

AGREEMENT
ON A TESTING GROUND FOR APPLICATION OF THE KYOTO
MECHANISMS ON ENERGY PROJECTS IN
THE BALTIC SEA REGION

Whereas the Governments of the countries in the Baltic Sea Region, the Kingdom of Denmark, the Republic of Estonia, the Republic of Finland, the Federal Republic of Germany, the Republic of Iceland, the Republic of Latvia, the Republic of Lithuania, the Kingdom of Norway, the Republic of Poland, the Russian Federation and the Kingdom of Sweden, hereinafter named as the Parties, have ratified the United Nations Framework Convention on Climate Change (UNFCCC) and have ratified or are in the process of ratifying the Kyoto Protocol, adopted by the Conference of the Parties to the UNFCCC at its third session;

Whereas the Ministers of Energy of the Baltic Sea Region decided, in Vilnius in November 2002, to establish the Testing Ground for international cooperation in the use of flexible mechanisms, as envisaged by the same ministers at their Helsinki Conference in 1999, with the objectives to build capacity and competence to use the Joint Implementation (JI) mechanism, to promote the realisation of high quality projects in the energy sector generating emissions reductions, to develop methods and procedures in conformity with the rules and guidelines of the Kyoto Protocol, to collaborate in addressing administrative and financial barriers, and to minimise transaction costs, especially regarding small scale JI projects, to facilitate generation, ensure issuance and transfer of Emission Reduction Units (ERUs) and Assigned Amount Units (AAUs) related to or accruing from JI projects, and to implement projects early and offer credit for emissions reductions prior to 2008 by appropriate means;

Whereas the Nordic Environment Ministers and Nordic Energy Ministers in 2000 agreed to work for establishment of a Testing Ground and an investment fund in relation to the Nordic Environment Finance Corporation (NEFCO), confirmed their support in 2001 and, for the same purpose, the Nordic Energy Ministers decided in June 2002 to establish a Testing Ground Facility;

Whereas Article 6 of the Kyoto Protocol allows an Annex I Party, with a commitment inscribed in Annex B to the Kyoto Protocol to transfer to or acquire from an other Annex I Party emission reduction units (ERUs) resulting from projects aimed at reducing anthropogenic emissions by sources or enhancing anthropogenic removals by sinks for the purpose of meeting its commitments under Article 3 of the Protocol;

Whereas Article 17 of the Kyoto Protocol allows an Annex I Party with a commitment inscribed in Annex B to the Kyoto Protocol to transfer or acquire Assigned Amount Units (AAUs), for the purpose of fulfilling its commitments under Article 3;

Noting in particular Article 3.10 and 3.11 of the Kyoto Protocol on transfer and acquisition of ERUs or AAUs accruing from the use of Joint Implementation and Emissions Trading;

Further noting that the Parties to the UNFCCC agreed on the principles, modalities, rules and guidelines for the Kyoto Mechanisms at the Seventh Conference of the Parties in Marrakech;

Further noting the importance of complying with the obligations under Article 5 and 7 of the Kyoto Protocol;

The Parties to this Agreement have agreed as follows:

Article 1

Definitions

For the purposes of the present Agreement:

1. “Assigned Amount Unit” means a unit issued in a national registry pursuant to the Kyoto Protocol and is equal to one metric tonne of carbon dioxide equivalent;
2. “BASREC” means Baltic Sea Region Energy Cooperation;
3. “BASREC Regional Handbook on Procedures for Joint Implementation in the Baltic Sea Region” means the handbook developed for BASREC to provide guidance for implementation of JI projects under this Testing Ground Agreement;
4. “Emission Reduction Unit” means a unit issued in a national registry pursuant to the Kyoto Protocol and is equal to one metric tonne of carbon dioxide equivalent;
5. “Host Party” means the country in which the project is implemented and which transfers assigned amount units and/or emission reduction units;
6. “Independent Entity” means an entity accredited by the Kyoto Protocol Article 6 Supervisory Committee to determine and verify whether a JI project and the ensuing reductions in emissions meet the requirements of Article 6 of the Kyoto Protocol. Until such Independent Entities have been accredited, entities accredited as operational entities under Article 12 of the Kyoto Protocol may, for the purpose of this Agreement, fill the functions of an Independent Entity;
7. “Investor Party/Parties” means the country/countries investing in the project and acquiring assigned amount units and/or emission reduction units;

8. “Joint Implementation project” (JI project) means a project implemented jointly by an Investor Party/Parties and a Host Party aimed at reducing emissions of greenhouse gases and that meets all requirements of Article 6 of the Kyoto Protocol;

9. ”Kyoto Mechanisms” means the mechanisms established under Article 6 (Joint Implementation), Article 12 (Clean Development Mechanism) and Article 17 (Emissions Trading) of the Kyoto Protocol;

10. “Kyoto Protocol” means the Kyoto Protocol to the United Nations Framework Convention on Climate Change (UNFCCC). Whenever Kyoto Protocol is referred to in this Agreement, it also refers to all relevant decisions adopted under the UNFCCC and the Kyoto Protocol, in particular on principles, modalities, rules and guidelines for the Kyoto Mechanisms;

11. “Legal Entity” means any company or corporation, privately or state owned, or government institution or state authority;

12. “Verification” means a procedure where an Independent Entity or a Host Party verifies that reductions in emissions accruing from a JI project are additional to any that would otherwise occur, in accordance with the requirements of Article 6 of the Kyoto Protocol.

