUND RULES: The Department of State received twelve sets of comments on the draft Groundrules. The discussion below provides a review of the comments received, as well as an explanation of the rationale for making revisions to the Groundrules. Comments are organized according to the outline of the Groundrules themselves: (I) purpose, (II) evaluation and assessment, (III) eligible participants, (IV) evaluation panel, and (V) criteria for project eligibility.

SECTION I: PURPOSE

Only one comment was received on this section. It proposed revising the language to reflect that used in the United Nations Framework Convention on Climate Change. As the intent of the Groundrules is, in part, to provide an empirical basis for use internationally, the Groundrules were modified to maintain appropriate parallelism with the Convention.

## Section II. Evaluation and Reassessment

Comments on this section raised two issues: (1) questions regarding the timing of the evaluation of the pilot program, and (2) recommendations that the evaluation process be open to the public. Regarding the timing of the evaluation, one comment suggested that the first evaluation should be within one year of the issuance of the Groundrules. Section IV, paragraph C(8) of the draft Groundrules called for the preparation of annual reports; this paragraph has been maintained, and in the Department's view, fully covers the need for a one-year interim assessment of the USIJI.

With regard to opening the evaluation to the public, it was decided that the modalities for preparing the evaluation should be left to the discretion of the Evaluation Panel. To this end, a specific responsibility related to "operational modalities" has been added to the Panel's tasks (IV.C.(7)); this new language appropriately covers the specific circumstance referred to in the comment.

## Section III. Eligible Participants

Two main issues emerged in comments on this section: (1) recommendations that "groups" of entities be entitled to submit projects, and (2) recommendations regarding restrictions on foreign participants in the program.

To address the former comment, the text has been revised to allow for groups. This change takes account of the potential for a consortium of companies to coordinate in the preparation and implementation of a JI project.

Comments on the latter point included suggestions for restricting eligibility of foreign participants to (i) countries that are parties to the FCCC, or (ii) Annex I Parties only. As the Groundrules are designed to allow for the maximum number of acceptable projects to go forward, additional restrictions such as limitations on project participant eligibility were not incorporated.

## Section IV. Evaluation Panel

Comments were received on the Evaluation Panel membership, as well as on its responsibilities. On membership, commenters proposed that non-governmental representatives from both industry and the environmental community be added to the Evaluation Panel. In the revised Groundrules, language has been added which requires the Evaluation Panel to develop



operational modalities for implementing the program, providing the Panel with the opportunity to assure public participation. Furthermore, while the Department recognizes the importance of full public consultations, it supports the existing language which establishes responsibility at the federal level to accept or reject project proposals.

One commenter proposed deleting Evaluation Panel authority to approve or reject a project. The commenter argued that the Evaluation Panel should accept all projects unless they were deficient, putting the onus on the Evaluation Panel to discover deficiencies rather than on the project to demonstrate adequacy. The Department's view is that such a procedure would be inappropriate; project proposers have the information at hand, and the responsibility for compiling information needed is appropriately theirs. The Panel will not have adequate resources to perform such a review.

Original item IV.C(3) has been amended to specify that the Evaluation Panel will be responsible for reviewing and evaluating project submissions, including baseline projections (further discussed under Section V. amendments).

Many of the comments received stressed the importance of the operational aspects of joint implementation. The Department fully agrees that these issues are critical, although the stipulation of such detailed operational guidance is beyond the purview of these Groundrules. For this reason, and to indicate explicitly the importance attached to the development of operational criteria, a new section (Section IV.C(7)) has been added to the text to allow the Evaluation Panel to oversee the development of the day-to-day operations of the USIJI, including such tasks as preparing the forms for project submissions, setting internal rules to determine what constitutes a "complete" submission, and the degree of assistance which may be provided by the Evaluation Panel to project applicants.

One commenter suggested requiring the return of project evaluations within 30 days of receipt of a completed application. In the Department's view, a 30-day turnaround would be impossible to meet, and would provide too little time for adequate review of project submissions.

