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**PRINCIPLES, MODALITIES, RULES AND GUIDELINES FOR THE
MECHANISMS UNDER ARTICLES 6, 12 AND 17 OF THE
KYOTO PROTOCOL**

Submissions from Parties

Note by the secretariat

Addendum

1. This addendum to document FCCC/SB/1999/MISC.3 contains an additional proposal on principles, modalities, rules and guidelines for the mechanisms under Articles 6, 12 and 17 of the Kyoto Protocol submitted by a Party in accordance with decision 7/CP.4 (see FCCC/CP/1998/16/Add.1).
2. In accordance with the procedure for miscellaneous documents, this submission* is attached and reproduced in the language in which it was received and without formal editing.

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FCCC/SB/1999/MISC.3/Add.3

BNJ.99-78

**SUBMISSION BY GERMANY ON BEHALF OF THE EUROPEAN
COMMUNITY, ITS MEMBER STATES AND BULGARIA, CROATIA,
CZECH REPUBLIC, ESTONIA, HUNGARY, LATVIA, LITHUANIA,
POLAND, SLOVAK REPUBLIC AND SLOVENIA
ON**

JOINT IMPLEMENTATION (ART. 6 KP)

With the Buenos Aires Plan of Action, COP 4 has decided on a work programme on the mechanisms of the Kyoto Protocol with a view to taking a decision on all mechanisms at COP 6. According to Article 6 of the Kyoto Protocol the Conference of the Parties serving as the meeting of the Parties (COP/MOP) may, at its first session or as soon as practicable thereafter, elaborate guidelines for implementing this Article.

The European Community, its Member States and Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovak Republic and Slovenia have prepared a revised first proposal on guidelines for implementing Article 6, which is hereafter referred to as Joint Implementation (JI), hoping that it can serve as an input for the discussion amongst all Parties.

The EU and the above Parties recall their position that a concrete ceiling on the use of the Kyoto mechanisms should be defined in quantitative and qualitative terms based on equitable criteria. In the view of the EU and the above Parties, a properly defined ceiling will encourage Annex B Parties to develop strong domestic policies and measures in order to modify long term emission trends, the technological structure, especially long-lived infrastructure, and production and consumption patterns. Thereby it will also contribute to preparing the path for more ambitious commitments in the second and subsequent commitment periods. Such a ceiling should also contribute to limiting the displacement of domestic action by "hot air".

The above Parties recognise that there are different ways of approaching the definition of supplementarity, taking into account inter alia the uncertainty that still exists on the structure of the Kyoto mechanisms. In order to provide a basis for further negotiations with other Parties whom we urge to join us in this endeavour, we propose a definition for such a ceiling in para 8 of this submission.

The proposal from the above Parties on guidelines for implementing Article 6 does not yet cover all of the issues that we believe need to be addressed. We suggest that those issues dealing with baselines and monitoring be elaborated on in an appendix to these guidelines or in a separate decision by COP/MOP. Institutional questions, we believe, will have to be discussed once there is some more common understanding on other basic issues.

To clarify the JI process envisioned by the EU and the above Parties, the following terms in the set of guidelines shall be understood as follows:

Verification encompasses

- i) validation of a JI project: an assessment that a specific project under Art.6 KP meets the requirements laid down in the guidelines for JI, in the Kyoto Protocol and in the UNFCCC; and
- ii) certification of emission reductions: an assessment of how many additional, real, measurable and long-term emission reductions have resulted from the JI project.

The above Parties are looking forward to discussions with other Parties.

Draft Set of Guidelines for Joint Implementation

Para 1

The following guidelines apply for any project set up under Art. 6 of the Kyoto-Protocol (KP).

Para 2 Participation of Parties

1. Parties included in Annex I of the UN Framework Convention on Climate Change (UNFCCC) shall only transfer or acquire emission reduction units (ERUs) from a project under Art.6 KP, if they
 - a) have ratified the KP,
 - b) are bound by a compliance regime adopted by COP/MOP,
 - c) have not been excluded from participation in JI according to the procedures and mechanisms under the above mentioned compliance regime, and
 - d) are in compliance with their commitments under Art. 12 UNFCCC.

2. A Party included in Annex I shall only acquire emission reductions units resulting from project activities under Art.6 KP to contribute to compliance with its quantified emission limitation and reduction commitments under Art. 3 KP, if the Party is in compliance with its commitments under Art.5 and 7 KP

Para 3 Responsibility of the Parties

Legal entities can participate in JI with the approval of the Parties involved in such projects. Participation of legal entities in projects resulting from Art.6 KP projects does not affect the responsibility of Parties included in Annex I for the fulfilment of their commitments under the KP.