Article 2

Baltic Sea Region Testing Ground

The Parties agree to establish a Testing Ground for the Baltic Sea Region to gain experience from and facilitate the use of Joint Implementation (JI) under Article 6 and Emissions Trading (ET) under Article 17 of the Kyoto Protocol and to implement projects generating emission reductions prior to and during the commitment period commencing in 2008, in order to reduce anthropogenic emissions of greenhouse gases cost-effectively.

Article 3

Objectives of Testing Ground Cooperation

For the purposes of this Agreement, the objectives of Testing Ground Cooperation are:

- a) to build capacity and competence to use the Kyoto mechanisms and promote common understanding of concepts, rules and guidelines for use of the flexible mechanisms of the Kyoto Protocol, to promote realisation of high quality projects in the energy sector generating emissions reductions;
- b) to gain experience with the Joint Implementation (JI) mechanism under the Kyoto Protocol in the energy sector, especially with projects in the fields of energy saving, energy efficiency, fuel switching in combination with energy efficiency or saving, and renewable energy sources;
- c) to develop methods and procedures in conformity with the rules and guidelines of the Kyoto Protocol with a view to ensuring the environmental integrity of projects;
- d) to collaborate in addressing administrative and financial barriers and the level of transaction costs, especially regarding small-scale JI projects;
- e) to facilitate generation, ensure issuance and transfer of ERUs and AAUs related to or accruing from JI projects and Emissions Trading and
- f) to implement projects early and offer credit for emission reductions prior to 2008.

Article 4

Participation

Participation in the activities on the Testing Ground for the Baltic Sea Region is open to public and private legal entities in Baltic Sea Region States that are Parties to this Agreement.

Article 5

Project Implementation

The Parties encourage business, industries, energy utilities, financial institutions, regional and local authorities to take an active role in identification and implementation of Joint Implementation projects within the framework of the Testing Ground. Such projects are to be carried out in the Baltic Sea Region.

In order to foster and contribute to the implementation of JI projects and to fulfil the Objectives of this Agreement, a Testing Ground Facility (TGF) is being established. The Testing Ground Facility will serve as a multilateral financing instrument for JI projects under this Agreement.

Article 6

Criteria, Approval and Registration of Projects

All Projects implemented under this Agreement shall be carried out in the Baltic Sea Region and shall be approved by the Investor Party and Host Party in accordance with the Kyoto Protocol and the relevant rules, decisions and guidelines thereunder. A written approval shall be issued either by the Testing Ground Facility and the Host Party or by the Investor Party/Parties and the Host Party. Before a written approval is issued, project owners shall demonstrate how the proposed project will contribute to the objectives of the Testing Ground.

The co-operation within the Testing Ground shall focus on energy-related climate change mitigation projects especially in the fields of energy saving, energy efficiency, fuel switching in combination with energy efficiency or saving and renewable energy sources.

The Testing Ground shall also be open to the projects implemented by legal entities in Parties without financing through the TGF, under the precondition that

they are compatible with this Agreement and contribute to the objectives of this Agreement by participating in capacity building and exchange of information. After the written approval has been issued, Participating projects shall be registered with the Testing Ground Committee to be established under Article 11 of this Agreement.

It is recommended that all the projects to be implemented under this Agreement to the extent appropriate follow the guidance given in the BASREC Regional Handbook on Procedures for Joint Implementation in the Baltic Sea Region developed for the Testing Ground of the Baltic Sea Region.

Article 7

Project Validation and Verification

Emission reductions generated by the projects shall be subject to verification in accordance with the Kyoto Protocol and the relevant rules, decisions and guidelines hereunder. The verification process entails the validation of the amount of the emission reductions generated by the project during a specified time period. Verification shall be carried out pursuant to the verification procedures established under the Kyoto Protocol either by an independent entity under the Testing Ground Committee or by the Host Party. Emission reductions generated by the projects prior to the first commitment period under the Kyoto Protocol shall be verified by an independent entity. Verification by a Host Party may be conducted during the first commitment period of the Kyoto Protocol and thereafter provided that the host party meets the eligibility requirements under the Kyoto Protocol and the relevant rules, decisions and guidelines thereunder.

Whenever the Host Party is entitled to verify the emission reductions, the Investor Party/Parties may still require that emission reductions are verified by an independent entity.

The Parties to this Agreement shall undertake the necessary steps for issuance of ERUs and AAUs corresponding to the verified amount of emissions reductions.

Article 8

Transfer of Credits

The Parties shall ensure the timely transfer of ERUs and AAUs accruing from the projects from the Host Party to the Investor Party/Parties in accordance with the Kyoto Protocol and the relevant rules, decisions and guidelines thereunder.