It was recommended that the Panel coordinate with other organizations such as the Export-Import Bank, the Overseas Private Investment Corporation, the Commodity Credit Corporation, and the Enterprise for the Americas Program. The Department fully agrees with the thrust of this recommendation; however, representation by each of these organizations on the

Evaluation Panel is not necessary to assure this coordination, modalities for which can be left to the Evaluation Panel to develop.

It was recommended that the Evaluation Panel be specifically authorized to establish either ad hoc or standing sub-committees with technical expertise in areas related to evaluating eligibility requirements to assist the Evaluation Panel in executing its duties. The Department agrees with this recommendation, and believes that such specific operational modalities are covered by the additional language in this section.

#### Section V. Criteria

Nearly every set of comments referred both generally to this section, and more specifically to the language of individual criteria; to simplify the discussion, each criterion is discussed separately below. In this discussion, criterion numbers refer to those of this new, revised text except where otherwise stated.

Chapeau for Subsection A.

One commenter recommended that the language in the chapeau paragraph be changed from "must find" to "shall consider". The commenter argued that in a pilot phase, the more stringent "must find" requirement would rule out all projects. However, the Department strongly believes that a credible minimum standard must be set for projects to be included as part of this initiative. Further, in the Department's view, each of the criteria contained in this section is critical to the acceptability of a project submission. The language of this chapeau was therefore left unchanged.

#### Criterion A.1

Several commenters noted potential difficulties with this criterion, questioning both the uncertain nature of documentation required to assure host government "acceptance", and the value of having such a criterion at all. While the Department agrees that the nature of the documentation that must be provided to determine "acceptability" has not been defined, the Department also believes the criterion -- for the host government to find the project acceptable -- is essential. Unless the United States, through the USIJI, can begin to examine how other countries' governments treat JI projects during the pilot phase, it will be impossible to develop an empirical database for developing appropriate criteria in the operational phase.

Criteria A.2, A.3 and A.4

Numerous comments were received on these criteria. Issues were raised regarding, for example: How to interpret the requirement; the difference between "actual" and "projected" reductions; the level of certainty required regarding the likelihood of the projected reductions; whether a grandfathering of projects should be allowed; requirements to reject projects that may be mandated but not implemented under host country law; and the need to include the information regarding fiscal year 1993. The Department agrees that the operational modalities for these are complex matters; however, as noted above, language has been added to provide the Evaluation Panel with the authority to develop the appropriate forms and specifications required for projects. However, in addition to this language, the text of these criteria has been amended in several ways from that originally published for public review and comment.

First, a new criterion has been added (Section V.A.(2)):

"To be included in the USIJI, the Evaluation Panel must find that a project submission involves specific measures to reduce or sequester greenhouse gas emissions initiated as the result of the U.S. Initiative on Joint Implementation, or in reasonable anticipation thereof."

As used here, the term "specific measures" is meant to refer to actions to reduce or sequester greenhouse gas emissions that may form a part of a broader project. In some cases, the specific measures may constitute the entire project; in other cases, the specific measures may be a lesser subset of the project.

This criterion is designed to promote "additionality" -- that is, actions above and beyond those that would have been taken otherwise. It seeks to do so in two ways:

- (1) by establishing a reference date before which it would be difficult to conclude that activities were undertaken as the result of the USIJI; and
- (2) by requiring that project participants demonstrate what measures were or will be implemented in response to the USIJI.

With respect to the reference date, the phrase "or in reasonable anticipation thereof" is designed to provide a reasonable "grace period" for participants and to establish some certainty. The United Nations Framework Convention on Climate Change involved negotiations on joint implementation

and provides for joint implementation in Article 4.2. It would thus be reasonable to consider project submissions involving measures initiated after the date of the Convention's adoption -- May 9, 1992; although it would be more difficult to reach such a conclusion with respect to measures initiated prior to that date, the Evaluation Panel may do so on a reasonable showing that the measures were undertaken in anticipation of joint implementation.