Para 4 Validation of JI projects

1. Validation is the binding assessment by an independent entity upon request of a project participant that a specific project under Art.6 KP meets the requirements laid down in the guidelines for JI, in the Kyoto Protocol and in the UNFCCC. A project needs to be validated before emission reductions resulting from that project may be certified.

2. Independent entities shall validate the project under Art. 6 KP upon request of a project participant. Such entities shall be institutionally and economically independent from, and not entitled to participate in, the identification, project development or project financing of any JI project

3. A project shall be validated only if it meets all of the following requirement:
 - a) The project has the approval of the Parties involved.

 - b) All legal entities involved in the project demonstrate that they are entitled to participate in JI according to para 11 below.

- c) The project participants provide a determination of baselines to the independent entity in accordance with Appendix A upon which the environmental additionality of the project is calculated. It must be demonstrated that the emission reductions from the project are real, measurable and long-term and that the emissions occurring with the project are lower than the emissions that would have occurred in the absence of the project. The latter are the baseline for the project and shall be determined according to the guidance provided for in Appendix A.
- d) The project participants provide information to the independent entity on their procedures for accurate, systematic and periodic monitoring of the project in accordance with the guidance provided for in Appendix B.
- e) Independent entities publish their decisions on the validation of projects in a suitable manner.

Para 5 Certification of emission reductions

1. Certification is the binding assessment by an independent entity upon request of a project participant of how many additional, real, measurable and long-term emission reductions have resulted from a validated project. The certification process concludes with the issuing of certificates for these emission reductions.
2. Independent entities shall certify the emission reductions resulting from a validated project upon request of a project participant. Independent entities shall be institutionally and economically independent from, and not entitled to participate in, the identification, project development or project financing of any JI project.
3. Additional emission reductions resulting from a project shall be calculated on the basis of the baselines set up according to Para 4.3c above. They shall be certified after they have occurred, only if
 - a) a participant of the project applies for the certification of the emission reductions resulting from the project during a specific period of time,
 - b) the project has been validated and continues to meet the requirements under Para 4 above,
 - c) all Parties involved are entitled to participate in JI according to Para 2 above,
 - d) the applicant submits the necessary monitored data proving that
 - the project has resulted in additional emission reductions by sources, or an additional enhancement of removals by sinks,
 - these emission reductions or enhancements of removals by sinks are real, measurable and long-term.
4. Emission reductions shall be denominated in emission reduction units (ERUs). One ERU shall be equal to one metric ton of CO₂ equivalent emissions calculated using the global warming potentials defined by Decision 2/CP.3 or as subsequently revised in accordance with Art.5.3 KP.

5. Issued certificates shall contain the following information and data:
 - the project and the project participants, including the Parties involved;
 - the number of emission reduction units that have resulted from the project and their serial numbers.
6. Each ERU shall have a unique serial number that reflects the project, country of origin, the year of certification and the certifying independent entity.
7. Independent entities shall inform the applicant on their decision in writing immediately after the completion of the certification process.
8. Independent entities publish their decisions on the certification of emission reductions in a suitable manner.

Para 6 Reporting by Parties

1. Parties included in Annex I shall report annually on their projects under Art. 6 within the framework of their reporting commitments under Art. 7.1 and 7.2 KP. Reporting under JI will follow the guidelines to be developed under Art. 7.4 KP.
2. Parties involved in JI projects shall also report in their national communications on JI projects.

Para 7 Transfer and Acquisition of ERUs

1. In accordance with Art. 3.10 KP any ERUs from a verified JI project which a Party acquires from another Party in accordance with the provisions of Art. 6 KP shall be added to the assigned amount for the acquiring Party.
2. In accordance with Art. 3.11 KP any ERUs from a verified JI project which a Party transfers to another Party in accordance with the provisions of Art. 6 KP shall be subtracted from the assigned amount for the transferring Party.

Para 8 Supplimentarity

Net acquisitions by an Annex B Party for all three Kyoto mechanisms together must not exceed the higher of the following alternatives:

$$5\% \text{ of: } \frac{\text{its base year}^1 \text{ emissions multiplied by 5 plus its assigned amount}^2}{2}$$

or

50% of: the difference between its annual actual emissions in any year of the period from 1994 to 2002, multiplied by 5, and its assigned amount.

Net transfers by an Annex B Party for all three Kyoto mechanisms together must not exceed:

$$5\% \text{ of: } \frac{\text{its base year}^1 \text{ emissions multiplied by 5 plus its assigned amount}}{2}$$

¹ or average annual emissions in the base period, as provided for in Article 3 para. 5 of the Kyoto Protocol

² As defined in Article 3 of the Kyoto Protocol.

