



## Summary Durban and impact on JI

### Agreement to agree

One of the key results of the Durban conference was the launch of a new negotiation process, the so called Durban Platform, to develop a comprehensive climate change agreement by 2015 that will enter into force in 2020. Under this agreement, all signatory countries will take on obligations that will have “legal force” in combating climate change. The new system is expected to formulate for the first time mitigation commitments for all major emitters, including the United States, China, India, EU and Brazil, in the context of a meaningful agreement that may replace the Kyoto Protocol.

### A second commitment period for the Kyoto Protocol

The Parties decided in favour of a new commitment period under the Kyoto Protocol which is to run through 2017 or 2019. Note, however, that the amendment of Annex B laying out the country-specific reduction targets or “quantified emission limitation or reduction objectives” (QUELROs) has *not* (yet) been adopted. The adoption of this amendment will be necessary for the second commitment period to assume the same legally binding force that is associated with the first commitment period. At Durban, the Parties agreed that the individual reduction targets will be discussed at the 2012 session, to be held in Doha, Qatar in late 2012, “with a view to [...] adopting these QUELROs as amendments to Annex B of the Kyoto Protocol at that session”.

The decision adopted in Durban makes reference to country pledges for a second commitment period known to date as well as to countries that have declared not to take part in a second commitment period. Apart from the EU and candidate countries (Iceland and Croatia) Norway, Switzerland, Australia, New Zealand, Kazakhstan, Belarus, Ukraine, Liechtenstein and Monaco are bound to assume a reduction target. Russia, Japan and Canada have stated that they will not participate in a second commitment period, while the US has never ratified the Protocol.

### Mind the Gap?

As the second commitment period is meant to start in 2013, the gap, i.e. the period between the end of the first commitment period (31 December 2012) and the entering into force of the second commitment period, may still be avoided. This would mean that Joint Implementation (JI) as one of the three flexible mechanisms can continue without interruption after 2012. Legal challenges

persist, however. The architecture of the Kyoto Protocol foresees that new commitments are introduced through treaty ratifications of at least 75% of State Parties. Countries may still agree to apply any changes adopted in Doha next year on a voluntary basis. Yet, whether voluntary action can trigger the establishment of assigned amounts and the trading of emissions remains to be seen.

This notwithstanding, Durban has made the first step towards a second commitment period and towards avoiding the gap. JI may ultimately continue. It needs to be added that this is only a possibility for those countries that have committed or will commit to a reduction target after 2012. This means that JI will not continue in Russia unless the Russian Federation changes directions and assumes a target for its own.

### **Key issues to be decided for JI at Doha in 2012**

Parties will have to make a number of decisions at the Doha conference for the Kyoto Protocol to enter into a second commitment period: *First* of all, they will have to decide on actual reduction targets for each participating country (and each country concerned needs to agree). *Second*, they will have to decide on the length of the second commitment period (2017 or 2019). *Third*, the carry-over of surplus AAUs from the first commitment period needs to be decided on. And *fourth*, Parties will have to decide whether, and how, they wish to establish provisional application of the second commitment period in the absence of the 75% ratification quorum.

The continuation of JI, then, will raise additional issues. Countries need to establish the conditions under which existing JI projects, i.e. those registered pre-2013, qualify to for continued operations (and ERU issuance).

Apart from this, the reform to the existing JI Guidelines—a matter intensely discussed by the Joint Implementation Supervisory Committee (JISC), State Parties and the private sector over the past two years—is up for negotiations. The JISC has previously recommended to<sup>1</sup>:

- Merge Track 1 and Track 2 in a unified Track;
- Have ERU issuance performed by a UNFCCC body instead of the Host Country;
- See additionality be decided by the host country;
- Redistribute responsibilities between the host country, the JISC and accredited independent entities (AIEs).

Yet, none of these recommendations have been addressed, let alone agreed on, at the Durban conference. Instead, Parties asked for more information, to be submitted by 16 April 2012, from Parties, intergovernmental organizations and admitted observer organizations on their views on the JI reform taking into account past experience. Furthermore, the JISC is asked to prepare a “revised set of key attributes and transitional measures” for the adoption of new JI guidelines.

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<sup>1</sup> See for the full recommendations <http://unfccc.int/resource/docs/2011/cmp7/eng/09.pdf>.

## Conclusion

Overall the Durban Agreement is a positive signal to investors in JI projects. Although the to-do-list for Doha 2012 is long, continuation of JI after 2012 has become a real possibility. Clearly, both the actual targets and the mechanics of the new JI remain to be formulated and adopted; yet, there is at last some hope that the overall agreement to continue within the Kyoto Protocol will trigger palpable results in the near future.

For Russia, by many accounts the biggest JI market, the post 2012 countdown has started running: Will they join their Western partners and participate in 'Kyoto II' or will they step aside and take once more a long break from international climate policy? 2012 will be an interesting year.

