



TREATY SERIES 2013
N° 23

**Assigned Amount Unit (AAU) Authorization Agreement (Green
Carbon Fund) Among Ireland and European Bank for
Reconstruction and Development in Respect of Ireland's
Participation in the Multilateral Carbon Credit Fund (Green
Carbon Fund)**

Signed without reservation as to ratification on 1 April 2010 (for Ireland) and on 21 April 2010 (for the European Bank for Reconstruction and Development)

Entered into force on 21 April 2010

Presented to Dáil Éireann by the Minister for Foreign Affairs and Trade

**ASSIGNED AMOUNT UNIT (AAU) AUTHORIZATION AGREEMENT (GREEN
CARBON FUND) AMONG IRELAND AND EUROPEAN BANK FOR
RECONSTRUCTION AND DEVELOPMENT IN RESPECT OF IRELAND'S
PARTICIPATION IN THE MULTILATERAL CARBON CREDIT FUND (GREEN
CARBON FUND)**

This AAU Authorization Agreement (Green Carbon Fund) (“AAU Agreement”) is made on 21 April 2010 between Ireland represented by the Department of the Environment, Heritage and Local Government (the “Sovereign Participant”), and European Bank for Reconstruction and Development (“EBRD”) in respect of the Sovereign Participants Green Carbon Fund of the Multilateral Carbon Credit Fund (“MCCF”).

WHEREAS

(A) EBRD has, in cooperation with the EIB, established the MCCF in accordance with the terms of the General Conditions and the Rules;

(B) Pursuant to a Contribution Agreement dated 5th December 2006 between EBRD and the Sovereign Participant, the Sovereign Participant contributed euro Fifteen million (€15,000,000) to establish a Green Carbon Fund under the MCCF (the “Irish Green Carbon Fund”);

(C) Ireland has ratified the UNFCCC on 20, April, 1994 and the Kyoto Protocol on 31, May, 2002 and is a party included in Annex B to the Kyoto Protocol;

(D) Article 17 of the Kyoto Protocol provides that the parties included in Annex B to the Kyoto Protocol may participate in International Emissions Trading (IET) for the purposes of fulfilling their commitments under Article 3 of the Koyoto Protocol;

(E) The Sovereign Participant aims to purchase assigned amount units (“AAUs”) from the Republic of Poland (the “Seller”) for compliance purposes under the Kyoto Protocol;

(F) The Sovereign Participant now wishes to authorise the use of the resources of the Irish Green Carbon Fund to purchase AAUs up to the amount of €15,000,000 (fifteen million euro) on and subject to the terms of this AAU Agreement, and in accordance with the General Conditions, the Rules and an AAUPA, including a Greening Plan, to be entered into between the Seller and EBRD for the account of the Sovereign Participant;

(G) Pursuant to section 2.01(a)(iii) of the General Conditions, EBRD facilitates the entry into transactions for the transfer of AAU’s from EBRD’s countries of operations to one or more Sovereign Participants, by such Sovereign Participants as wish to enter into such transactions;

(H) EBRD is prepared to acquire, for the account of the Sovereign Participant, AAUs, to be purchased in conjunction with the implementation of a Green Investment Scheme (“GIS”) in Poland, which will support, in whole or in part, EIB-financed and/or EBRD-financed projects, programmes and/or activities;

(I) The Sovereign Participant authorizes EBRD for the Sovereign Participant’s account to enter into the AAUPA, including the Greening Plan, with Seller for the purchase of AAUs in

conjunction with the implementation of a GIS, on and subject to the terms and conditions hereof; and

(J) In relation to the AAUPA, the Sovereign Participant acknowledges that the price set out therein and the Greening Plan, are both expressly agreed between the Seller and the Sovereign Participant and only facilitated by EBRD.

NOW THEREFORE the parties hereto agree as follows:

1 Purpose

1.1 The purpose of this AAU Agreement is to authorise EBRD to (i) enter into the AAUPA for the account of the Sovereign Participant to purchase AAUs from the Seller in conjunction with the implementation of a GIS and (ii) use the resources of the Irish Green Carbon Fund to purchase the AAUs. The Sovereign Participant confirms that the resources of the Irish Green Carbon Fund may also be used for costs or expenses incurred by EBRD and/or the MCCF Secretariat in connection with the management and administration of the AAUPA in accordance with Section 3.04 of the General Conditions.