However, the ceiling on net acquisitions and on net transfers can be increased to the extent that an Annex B Party achieves emission reductions larger than the relevant ceiling in the commitment period through domestic action undertaken after 1993, if demonstrated by the Party in a verifiable manner and subject to the expert review process to be developed under Article 8 of the Kyoto Protocol.

Para 9 COP/MOP

[...]

Para 10 Independent entities

[...]

Para 11 Legal entities

[...]

Para 12 Reporting by institutions involved

[...]

Para 13 Review of these rules

1. COP/MOP shall review the guidelines governing the joint implementation, as set out in paras 1-12 above. The first review shall be carried out no later than the year 2012. Further reviews shall be carried out periodically thereafter.
2. Any revision of these guidelines shall take effect in the commitment periods subsequent to that of their adoption.

Appendix A

Baselines: *to be elaborated*

Appendix B

Monitoring: *to be elaborated*

**SUBMISSION BY GERMANY ON BEHALF OF THE EUROPEAN
COMMUNITY, ITS MEMBER STATES AND BULGARIA, CROATIA,
CZECH REPUBLIC, ESTONIA, HUNGARY, LATVIA, LITHUANIA,
POLAND, SLOVAK REPUBLIC AND SLOVENIA
ON THE**

CLEAN DEVELOPMENT MECHANISM (ART. 12 KP)

With the Buenos Aires Action Plan COP 4 has decided on a work programme on the mechanisms, with a priority given to the CDM and with a view to taking a decision on all mechanisms at COP 6. According to Article 12 of the Kyoto Protocol (KP) the Conference of the Parties serving as the meeting of the Parties (COP/MOP) at its first session shall elaborate modalities and procedures for the Clean Development Mechanism (CDM).

In addition to previous papers tabled, the European Community, its Member States and Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovak Republic and Slovenia have prepared a revised first proposal on modalities and procedures for the CDM hoping that it can serve as an input for the discussion amongst all Parties, and in particular between Parties included in Annex I and Parties not included in Annex I.

The EU and the above Parties recall their position that a concrete ceiling on the use of the Kyoto mechanisms should be defined in quantitative and qualitative terms based on equitable criteria. In the view of the above Parties a properly defined ceiling will encourage Annex B Parties to develop strong domestic policies and measures in order to modify long term emission trends, the technological structure, especially long-lived infrastructure, and production and consumption patterns. Thereby it will also contribute to preparing the path for more ambitious commitments in the second and subsequent commitment periods. Such a ceiling should also contribute to limiting the displacement of domestic action by "hot air".

The above Parties recognise that there are different ways of approaching the definition of complementarity, taking into account inter alia the uncertainty that still exists on the structure of the Kyoto mechanisms. In order to provide a basis for further negotiations with other Parties whom we urge to join us in this endeavour, we propose a definition for such a ceiling in para 9 of this submission.

Furthermore, the EU and the above Parties reaffirm the need for an early agreement of the COP on the determination of the part of the emission limitation and reduction commitment under Article 3 that can be met through certified emission reductions accruing from CDM projects in accordance with Article 12.3 (b) of the Kyoto Protocol.

The proposal from the above Parties on modalities and procedures for the CDM does not yet cover all of the issues that we believe need to be addressed. Therefore a number of places in this draft proposal have been left blank.

We suggest that those questions dealing with technical aspects related to baselines, monitoring and adaptation measures could be elaborated on in an appendix to the draft modalities and procedures or in a separate decision by COP/MOP. Institutional questions, including those related to the specific tasks of the Executive Board and operational entities, we believe, will have to be further discussed once there is some more common understanding on other basic issues. Issues that the EU and the above Parties would in particular like to discuss with others are the content of the appendices and the questions included at the end of the submission.

The EU and the above Parties are looking forward to discussions with other Parties.

Draft modalities and procedures for the CDM

Para 1

The following modalities and procedures apply for any project activity set up under the Clean Development Mechanism (CDM) set forth in Art.12 Kyoto Protocol (KP).

Para 2 Participation of Parties

1. Parties included in Annex I shall only use certified emission reductions to contribute to compliance and Parties not included in Annex I shall only benefit from project activities under Art.12 KP, if the Party
 - a) has ratified the KP,
 - b) is bound by a compliance regime adopted by COP/MOP,
 - c) has not been excluded from participation in the CDM according to the procedures and mechanisms under the above mentioned compliance regime,
 - d) and is in compliance with its commitments under Art.12 UNFCCC.