With respect to the need to demonstrate what measures were or will be implemented in response to the USIJI, the Department acknowledges the difficulty in seeking to gauge why participants undertook or plan to undertake specific measures, since most projects will be implemented for multiple reasons. At the same time, the integrity of the pilot program would be undermined if participants were able simply to repackage activities that would otherwise have been undertaken and submit them for inclusion under the USIJI. In this regard, the Department notes that an issue closely debated at the 9th Session of the Intergovernmental Negotiating Committee for the Framework Convention on Climate Change (February 1994) was the need to assure "additionality" with respect to joint implementation projects. To promote such "additionality", it will be important for project participants to demonstrate to the satisfaction of the Evaluation Panel that the measures undertaken or to be undertaken were implemented in response to the USIJI or in reasonable anticipation thereof. In particular, they will need to demonstrate how these measures are above and beyond what would reasonably have been or be likely to occur otherwise.

The original criteria under Section V. have also been amended to eliminate the tautology that would have been established by original Section V.A.(3). Original Section V.A.(2) has also been amended in this process.

These two amended criteria (new Section V.A.(3) and (4)) are also intended to promote "additionality." In this sense they are similar to the requirement with respect to federally funded activities, i.e., that they be undertaken with funds in excess of those available for such activities in fiscal year 1993.

Under new Section V.A.(3), project submissions will need to include data and methodological information sufficient to establish a baseline of current and future emissions -- both in the absence of, and as the result of, the specific measures taken or to be taken to reduce or sequester greenhouse gas emissions. Under new Section V.A.(4), the Evaluation Panel will need to find that the specific measures have reduced or sequestered, or will reduce or sequester, greenhouse gas

emissions beyond the baseline of current and future emissions in the absence of the specific measures taken or to be taken. In reaching such a conclusion, the Evaluation Panel will need to pay particular attention to baseline projections in the absence of the project's specific measures. The Evaluation Panel will need to find that such baseline projections are reasonable. Relevant factors the Evaluation Panel may consider include, among others:

- whether the baseline projections are consistent with the prevailing standard of environmental protection in the country involved
- whether the baseline projections are consistent with existing business practices within the particular sector or industry
- whether the baseline projections are consistent with trends and changes in those practices
- whether a project was altered before or after being implemented to take into account considerations related to joint implementation

As noted, the Evaluation Panel will be able also to consider any other evidence it deems relevant to its assessment of the reasonableness of the baseline projections. The Evaluation Panel will be able to reject project submissions which, in its judgment, do not establish reasonable baseline projections.

With respect to measures already undertaken, participants may be able to demonstrate "additionality" and "reasonable anticipation" in a number of ways. Relevant factors the Evaluation Panel may consider include, among others:

- evidence that a project was altered before or after implementation to take into account considerations related to joint implementation
- evidence that a project was specifically undertaken to promote joint implementation
- contract provisions that specifically allocate among project participants the greenhouse gas emissions reduced or sequestered

Criterion A.5

One commenter suggested requiring the project proposers to include in their submissions a monitoring schedule. While such recommendations may be appropriate to the operational activity, in the Department's view the specific criteria for monitoring cannot be resolved at this time, and should be thoroughly discussed and established by the Evaluation Panel. The addition of language providing the Evaluation Panel with authority to develop operational modalities will assure that this issue can properly be addressed.

Criterion A.6

No comments received.

Criterion A.7

Several commenters proposed that the criterion be deleted as placing too onerous a burden -- i.e., for a full environmental impact assessment -- on each project. In the Department's view, it is imperative not to move forward with projects which, while leading to greenhouse gas reductions, also lead to potentially significant but unidentified negative non-GHG environmental impacts. Again, however, the details of what will be required to meet this criterion are appropriately left to the Evaluation Panel.