2 Definitions; Application of the General Conditions, the Rules and the Contributions Agreement

2.1 All capitalised terms used herein have the meaning attributed to them in the General Conditions and the Recitals hereto, unless otherwise specified. The following terms shall have the following meanings:

“AAU Agreement” or “Agreement”	means this agreement authorising EBRD to purchase AAU’s for the account of the Sovereign Participant on and subject to the terms of this Agreement
“AAUPA”	means the agreement for the purchase of AAUs to be entered into between the Seller and EBRD for the account of the Sovereign Participant for purchase of AAUs in conjunction with the implementation of a GIS, as set out in Appendix 1 of this Agreement, which for clarification includes the Greening Plan.
“Receipt Account”	means a registry account which has been opened by Ireland for the receipt and registration of AAUs at the National Registry in Ireland and has the account number IE 121-142-0, or such other registry account as the Sovereign Participant may notify in writing to EBRD, from time to time.
“Greening Plan”	means the plan agreed between the Sovereign Participant and the Seller which includes greening programmes, greening activities, greening effects, eligibility criteria, governance procedures, project selection,

	monitoring, reporting and verification frameworks, all of which together constitute the Green Investment Scheme, as set out in the schedule to the AAUPA
“Seller”	means the Republic of Poland represented by the State Treasury of the Republic of Poland – the Minister of the Environment of the Republic of Poland.
“Sovereign Participant”	means Ireland, represented by the Department of the Environment, Heritage and Local Government.
“Irish Green Carbon Fund”	means the Green Carbon Fund established in respect of the Green Carbon Fund Commitment of Ireland, a Sovereign Participant in the MCCF.

2.2 The Sovereign Participant hereby:- (i) acknowledges receipt of a copy of the General Conditions and the Rules, each as in force as of the date of this AAU Agreement; (ii) agrees that, subject to Sections 2.3 and 2.4 of this AAU Agreement, the General Conditions and the Rules, as may be amended from time to time, shall apply to this AAU Agreement, as if incorporated herein in full; and (iii) agrees that the terms and conditions of this AAU Agreement are additional to the General Conditions, Rules and the Contribution Agreement, and not in derogation of any thereof in any manner not explicitly set out herein. In the event of a conflict between this AAU Agreement and any of the foregoing, the foregoing shall govern and prevail.

2.3 In applying the Rules in respect of this AAU Agreement, the following shall apply:

2.3.1 for the purposes of Rules 13 (Exclusions and Limitation on Liability), 14 (Indemnity), 15 (Conduct of the MCCF), 16 (Nature of Relationship), 21 (Communication with the MCCF Secretariat);

- (a) references to “Commitment Agreement” and “MCCF Co-operation Agreement” shall be read to include a reference to this AAU Agreement;
- (b) references to “MCCF Document” shall be read to include a reference to this AAU Agreement, the AAUPA and any other AAU facilitation agreement entered into in relation to the AAUPA;
- (c) references to “Carbon Project” and “Carbon Transaction” shall be read to include a reference to the purchase of AAUs by EBRD for the account of the Sovereign Participant pursuant to the AAUPA in accordance with the terms thereof;
- (d) references to “Project Entity” shall be read to include a reference to the Seller;
- (e) references to “Project ERPA”, “Off-take” and “Off-take ERPA” shall be read to include a reference to the AAUPA;