2. A Party included in Annex I shall only use certified emission reductions resulting from project activities under Art.12 KP to contribute to compliance with its quantified emission limitation and reduction commitments under Art. 3 KP, if the Party is in compliance with its commitments under Art.5 and 7 KP.

Para 3 Responsibility of the Parties

Private and/or public entities can participate in the CDM with the approval of the Parties involved in CDM projects. Participation of private and/or public entities in project activities under Art.12 KP does not affect the responsibility of Parties included in Annex I for the fulfillment of their commitments under the KP.

Para 4 Validation of project activities

1. Validation is the binding assessment by an operational entity upon request of a project participant that a specific project activity under Art.12 KP meets the requirements laid down in the rules for the CDM, in the Kyoto Protocol and in the UNFCCC. A project activity needs to be validated before emission reductions resulting from that project activity may be certified.

2. Operational entities shall validate the project activities under Art.12 KP upon request of a project participant. Operational entities shall be institutionally and economically independent from, and not entitled to participate in, the identification, project development or project financing of any CDM project

3. A project activity shall be validated only if it meets all of the following requirement:

- a) All Parties involved have approved the project activity.
- b) All public and/or private entities involved in the project activity demonstrate that they are entitled to participate in the CDM according to Para 17.
- c) The project participants provide a determination of baselines to the operational entity in accordance with Appendix A upon which the environmental additionality of the project activity is calculated. It must be demonstrated that the emission reductions from the project activity are real, measurable and long-term and that the emissions occurring with the project activity are lower than the emissions that would have occurred in the absence of the project activity. The latter are the baseline for the project and shall be determined according to the guidance provided for in Appendix A.
- d) If public funds are used, the project participants provide information on the funding of the project activity proving that CDM investment will not result in a diversion of or competition with ODA and GEF funding.
- e) The Party not included in Annex I involved in the project activity confirms in a written statement how the project activity
 - assists that Party in achieving sustainable development taking into account its economic, environmental and social conditions according to its own priorities and needs and the need to minimize adverse environmental, social and economic effects taking into account existing guidance for sustainable development;
 - contributes to the ultimate objective of the UNFCCC.
- f) The project activity and its results are consistent with all relevant international agreements relating to sustainable development to which the Parties involved are a Party.
- g) The project participants provide information to the operational entity on their procedures for accurate, systematic and periodic monitoring of the project in accordance with the guidance provided for in Appendix C.
- h) Operational entities publish their decisions on the validation of project activities in a suitable manner.

Para 5 Certification of emission reductions

1. Certification is the binding assessment by an operational entity upon request of a project participant of how many additional, real, measurable and long-term emission reductions have resulted from a validated project activity. The certification process concludes with the issuing of certificates for these emission reductions.

2. Operational entities shall certify the emission reductions resulting from a validated project activity upon request of a project participant. Operational entities shall be institutionally and economically independent from, and not entitled to participate in, the identification, project development or project financing of any CDM project.
3. Additional emission reductions resulting from a project activity shall be calculated on the basis of the baselines set up according to Para 4 (2c) above. They shall be certified after they have occurred, only if
 - a) a participant of the project activity applies for the certification of the emission reductions resulting from the project activity during a specific period of time,
 - b) the project activity has been validated and continues to meet the requirements under Para 4 above,
 - c) all Parties involved are entitled to participate in the CDM according to Para 2 above,
 - d) the applicant submits the necessary monitored data proving that
 - the project activity has resulted in emission reductions that are additional to any that would have occurred in the absence of the project activity,
 - these emission reductions are real, measurable and long-term.
4. Issued certificates shall contain the following information and data:
 - the project activity and the project participants, including the Parties involved;
 - the number of certified emission reduction units that have resulted from the project activity and their serial numbers.
5. Emission reductions shall be denominated in emission reduction units. One certified emission reduction unit shall be equal to one metric ton of CO₂ equivalent emissions calculated using the global warming potentials defined by Decision 2/CP.3 or as subsequently revised in accordance with Art.5.3 KP.
6. Each certified emission reduction unit shall have a unique serial number that reflects the project activity, country of origin, the year of certification and the certifying operational entity.
7. Operational entities shall inform the applicant on their decision in writing immediately after the completion of the certification process.
8. Operational entities publish their decisions on the certification of emission reductions in a suitable manner.

Para 6 Supervision

1. The operational entities and their activities and decisions are subject to a supervision by the executive board as mandated for by the COP/MOP.
2. The executive board, if mandated for by the COP/MOP, to this Protocol shall carry out sample checks of the performance of the operational entities and the certification process. To this end it may designate operational entities not involved in the chosen certification process.
3. The executive board, if mandated for by the COP/MOP, decides independently or on request of the COP/MOP about which operational entity will be checked upon.
4. If the executive board, if mandated for by COP/MOP, concludes that the requirements for the certification of the emission reductions according to Para 5.2 above have not been fulfilled, COP/MOP may, upon recommendation of the board, decide that the operational entities involved are no longer entitled to certify emission reductions according to Para 5 above.