Another commenter proposed that the criterion be strengthened so that project submission would be automatically rejected if any negative impact were found. In the Department's view, the Evaluation Panel itself must be given discretion to evaluate the results -- and this is done through Section V.B, which allows other environmental considerations to be used in determining the acceptability of the project.

Criterion A.8

One commenter suggested limiting the time over which the reduction credit could be claimed as part of the assurance that emissions reduced or sequestered were real. The Department believes that this is a matter for individual project participants to determine, and that individual circumstances warrant individual attention from the Evaluation Panel.

Original Criterion A.8 (now deleted)

In the December 17 Federal Register notice draft Groundrules, this criterion provided for registration of the project in the national inventory established under section 1605 of the Energy Policy Act of 1992. While the

Administration is rapidly moving to develop this registry, guidelines for the program have not yet been completed. Thus, this criterion has been deleted. However, it is the Department's firm expectation that the 1605 registry will be developed in a manner consistent with these USIJI Groundrules, and that in the future, project participants may be expected to register their projects through the 1605 program.

#### Criterion A.9

Commenters suggested amending the criterion to limit how the "credit" for the project could be apportioned -- with a minimum amount allocated to the host country, and an automatic discounting of total allowable emissions reduced or sequestered based on the uncertainty of the project. In the Department's view, it is most appropriate that the allocation of emissions reduced or sequestered be decided by the participants. Thus this suggestion was not included.

#### Section V.B

The second category of criteria in the Groundrules contains items that the "Panel shall also consider" -- a less stringent formulation than that required for the criteria in Section V.A. The principal comment on this section proposed to delete it as being redundant with Section V.A. As discussed above, in the Department's view, it is essential to establish two categories -- one for minimum requirements that must be met to include a project submission; the other with additional items that the Evaluation Panel shall also consider in deciding whether to include a project submission.

#### General Comments on Language:

A number of the comments received addressed the usage of the word "net" throughout the text. The comments expressed concern that the word could be read to require project submitters to total their domestic emissions with their international emissions (and for that total to be reduced through the JI project) to allow the project submission to be included. This reading was not intended. As a consequence, the language has been changed throughout the text, and the words "reduced or sequestered" are now used vice "net". The Department interprets "reduced" also to include "avoided".

## GROUND RULES

The following describes the U.S. Initiative on Joint Implementation (USIJI), which shall be established as a pilot program.

### Section I - Purpose

The purpose of the pilot program shall be to:

- (1) encourage the rapid development and implementation of cooperative, mutually voluntary, cost-effective projects between U.S. and foreign partners aimed at reducing or sequestering emissions of greenhouse gases, particularly projects promoting technology cooperation with and sustainable development in developing countries and countries with economies in transition to market economies;
- (2) promote a broad range of cooperative, mutually voluntary projects to test and evaluate methodologies for measuring, tracking and verifying costs and benefits;
- (3) establish an empirical basis to contribute to the formulation of international criteria for joint implementation;
- (4) encourage private sector investment and innovation in the development and dissemination of technologies for reducing or sequestering emissions of greenhouse gases; and
- (5) encourage participating countries to adopt more complete climate action programs, including national inventories, baselines, policies and measures, and appropriate specific commitments.

### Section II. Evaluation and Reassessment of Pilot Program

The pilot program shall be evaluated and reassessed within two years of its inception or within six months of adoption of international criteria for joint implementation by the Conference of the Parties to the United Nations Framework Convention on Climate Change, whichever is earlier.



Section III - Eligible Participants

A. Domestic

- (1) Any U.S. citizen or resident alien;
- (2) any company, organization or entity incorporated under or recognized by the laws of the United States, or group thereof; or
- (3) any U.S. federal, state or local government entity.