- 2.3.2 for the purposes of Rule 13, paragraph (4), the following shall be inserted at the beginning of the paragraph: “Except as set out in the AAU Agreement”:
 - 2.3.3 for the purposes of Rule 14, paragraph (a), the words “or share of AAUs” shall be inserted after the words “initial Off-Take Quantity”;
 - 2.3.4 for the purposes of Rule 14, final paragraph, the words “AAU Agreement” shall be inserted after the words “any Contribution Agreement”;
 - 2.3.5 for the purposes of Rule 15, paragraph (1), the words “and/or greening activities and/or recipients of funds under a GIS connected to a Carbon Transaction” shall be inserted after the words “and/or Project Entity”; and
 - 2.3.6 for the purposes of Rule 16, paragraph (a), the words “, AAU Agreement” shall be inserted after the words “relevant Contribution Agreement”.
- 2.4 In applying the General Conditions in respect of this AAU Agreement, the following shall apply:
- 2.4.1 references to “MCCF Co-operation Agreement” in the General Conditions shall be read to include a reference to this AAU Agreement;
 - 2.4.2 new definitions shall be added to the Glossary of Terms set out in Appendix 1 of the General Conditions as follows:
 - “AAUPA” means any agreement for the purchase of AAUs entered into by EBRD for the account of a Sovereign Participant pursuant to section 3.04(b) of the General Conditions;
 - “AAU Agreement” means an agreement entered into between EBRD and a Sovereign Participant in respect of the purchase of AAUs with, or other application of, the resources of such Sovereign Participant’s Green Carbon Fund;
 - 2.4.3 for the purposes of Section 2.03(a), the words “and each AAU Agreement” shall be inserted after the words “each Contribution Agreement”;
 - 2.4.4 for the purposes of Section 8.02(a), the words “and/or AAUPA” shall be inserted after the words “and/or Project ERPA”;
 - 2.4.5 for the purposes of Section 9.01(a), the words “and all AAUPAs” shall be inserted after the words “all Sovereign Off-Take ERPAs” in both line 1 and 3 of sub-paragraph (i) and the words “or AAUPAs” shall be inserted after “Sovereign Off-Take ERPAs” in sub-paragraph (ii);
 - 2.4.6 for the purposes of Section 9.02(a), the words “or any AAU Agreement, as the case may be,” shall be inserted after the words “its Contribution Agreement” in line 1 of such paragraph; and

2.4.7 for the purpose of Section 9.03(b)(iv), the words “or AAUPA, as the case may be,” shall be inserted after the words “relevant Sovereign Off-Take ERPA” in lines 2 and 7 of such sub-paragraph.

3 Assigned Amount Unit Purchase Agreement

3.1 The Sovereign Participant hereby authorizes EBRD to enter into, for the Sovereign Participant’s account, an AAUPA with the Seller substantially in the form attached hereto as Appendix 1, which for clarification, includes the Greening Plan as a schedule thereto and any other AAU facilitation agreement in relation to any of the foregoing. The Sovereign Participant acknowledges that it has reviewed and agreed to the terms of the attached AAUPA. In the event that the Seller requires any material deviations from the AAUPA as communicated to EBRD, EBRD will obtain prior written consent from the Sovereign Participant before executing the AAUPA.

3.2 The Sovereign Participant acknowledges and agrees that the Greening Plan and the price for any AAUs contained in the AAUPA are expressly agreed between itself and the Seller, and that neither EBRD nor EIB has any responsibility with respect to the determination of either.

3.3 Subject to and in accordance with the provisions of this AAU Agreement and the AAUPA, EBRD will acquire for the account of the Sovereign Participant, AAUs in an amount equivalent of up to €15 Million (fifteen million euro) utilising the resources of the Irish Green Carbon Fund.

3.4 It is agreed that the provisions of this AAU Agreement and the AAUPA shall not:-

- (i) create a partnership between EBRD and the Sovereign Participant;
- (ii) constitute either of EBRD or the Sovereign Participant as agent or trustee for the other; or
- (iii) impose obligations of a more onerous nature on each of the parties than as expressly provided for in the General Conditions, the Rules, this AAU Agreement and/or the AAUPA.

3.5 Neither EBRD nor the Sovereign Participant shall have authority to bind, to contract in the name of or to create a liability for the other party in any way of for any purpose and neither shall hold itself out as having authority to do the same, provided that nothing in this Section 3.5 shall prevent EBRD from entering into the AAUPA for the account of the Sovereign Participant, upon and subject to the provisions of this AAU Agreement.

3.6 The administration, exercise and enforcement of EBRD’s rights under or in respect of the AAUPA, will be handled solely by EBRD. EBRD will use the same care in the administration, exercise and enforcement of its rights under or in relation to the AAUPA as it uses with respect to the administration, exercise and enforcement of its own affairs and EBRD will have no further responsibility to the Sovereign Participant in respect thereof.

3.7 To the extent that any AAU to be transferred and/or delivered under the AAUPA is recorded in the name of EBRD rather than in the name of the Sovereign Participant, EBRD

will undertake all such lawful steps as are necessary to ensure that such recordation is changed so that the name of the Sovereign Participant appears in place of EBRD's name.