Para 7 Reporting by Parties

1. Parties included in Annex I using the CDM shall report annually on their activities under Art.12 KP within the framework of their reporting commitments under Art.7.1 and 2 KP. Reporting under the CDM will follow the guidelines to be developed under Art.7.4 KP.
2. Parties involved in CDM projects shall report in their national communications on CDM projects, on how they have assisted non-Annex I Parties in achieving sustainable development and in contributing to the ultimate objective of the Convention, and how they have assisted Annex I Parties in achieving compliance with their commitments under Art.3 KP.

Para 8 Acquisition of certified emission reduction units

In accordance with Art.3.12 KP any certified emission reductions which a Party acquires from another Party in accordance with the provisions of Art.12 KP shall be added to the assigned amount for the acquiring Party.

Para 9 Supplimentarity

Net acquisitions by an Annex B Party for all three Kyoto mechanisms together must not exceed the higher of the following alternatives:

5 % of: $\frac{\text{its base year}^1 \text{ emissions multiplied by 5 plus its assigned amount}^2}{2}$,

2

or

50% of: the difference between its annual actual emissions in any year of the period from 1994 to 2002, multiplied by 5, and its assigned amount.

Net transfers by an Annex B Party for all three Kyoto mechanisms together must not exceed:

5% of: $\frac{\text{its base year}^1 \text{ emissions multiplied by 5 plus its assigned amount}}{2}$.

2

However, the ceiling on net acquisitions and on net transfers can be increased to the extent that an Annex B Party achieves emission reductions larger than the relevant ceiling in the commitment period through domestic action undertaken after 1993, if demonstrated by the Party in a verifiable manner and subject to the expert review process to be developed under Article 8 of the Kyoto Protocol.

Para 10 Determination of „part of“ according to Art.12. 3b KP

[...]

Para 11 Share of proceeds

1. A share of proceeds from each project activity shall be used to cover administrative expenses of the CDM as well as to assist developing country Parties that are particularly vulnerable to the adverse effects of climate change to meet the costs of adaptation.
2. The share of proceeds shall be calculated on the basis of the certified emission reductions units resulting from each project activity.

[...]

Para 12 Administration

1. A share of proceeds according to Art.12.8 KP shall be used to cover all administrative expenses of the CDM.
2. Administrative expenses of the CDM cover the administration of the executive board and of the share of proceeds for adaptation.

[...]

¹ or average annual emissions in the base period, as provided for in Article 3 para. 5 of the Kyoto Protocol

² As defined in Article 3 of the Kyoto Protocol.

Para 13 Adaptation

1. A share of proceeds according to Art.12.8 KP shall be used to assist developing country Parties that are particularly vulnerable to the adverse effects of climate change to meet the costs of adaptation.
2. Project activities and measures that help developing country Parties to adapt to the adverse effects of climate change shall be financed by the share of proceeds, only if they meet the following requirements:
 - a) They shall be consistent with all relevant international agreements and internationally agreed programmes of action for sustainable development.
 - b) They shall be country-driven and in conformity with the national strategies and priorities for sustainable development of the Parties concerned.
 - c) They shall be implemented in a cost-effective manner.

[...]

3. Adaptation project activities and measures to be implemented under Art.12.8 KP shall be guided by information from national communications and the three stage approach as set out in Dec. 11/CP.1 and on the guidance provided for in Appendix B.
4. The share of proceeds for adaptation projects shall be channelled through an existing international institution to be determined by COP/MOP.
5. The allocation of the share of proceeds for adaptation projects shall be reviewed by COP/MOP five years after the adoption of these modalities and procedures.

Para 14 Implementation of Art.12.10 KP

Project activities generating emission reductions between the year 2000 and the date of adoption of the modalities and procedures for the CDM may be validated and emission reductions resulting from these validated project activities may be certified, provided the project activities and emission reductions comply with the agreed set of rules for the CDM.

Para 15 COP/MOP

The CDM shall be subject to the authority and guidance of COP/MOP in accordance with Art.12.4 KP. COP/MOP shall, inter alia,

- determine the part of the quantified emission limitation and reductions commitments under Art. 3 KP which Parties included in Annex I can meet through certified emission reductions from CDM projects in accordance with Art.12.3b KP,
- designate the operational entities in accordance with Art.12.5 KP,
- elaborate modalities and procedures with the objective of ensuring transparency, efficiency and accountability through independent auditing and verification of project activities in accordance with Art.12.7 KP,

- ensure that a share of proceeds from certified project activities is used to cover administrative expenses as well as to assist developing country Parties that are particularly vulnerable to the adverse effects of climate change to meet the costs of adaptation in accordance with Art.12.8 KP,
- decide which institutions shall carry out which functions under the CDM.