B. Foreign

- (1) Any country that has signed, ratified or acceded to the United Nations Framework Convention on Climate Change;
- (2) any citizen or resident alien of a country identified in B(1) of this section;
- (3) any company, organization or entity incorporated under or recognized by the laws of a country identified in B(1) of this section, or group thereof; or
- (4) any national, provincial, state, or local government entity of a country identified in B(1) of this section.

Section IV - Evaluation Panel

A. An Evaluation Panel is hereby established.

B. The Evaluation Panel shall consist of eight members, of whom:

- (1) one shall be an employee of the Department of Energy, who shall serve as Co-Chair;
- (2) one shall be an employee of the Environmental Protection Agency, who shall serve as Co-Chair;
- (3) one shall be an employee of the Agency for International Development;
- (4) one shall be an employee of the Department of Agriculture;
- (5) one shall be an employee of the Department of Commerce;

- (6) one shall be an employee of the Department of the Interior;
- (7) one shall be an employee of the Department of State; and
- (8) one shall be an employee of the Department of the Treasury.

C. The Panel shall be responsible for:

- (1) advising and assisting prospective U.S. and foreign participants on the technical parameters (including with respect to baselines, measuring and tracking) of projects submitted for inclusion in the USIJI;
- (2) accepting project submissions from eligible U.S. participants and their foreign partners;
- (3) reviewing and evaluating project submissions, including baseline projections;
- (4) approving or rejecting project submissions for inclusion in the USIJI, based on criteria contained in section V;
- (5) providing written reasons for its decisions, which shall be made publicly available, within 90 days of receipt of a complete submission or resubmission;
- (6) certifying emissions reduced or sequestered estimated to result from projects;
- (7) developing operational modalities for the implementation of the Program; and
- (8) preparing an annual report of its activities, including a summary of approved projects.

Section V - Criteria

A. To be included in the USIJI, the Evaluation Panel must find that a project submission:

- (1) is acceptable to the government of the host country;

- (2) involves specific measures to reduce or sequester greenhouse gas emissions initiated as the result of the U.S. Initiative on Joint Implementation, or in reasonable anticipation thereof;
- (3) provides data and methodological information sufficient to establish a baseline of current and future greenhouse gas emissions:
  - (a) in the absence of the specific measures referred to in A.(2) of this section; and
  - (b) as the result of the specific measures referred to in A.(2) of this section;
- (4) will reduce or sequester greenhouse gas emissions beyond those referred to in A.(3)(a) of this section, and if federally funded, is or will be undertaken with funds in excess of those available for such activities in fiscal year 1993;
- (5) contains adequate provisions for tracking the greenhouse gas emissions reduced or sequestered resulting from the project, and on a periodic basis, for modifying such estimates and for comparing actual results with those originally projected;
- (6) contains adequate provisions for external verification of the greenhouse gas emissions reduced or sequestered by the project;
- (7) identifies any associated non-greenhouse gas environmental impacts/benefits;
- (8) provides adequate assurance that greenhouse gas emissions reduced or sequestered over time will not be lost or reversed; and
- (9) provides for annual reports to the Evaluation Panel on the emissions reduced or sequestered, and on the share of such emissions attributed to each of the participants, domestic and foreign, pursuant to the terms of voluntary agreements among project participants.

B. In determining whether to include projects under the USIJI, the Evaluation Panel shall also consider:

- (1) the potential for the project to lead to changes in greenhouse gas emissions elsewhere;

- (2) the potential positive and negative effects of the project apart from its effect on greenhouse gas emissions reduced or sequestered;
- (3) whether the U.S. participants are emitters of greenhouse gases within the United States and, if so, whether they are taking measures to reduce or sequester such emissions; and
- (4) whether efforts are underway within the host country to ratify or accede to the United Nations Framework Convention on Climate Change, to develop a national inventory and/or baseline of greenhouse gas emissions by sources and removals by sinks, and whether the host country is taking measures to reduce its emissions and enhance its sinks and reservoirs of greenhouse gases.