3.8 If any termination event, as provided for in the AAUPA, will have occurred, EBRD will inform the Sovereign Participant of such event as soon as practicable after EBRD shall become aware of the same. EBRD will inform the Sovereign Participant of the course of action it is considering with respect to such event.

3.9 If the EBRD is considering not to enforce such rights as are available to it under and/or in respect of the AAUPA, the Sovereign Participant may request that EBRD seek to enforce such rights. Absent such request, the provisions of Section 3.6 shall continue to apply. If, within 14 business days of the date of the Sovereign Participant's request, EBRD and the Sovereign Participant are not able to agree on the course to be followed in effecting such enforcement, the Sovereign Participant will be entitled to request EBRD to transfer to the Sovereign Participant, or to an entity nominated by the Sovereign Participant, whatever rights and obligations EBRD may have under and/or with respect to the AAUPA and EBRD will thereupon transfer all of such rights and obligations to the Sovereign Participant, or to such entity as the Sovereign Participant may nominate. Upon such transfer, EBRD will no longer be obliged to perform any such obligations and/or to enforce any such rights under and/or in respect of the AAUPA and will cease to have any further obligation and/or liability to the Sovereign Participant and/or to the Seller with respect thereto and the Sovereign Participant and/or to the Seller with respect thereto and the Sovereign Participant or such entity nominated by it (as appropriate) shall assume all such rights and obligations under and/or with respect to the AAUPA, in place of EBRD, provided that EBRD shall account to the Sovereign Participant for any payment received by EBRD under or with respect to the AAUPA and repay to the Irish Green Carbon Fund, if such fund continues to be managed and administered by EBRD or directly to the Sovereign Participant, if such fund has been terminated, any un-utilised portion thereof.

3.10 Without prejudice to the generality of Section 3.9, EBRD will not without the prior written consent of the Sovereign Participant waive any of its rights under or in relation to and/or amend any provisions of and/or to give its consent to any variation of and/or under, the AAUPA.

3.11 EBRD and the Sovereign Participant agree that, if either considers that a conflict of interest shall have arisen between EBRD's role as financier of any greening activity and/or recipient of funds under the GIS as described in the AAUPA and the performance of EBRD's obligations with respect to this AAU Agreement, they shall consult in good faith with a view to resolving any such conflict as may arise. If the Sovereign Participant and EBRD are unable to effect such resolution, the Sovereign Participant will be entitled to request EBRD to transfer to the Sovereign Participant or to an entity nominated by the Sovereign Participant, whatever rights and obligations EBRD may have under and/or with respect to the AAUPA and/or any related agreements. EBRD will thereupon transfer all of such rights and obligations to the Sovereign Participant or to such entity as the Sovereign Participant may nominate. Upon such transfer EBRD will no longer be obliged to perform any such obligations and/or to enforce any such rights under and/or in respect of such AAUPA and/or any related agreements and will cease to have any further obligation and/or liability to the Sovereign Participant and/or to the Seller with respect thereto and the Sovereign Participant or such entity nominated by it (as appropriate) shall assume all such rights and obligations under and/or with respect to such AAUPA or related agreement in place of EBRD.

4 AAUPA Transfer of AAUs

4.1 The Sovereign Participant shall establish and maintain the Receipt Account throughout the term of this AAU Agreement, and the Sovereign Participant is responsible for any costs or expenses thereto.

4.2 The Sovereign Participant shall confirm to EBRD in writing the receipt of any AAUs delivered by the Seller into the Sovereign Participant's Receipt Account pursuant to the AAUPA as soon as possible after receipt thereof in such Receipt Account, but in any event not later than five (5) business days after receipt thereof in the Receipt Account.