Para 16 Executive Board

1. In order to supervise the CDM under the authority and guidance of COP/MOP in accordance with Art.12.4 KP, the Executive Board of the CDM shall carry out all instructions and all other functions assigned to it by COP/MOP.
 2. Within this framework the Executive Board shall supervise project activities under Art.12 KP to ensure that these are in conformity with the UNFCCC, the Kyoto Protocol and all relevant decisions by COP/MOP.
 3. The Executive Board shall report on its operations to each session of COP/MOP.
 4. Insofar authorised by COP/MOP, the Executive Board shall provide guidance for participants as set out in Art.12.9 KP.
 5. The Executive Board may assign certain functions to other institutions under Art.12 KP within the framework provided for by COP/MOP.
 6. The Executive Board shall consist of [...] members. It shall be constituted so as to deal efficiently, effectively and transparently with its responsibilities on the basis of decisions taken by the COP/MOP.
 7. The Secretariat of the UNFCCC may within its functions outlined in Art. 8 UNFCCC support the Executive Board as necessary.
- [...]

Para 17 Operational entities

Entities shall be designated as operational entities only if they meet the following requirements:

1. They shall provide for the necessary expertise and the necessary means to validate project activities according to Para 4 above and to certify emission reductions according to Para 5 above and to carry out sample checks if mandated for according to Para 6.2 above.
2. They shall work in a credible, independent, non-discriminatory and transparent manner and ensure, where appropriate, that the certification is based on internationally agreed standards.
3. Guidelines on the implementation of Para 17.1 and 17.2 above shall be adopted by COP/MOP.

Para 18 Private and/or public entities

[...]

Para 19 Reporting by institutions involved

[...]

Para 20 Review

1. COP/MOP shall review these modalities and procedures five years after their adoption and periodically thereafter.
2. Any revision of these modalities and procedures will not have an impact on emission reductions already certified.

Appendix A

Baselines: *[to be elaborated]*

Appendix B

Adaptation measures: *[to be elaborated]*

Appendix C

Monitoring: *[to be elaborated]*

Further points for discussion

This proposal does not cover all of the issues that the EU and Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovak Republic and Slovenia believe need to be addressed. We are looking forward to a fruitful discussion also on the following questions:

1. Definition of part under Art. 12.3 (b):

In accordance with Art 12.3 b, the part of a Party's quantified emission limitation and reduction commitments under Art.3 that can be met through CERs in any one commitment period must be determined by the COP/MOP.

- How should this „part“ be defined?
- What would be an appropriate level?

2. Baselines

Accurate definitions of baselines must ensure environmental additionality of CDM projects.

- What criteria will be required for the determination of baselines?
- Who should be responsible for ensuring the validity of the baseline?
- How regularly should baselines be reviewed?

3. Additionality

- How can environmental additionality be ensured?
- How can financial additionality be ensured?

4. Share of proceeds

- On what basis should the share of proceeds be calculated?
- What portion should be allocated to administrative expenses and adaptation?
- What criteria could be used for the allocation of means for adaptation? How should these criteria be developed?

5. Institutional arrangements

The identity, role, funding, appointment, accountability, etc. of the Executive Board and Operational Entities are important for the operation of the CDM.

- Could validation and certification be carried out by the same operational entity?

6. Sustainable Development

- How can the CDM assist in achieving sustainable development?
- How can capacity building be furthered by the CDM?

7. Project Sector Eligibility

- Which project sectors will be eligible for CDM projects?

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POLAND, SLOVAK REPUBLIC AND SLOVENIA**

ON

EMISSIONS TRADING (ART. 17 KP)

With the Buenos Aires Plan of Action, COP4 decided on a work programme on the mechanisms with a view to taking a decision at COP6. According to Article 17 of the Kyoto Protocol (KP) the Conference of the Parties (COP) shall define the relevant principles, modalities, rules and guidelines, in particular for verification, reporting and accountability for emissions trading.

In addition to previous position papers tabled, the European Community, its Member States and Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovak Republic and Slovenia have prepared a revised first proposal on principles, modalities, rules and guidelines for emission trading hoping that it can serve as an input for the discussion amongst all Parties.