The transfer of the verified ERUs and AAUs shall be based on the written approval issued by the Host Party under Article 6 of this Agreement.

The Host Party shall transfer the verified amount of credits accruing from the projects to the Investor Party/Parties as ERUs under Article 6 of the Kyoto Protocol or AAUs under Article 17 of the Kyoto Protocol. Credits from emission reductions can also be facilitated through forward sales of AAUs or ERUs as agreed/indicated by the project participants.

Article 9

Capacity Building

The Parties agree to work together to build capacity and competence regarding the Kyoto Mechanisms in the public and private sectors to facilitate co-operation in this field, i.e. through arranging workshops, seminars and conferences. The BASREC Regional Handbook on Procedures for Joint Implementation in the Baltic Sea Region has been developed as a contribution to common understanding of JI concepts, the JI project cycle and to capacity building.

Article 10

Sharing Experience

The Parties are encouraged to share information and experience of JI activities. Such information should include information relating to the JI project cycle, credit issuance and transfer of credits. Exchange of views and experiences on institutional matters, methodology, administrative and financial barriers as well as transaction costs for JI projects should take place on an annual basis.

Article 11

A Testing Ground Committee

The development of testing ground activities will be surveyed by a Testing Ground Committee to be comprised by representatives of Parties with no more than two representatives appointed by each Party. The Committee will register participating projects and under the guidance of the Group of Senior Energy Officials of the Baltic Sea Region Energy Cooperation appropriately contribute to capacity building, sharing of relevant experience and dissemination of information. The Committee reports on progress, development and relevant experience and suggests proposals concerning further development of the testing ground cooperation to the Group of Senior Energy Officials of the Baltic Sea Region Energy Cooperation.

Article 12

Dispute Settlement

Any dispute regarding the interpretation or application of this Agreement will be resolved by consultations between the Parties. At the request of the parties to the

dispute, the Testing Ground Committee shall provide assistance in the settlement of disputes.

Article 13

Consent to be bound by this Agreement

1. Consent to be bound by this Agreement shall be expressed by
 - (a) signature with the Depositary; or
 - (b) signature subject to ratification, acceptance or approval followed by the deposit of an instrument of ratification, acceptance or approval with the Depositary; or
 - (c) the deposit of an instrument of accession with the Depositary.

2. This Agreement shall be open for signature under paragraphs 1 (a) or 1 (b) by the Governments of the Kingdom of Denmark, the Republic of Estonia, the Republic of Finland, the Federal Republic of Germany, the Republic of Iceland, the Republic of Latvia, the Republic of Lithuania, the Kingdom of Norway, the Republic of Poland, the Russian Federation and the Kingdom of Sweden until 31 December 2003.

3. After its entry into force, this Agreement shall be open for accession under paragraph 1 (c) by such Governments mentioned in paragraph 2 which have not signed the Agreement, and by such parties to the Kyoto Protocol which are accepted by the Parties to this Agreement at the time of accession. Participation in the Testing Ground does not affect rights of participants to enter into other agreements on the Kyoto Mechanisms, nor does it affect the obligations of Participants under the Kyoto Protocol.

Article 14

Entry into force

This Agreement shall enter into force on the first day of the second month following the date on which six (6) Governments mentioned in paragraph 2 of Article 13 have expressed their consent to be bound by the Agreement. For any other Government, this Agreement shall enter into force on the first day of the second month following the date on which that Government expresses its consent to be bound by the Agreement.

Article 15

Amendments

Any amendments or modifications to this Agreement, and any additional protocol to it, shall be agreed by the consensus of the Parties. The amendments, modifications or additional protocols will enter into force on the 90th day after the date on which all the Parties have notified the Depository that they have fulfilled the formalities required by national legislation.

Article 16

Evaluation, withdrawal and determination

This Agreement shall be evaluated by the Parties by 31 December 2005. If the Kyoto Protocol has not entered into force by that date, the Agreement shall terminate without any further notice. In case the Kyoto Protocol has entered into force, the Agreement shall terminate as of 31 December 2012.

A Party may withdraw from this Agreement by giving written notice of the withdrawal to the Depository. The withdrawal shall be effective one hundred twenty (120) days after receipt of the notice of withdrawal by the Depository.

Article 17

Depositary

The Government of Finland is hereby designated as the Depositary. The Depositary shall fulfill its duties in accordance with Article 77 of the Vienna Convention on the Law of Treaties adopted on 23 May 1969.

Done in Gothenburg on 29 September 2003, in one original version in English.

FOR THE KINGDOM OF DENMARK

FOR THE REPUBLIC OF ESTONIA

FOR THE REPUBLIC OF FINLAND

FOR THE FEDERAL REPUBLIC OF GERMANY

FOR THE REPUBLIC OF ICELAND

FOR THE REPUBLIC OF LATVIA

FOR THE REPUBLIC OF LITHUANIA

FOR THE KINGDOM OF NORWAY

FOR THE REPUBLIC OF POLAND

FOR THE RUSSIAN FEDERATION

FOR THE KINGDOM OF SWEDEN