4.3 The Sovereign Participant acknowledges that certain provisions of the AAUPA, in particular upon termination or expiration of the AAUPA, may require the EBRD, as buyer thereunder, to return AAUs to the Seller in accordance with the terms of the AAUPA. In the event that such a situation should arise, the Sovereign Participant undertakes to make the necessary arrangements in order for such AAUs to be returned to the Seller as may be required, failing which the Sovereign Participant hereby acknowledges that EBRD may, in accordance with the AAUPA, return all or part of the funds being held in the Irish Green Carbon Fund in respect of the purchase price for such AAUs which EBRD has been unable to return to the Seller. It is expressly agreed that EBRD may make, but shall not be obliged to make, any transfer of AAUs under the AAUPA, executed pursuant to, and in accordance with this AAU Agreement, unless and until the Sovereign Participant has provided, or made available, sufficient AAUs to, or for the benefit of, EBRD to meet such obligation.

5 AAUPA Payments and costs of administration

5.1 EBRD is entitled to draw on any Irish Green Carbon Fund for the purpose of making the various payments referred to in Section 3.06(b) of the General Conditions, including without limitation, any payment pursuant to or as a result of the AAUPA, without being obliged to give prior notice to the Sovereign Participant and/or to receive the consent of the Sovereign Participant.

5.2 Without limiting Sections 5.3 and 5.4, pursuant to Section 3.04 of the General Conditions, the resources of the Irish Green Carbon Fund, which include all income derived from the investment of the resources as set out in Section 3.01(c)(ii) of the General Conditions, shall be applied as follows:

- 5.2.1 invoices in respect of the Irish Green Carbon Fund from EBRD not yet paid:
- 5.2.2 costs and expenses of EBRD and the MCCF Secretariat incurred up to and including the date of this AAU Agreement:
- 5.2.3 €15,000,000 (fifteen) Million euro for the payment obligations under the AAUPA;
- 5.2.4 costs and expenses of EBRD and/or the MCCF Secretariat in the management and administration of the AAUPA (which for clarification includes the Greening Plan) as referred to in Section 4.02(c) of the General Conditions, including without limitation, costs of attending any meetings (including for the Monitoring Commission), reviewing the reports, documents or minutes of the

Seller or the Green Investment Scheme Operator, retaining experts, and enforcing any of the rights under the AAUPA and any dispute resolution proceedings thereunder; and

5.2.5 other costs, expenses and payment obligations that may be incurred under the AAUPA.

5.3 The Sovereign Participant shall ensure that it provides sufficient funds to EBRD to enable EBRD to make all payments contracted to be made pursuant to the AAUPA, including without limitation any liquidated damages, and to cover all costs and expense incurred by EBRD in connection with the management and administration of the AAUPA, including without limitation, the Greening Plan, if any.

5.4 It is expressly agreed that EBRD may make, but shall not be obliged to make, any payment under the AAUPA, executed pursuant to, and in accordance with this AAU Agreement, unless and until the Sovereign Participant has provided sufficient funds to EBRD to meet such payment.

5.5 Twice per annum, EBRD will provide to the Sovereign Participant reports of all known itemised costs and expenses incurred by it, including without limitation by the MCCF Secretariat, as provided for in the General Conditions and this AAU Agreement.

5.6 In the event that at any time resources of the Irish Green Carbon Fund are less than €50,000 (fifty thousand) euros, EBRD may invoice the Sovereign Participant annually, and the Sovereign Participant shall provide such amount of funds within fifteen (15) days thereafter in order to ensure that the estimated costs and expenses for each successive twelve (12) months period may be covered by the resources of the Irish Green Carbon Fund.

6 Termination

6.1 Unless prolonged by mutual consent of the parties or prematurely terminated as provided for below, this AAU Agreement will continue in force until the later of (i) the date on which all obligations under the AAUPA have been fulfilled by both parties thereto and (ii) 31 December 2015, whereupon the obligations of the parties hereunder will cease, save and to the extent that any such obligations are identified in this AAU Agreement as being obligations which shall continue.

6.2 Either party may give written notice to the other (an “Early Termination Notice”), following the occurrence of any of the following events:-

6.2.1 in the case of EBRD only, the Sovereign Participant will have failed to make payment of any amount due to the Bank under this AAU Agreement, the General Conditions or any of its Contribution Agreements, and such non-payment shall continue for a period of ten (10) business days following demand in writing by EBRD;

6.2.2 an extraordinary and unforeseen situation shall have arisen as a result of events which shall have occurred after the date of this AAU Agreement, which shall make it improbable that the operations envisaged by this AAU Agreement, which shall make it improbable that the operations envisaged by

this AAU Agreement can be carried out and/or that any of the Sovereign Participant and/or EBRD will be able to perform its obligations under this AAU Agreement;