The EU and the above Parties recall their position that a concrete ceiling on the use of the Kyoto mechanisms should be defined in quantitative and qualitative terms based on equitable criteria. In the view of the EU and the above Parties, a properly defined ceiling will encourage Annex B Parties to develop strong domestic policies and measures in order to modify long term emission trends, the technological structure, especially long-lived infrastructure, and production and consumption patterns. Thereby it will also contribute to preparing the path for more ambitious commitments in the second and subsequent commitment periods. Such a ceiling should also contribute to limiting the displacement of domestic action by "hot air".

The above Parties recognise that there are different ways of approaching the definition of complementarity, taking into account inter alia the uncertainty that still exists on the structure of the Kyoto mechanisms. In order to provide a basis for further negotiations with other Parties whom we urge to join us in this endeavour, we propose a definition for such a ceiling in para 2 of this submission.

The proposal from the above Parties on principles, modalities, rules and guidelines for emission trading does not yet cover all of the issues that we believe need to be addressed. We suggest that those questions dealing monitoring, verification and accountability as well as national registries could be elaborated on in an appendix to these principles, modalities, rules and guidelines.

Different options for compliance provisions are mentioned in para 10 of this paper. We note that those options are not mutually exclusive and look forward to discussing them with other Parties. Other issues that we would like to discuss are included.

Draft principles, modalities, rules and guidelines for emissions trading

Para 1

The following principles, rules, modalities and guidelines apply for any acquisitions or transfers of parts of assigned amounts under Art. 17 of the Kyoto Protocol (KP).

Para 2 Supplementarity

Net acquisitions by an Annex B Party for all three Kyoto mechanisms together must not exceed the higher of the following alternatives:

5 % of: $\frac{\text{its base year}^1 \text{ emissions multiplied by 5 plus its assigned amount}^2}{2}$,
or

50% of: the difference between its annual actual emissions in any year of the period from 1994 to 2002, multiplied by 5, and its assigned amount.

Net transfers by an Annex B Party for all three Kyoto mechanisms together must not exceed:

5% of: $\frac{\text{its base year}^1 \text{ emissions multiplied by 5 plus its assigned amount}}{2}$.

However, the ceiling on net acquisitions and on net transfers can be increased to the extent that an Annex B Party achieves emission reductions larger than the relevant ceiling in the commitment period through domestic action undertaken after 1993, if demonstrated by the Party in a verifiable manner and subject to the expert review process to be developed under Article 8 of the Kyoto Protocol.

Para 3 Environmental effectiveness

Emissions trading shall contribute to the achievement of real and verifiable environmental benefits and cost-effectiveness. It should not lead to overall emissions reductions being lower than would otherwise be the case.

Para 4 Eligibility of Parties to participate in emissions trading

A Party included in Annex B shall be eligible to transfer or acquire any part of an assigned amount under the provisions of Art. 17 KP, if the Party:

- a) has ratified the KP,
- b) is bound by a compliance regime adopted by COP/MOP,
- c) has not been excluded from participation in emissions trading according to the procedures and mechanisms under the compliance regime mentioned above,
- d) is in compliance with the provisions of Art. 5 and 7 KP and Art. 12 UNFCCC.

¹ or average annual emissions in the base period as provided for in Article 3 paragraph 5 of the Kyoto Protocol.

² As defined in Article 3 of the Kyoto Protocol.

Para 5 Authorisation of legal entities

1. A Party included in Annex B may authorise legal entities to participate in emissions trading under its responsibility, in accordance with the rules set out in paras 6 to 10 below, if the Party:

a) is in compliance with the provisions of para 4 above,

b) has established and maintains a national system for accurate monitoring, verification, accountability and allocation of parts of assigned amount to any legal entity it chooses to authorise. Guidelines on the establishment, maintenance and international compatibility of these national systems are included in Appendix A to these principles, modalities, rules and guidelines.

2. Participation of legal entities in emissions trading under Art. 17 KP does not affect the responsibility of the Parties included in Annex B for the fulfilment of their commitments under the KP.

Para 6 Definition of parts of assigned amount

1. Transfers and acquisitions of any part of an assigned amount (PAA) by a Party or legal entity that the Party has authorised to participate under its responsibility, shall be denominated in units of one metric ton of carbon dioxide equivalent calculated using the global warming potentials defined by decision 2/CP.3 or as subsequently revised in accordance with Art. 5 KP.

2. Each PAA unit shall be identified by a unique serial number that indicates its Party of origin and its associated commitment period.

3. An invalidated PAA unit, as referred to in para 11 below, cannot be used to meet any Party's commitment under Art. 3 KP, and cannot be further transferred or acquired.

Para 7 Registries

1. Any Party included in Annex B participating in emissions trading under Art. 17 KP or authorising any legal entity to participate in emissions trading under the provisions of para 5 above, shall establish and maintain a national registry which accurately records all holdings, transfers, and acquisitions of any part of an assigned amount by the Party and its authorised legal entities. Information maintained in such a national registry shall be publicly accessible.

2. Guidelines on the establishment, maintenance and international compatibility of national registries are included in Appendix B to this text.

Para 8 Market mechanisms and Transparency

1. Transfers and acquisitions of part of an assigned amount between Parties may take place through an exchange. This exchange shall also be open to legal entities.

2. Any Party wishing to transfer or acquire any part of an assigned amount must publish the amount to be transferred prior to the transfer.

3. The UNFCCC Secretariat shall make information on the Parties that are eligible to participate in international trade publicly available. Each Party shall maintain a record of names and contact details of authorised legal entities within its jurisdiction that it authorises to trade, and such information shall be made available both to the UNFCCC Secretariat and to the public.

[...]

Para 9 Reporting

1. Any Party participating in emissions trading under Art. 17 KP, or authorising any legal entity to participate in emissions trading under the provisions of para 5 above, shall include in its inventory to be submitted to the Secretariat under Art. 7.1 KP, information on any part of an assigned amount added to or removed from its national registry during the relevant year, including the serial number for each unit and the Party to which it was transferred or from which it was acquired.

2. The Secretariat shall include information submitted under para 9.1 above in its annual compilation and accounting of emissions inventories and assigned amounts under Art. 8 KP.

[...]

Para 10 Implementation

If a question of implementation by a Party included in Annex B of the requirements referred to in these principles, modalities, rules and guidelines is identified in accordance with the relevant provisions of Art. 8 KP, transfers and acquisitions of parts of assigned amount may continue to be made after the question has been identified provided that such parts of assigned amount may not be used by a Party to meet its commitments under Art. 3 KP until any issue of compliance has been resolved in favour of the Party in question.

Para 11 Options for liability and compliance

Option 1 - Shared liability

If a Party is found to be in non compliance with its commitments under Art. 3 KP, a portion [x%] of any of its assigned amount that has been transferred to other Parties under the provisions of Art. 17 KP, shall be invalidated and cannot be used for the purpose of meeting commitments under Art. 3 KP or further traded. [The portion [x%] to be invalidated shall be some multiple of the degree of non-compliance. The degree of non-compliance is the percentage difference between emissions in the commitment period and assigned amount.]

Option 2 - compliance reserve

A portion [x%] of every transfer under Art. 17 KP shall be placed in a compliance reserve in which event the units may not be used or traded. The Secretariat, as part of the annual compilation and accounting of emissions inventories and assigned amounts under Art. 8 KP, shall include a report of the units deposited in the compliance reserve. At the end of the commitment period, such units shall be returned to the Party of origin if that Party is in compliance with its commitments under Art. 3 KP, in which case the units can be transferred or banked for future commitment periods. If at the end of the commitment period a Party is not in compliance with its commitments under Art. 3 KP an appropriate number of units

deposited in the reserve account shall be invalidated in which case they may not be further used or traded.

Option 3 - "Trigger"

If a question is raised on a Party's compliance with its commitments under Art. 3 KP and the Party is subsequently found to be in non compliance, any part of its assigned amount that has been transferred to other Parties under the provisions of Art. 17 KP after the point in time at which the question was raised shall be invalidated and cannot be used for the purpose of meeting commitments under Art. 3 KP, or further traded. Such questions can only be raised in particular circumstances to be defined.

[...]

Para 12 Review of these principles, modalities, rules and guidelines

1. The COP shall review the principles, modalities, rules and guidelines governing the operation of the emissions trading system, as set out in paras 1-11 above. The first review shall be carried out no later than the year 2012. Further reviews shall be carried out periodically thereafter.
2. Changes in principles, modalities, rules and guidelines shall take effect in commitment periods subsequent to that of their adoption. Changes in Parties' eligibility to trade or changes pertaining to new entrants that meet the eligibility criteria may occur during the current commitment period.

Appendix A

Guidelines on the establishment, maintenance and international compatibility of national systems : *to be elaborated*

Appendix B

Guidelines on the establishment, maintenance and international compatibility of national registries: *to be elaborated*

Further points for discussion

This proposal does not cover all of the issues that the EU and Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovak Republic and Slovenia believe need to be addressed. We are looking forward to a fruitful discussion also on the following questions.

1. How can environmental effectiveness be ensured ?
2. How can transparency, accessibility and verifiability be ensured ?
3. Should parts of the assigned amount units be retired annually ?
4. How can emissions trading serve as an incentive for compliance ?