- 6.2.3 the AAUPA has not been executed by 15 July 2010 or such later date as EBRD and the Sovereign Participant may from time to time agree;
- 6.2.4 mutual written agreement;
- 6.2.5 the Irish Green Carbon Fund is terminated or expires; or
- 6.2.6 the Contribution Agreement dated 5th December 2006 is terminated or expires;

provided always that neither party may give an Early Termination Notice based on its own default. Provided further that the Sovereign Participant acknowledges that it will not terminate its Contribution Agreement dated 5th December 2006 or take steps to terminate the Irish Green Carbon Fund for as long as there are payment obligations, incurred or contingent, under the AAUPA.

6.3 Any Early Termination Notice shall specify:-

- 6.3.1 the relevant event and the relevant provision from section 6.2 on the basis of which such notice is issued; and
- 6.3.2 the date on which termination is to take effect (the “Termination Date”), which shall not be less than three (3) months after the service of such notice in accordance with the provisions set out in the General Conditions Section 10.01 unless otherwise agreed between the parties.

6.4 In the event that an Early Termination Notice shall have been given, on the basis of any of the grounds referred to in Section 6.2 then:-

- 6.4.1 any agreement entered into by EBRD relative to the Irish Green Carbon Fund (including, without limitation, the AAUPA) will not be affected by such termination and EBRD will be entitled to continue to make withdrawals from the Irish Green Carbon Fund Account to meet any obligation of EBRD (actual or contingent) relative to such agreements;
- 6.4.2 within 30 (thirty) business days of an Early Termination Notice having been given by either party, EBRD shall present to the Sovereign Participant a valid instrument duly executed by EBRD for transferring its outstanding rights and obligations under the AAUPA (whether actual or contingent and whether matured and or un-matured);
- 6.4.3 on or prior to the date which is 30 (thirty) business days before the Termination Date (or on such earlier date as may be agreed between the parties), the Sovereign Participant will pay to the Irish Green Carbon Fund Account an amount equal to the aggregate of:-

- a. Irish Green Carbon Fund Costs then incurred and/or outstanding (whether actually or contingently); and
- b. sums required to effect the termination arrangements referred to in this Section 6.4; and
- c. the aggregate amount of payments liable to be paid by EBRD under the AAUPA (whether then due and payable or not); and

6.4.4 promptly and in any event by no later than the Termination Date, any balance in the Irish Green Carbon Fund Account, to the extent such balance is not required to satisfy the obligations (actual or contingent) of the Irish Green Carbon Fund will be returned to the Sovereign Participant or otherwise transferred as may be agreed between EBRD and the Sovereign Participant; and

6.4.5 upon the Termination Date all obligations of the Sovereign Participant and the EBRD shall cease unless otherwise provided for in this AAU Agreement, the General Conditions or the Rules.

6.5 Upon realisation of all the activities to be undertaken pursuant to this AAU Agreement and the AAUPA with the resources of the Irish Green Carbon Fund, all proceeds resulting from such realisation will be applied in a manner to be agreed by EBRD and the Sovereign Participant.

7 General

7.1 The Sovereign Participant shall do and execute, to the extent possible, all such further acts and things as are required by EBRD to give full effect to the rights given and the transactions contemplated by this AAU Agreement and/or the AAUPA, which for clarification includes in respect of any dispute under the AAUPA whereby EBRD may require information, assistance and cooperation from the Sovereign Participant in order to resolve any such dispute.

7.2 The Sovereign Participant shall, prior to EBRD signing the AAUPA, deliver to EBRD a legal opinion from an appropriate officer of the Sovereign Participant, substantially in the form of Appendix 5 to the General Conditions, *mutatis mutandis*, addressing such other matters as EBRD may require and satisfactory as to form and content to EBRD.

Signed in duplicate in English as of the date first above written by the following duly authorized representatives of:

IRELAND

Represented by the Department of the Environment, Heritage and Local Government

Name: John McCarthy
Title: Assistant Secretary
Date: 1/4/2010

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

Name: Terence McCallion
Title: Director
Date: 21/4/2010

Appendix 1

Assigned Amount Unit Purchase Agreement between EBRD and Poland

(not published here)