



TREATY SERIES 2008
Nº 14

Participation Agreement for the First Tranche of the World Bank/EIB Carbon Fund for Europe between Ireland and the International Bank for Reconstruction and Development as trustee for the First Tranche of the World Bank/EIB Carbon Fund for Europe

Signed without reservation as to ratification on 5 January 2007

Entered into force on 5 January 2007

Presented to Dáil Éireann by the Minister for Foreign Affairs

**PARTICIPATION AGREEMENT FOR THE FIRST TRANCHE OF THE
WORLD BANK/EIB CARBON FUND FOR EUROPE BETWEEN IRELAND
AND THE INTERNATIONAL BANK FOR RECONSTRUCTION AND
DEVELOPMENT AS TRUSTEE FOR THE FIRST TRANCHE OF THE
WORLD BANK/EIB CARBON FUND FOR EUROPE**

The offer and sale of interests (“Interests”) in the World Bank/EIB Carbon Fund (the “Fund” or “WB/EIB CFE”) are made solely by means of the confidential Information Memorandum of the Fund, dated November 20, 2006 as the same may be amended, modified or supplemented from time to time (the “Information Memorandum”).

The Interests are subject to the restrictions on transfer and other terms and conditions set forth in this Participation Agreement and those set forth in the Instrument of the Fund, as the same may be amended from time to time (the “Instrument”). The Interests may not be offered for sale, pledged, sold, assigned, or transferred at any time except in compliance with the terms and conditions thereof and the Participant bears the risk of its Contribution for an indefinite period of time.

Ireland (the “Participant”), intending to be legally bound, hereby irrevocably offers to make a contribution of EUR 10 M (ten million Euros) (the “Maximum Contribution”) to the first Tranche of the World Bank/EIB Carbon Fund for Europe through the issuance and delivery of an executed and unconditional promissory note made payable on demand. The Participant understands that, in the event the Trustee accepts this Participation Agreement, the Trustee may accept a contribution for an amount lower than the Maximum Contribution and that the actual amount of the contribution will be the amount notified by the Trustee in the Notice of Acceptance delivered by the Trustee.

I. DEFINITIONS

Section 1.1 Capitalized terms hereinafter appearing in this Agreement, but not otherwise defined, shall have the same meaning as that ascribed to them in the Instrument, and the terms set forth below shall have the following meanings:

- (a) “Agreement” or “Participation Agreement” means this participation agreement and the exhibits attached hereto;
- (b) “Governmental Authority” means any national, regional or local governmental agency or authority in any country, and any other governmental or quasi-governmental entity, agency, organization, commission, secretariat, executive board, mechanism, conference or authority, including any international, regional or multi-national governmental or political bodies or establishments, including, but not limited to, those established by the parties to the UNFCCC or the Kyoto Protocol or the member states of the European Union, and any subordinate entity, technical body, expert, validator, certifier, Independent Third Party or authority of recognized by, reporting to, mandated by, or acting on behalf of any of the foregoing;
- (c) “Information Memorandum” means the confidential information memorandum of the Fund, as the same may be amended, modified or supplemented from time to time;

- (d) “Contribution” means the Contribution specified in the Notice of Acceptance;
- (e) “Instrument” means the Instrument Establishing the World Bank/EIB Carbon Fund for Europe;
- f) “Interest” means an interest in the Fund; and
- (g) “Note” means the promissory note, substantially in the form of Exhibit A hereto, in the required amount issued by the Participant and made payable to the Trustee;

II. THE INSTRUMENT

Section 2.1 The parties to this Agreement agree to be bound by all the provisions of the Instrument attached hereto as Exhibit C and incorporated into this Participation Agreement by this reference.

III. PURCHASE OF INTEREST IN THE FUND

Section 3.1 The Participant acknowledges and agrees that this Participation Agreement will become irrevocable with respect to the Participant at the time of its signature and that it may not be withdrawn by the Participant without the Trustee’s written consent, which the Trustee may withhold in its sole and absolute discretion.

Section 3.2 The Participant acknowledges that this Participation Agreement may be accepted or rejected by the Trustee, in whole or in part, in its sole and absolute discretion. The Trustee and the Participant hereby agree that this Participation Agreement shall not become effective against the First Tranche of the Fund or the Trustee unless and until the Trustee has received an executed Note and has accepted this Participation Agreement by delivering a notice of acceptance to the Participant pursuant to Article VII below. If the Trustee does not accept this Participation Agreement within 360 days of the Participant’s signature of the Agreement, this Participation Agreement shall be deemed rejected by the Trustee.

Section 3.3 Except as otherwise provided in the Instrument, Demand for Payment will be made on a pro-rata basis at the sole and absolute discretion of the Trustee having regard to the financial requirements of the first Tranche of the Fund, including the anticipated requirements for payments to Recipients under Project Agreements. Participants will be given a thirty (30) days notice to deliver the payment to the Trustee.

Section 3.4 The Participant will be entitled to prepay up to the entire amount of its Contribution.

Section 3.5 No interest will be payable by the Participant on any portion of a Contribution not yet demanded by the Trustee or by the Fund on any prepaid portion of a Contribution.

IV. REPRESENTATIONS AND WARRANTIES OF THE TRUSTEE

Section 4.1 The Trustee represents and warrants that:

- a) it has all necessary power and authority to act as trustee of the First Tranche of the Fund; and
- (b) the individual signing the notice of acceptance is an authorized signatory of the IBRD.

V. REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE PARTICIPANT

Section 5.1 The Participant represents, warrants, acknowledges and agrees with the Trustee as of the time that the Participant makes its Contribution, as follows:

- (a) There is no guarantee that Projects included in the First Tranche of the Fund or any Emission Reductions generated by such Projects or otherwise contracted for by Trustee for the First Tranche of the Fund will be recognized, documented, confirmed, validated, certified, approved, credited, supported, registered, accounted for or agreed to by any Governmental Authority.
- b) In participating in the First Tranche of the Fund, the Participant hereby assumes the following risks:
 - (i) The Kyoto Protocol may not be extended into a second commitment period and any related agreement adopted by any Governmental Authority may not enter into force or be extended for whatever reason, including reasons that were unforeseen or unexpected at the time this Participation Agreement is entered into or those reasons that would otherwise qualify as force majeure, and that any other current or future facts, circumstances or developments may prevent the First Tranche of the Fund from achieving its objectives or otherwise
 - (ii) materially affect the Projects included in the First Tranche of the Fund, the Emission Reductions, or the markets for those Emissions Reductions; and
 - (iii) Any regulatory regime enacted or adopted by any Governmental Authority, including, but not limited to, those regulating, relating to or applicable to climate change, commodities, securities or Emission Reductions, may limit or prevent the First Tranche of the Fund or the Participant from generating, creating, contracting, producing, selling, transferring, assigning, allocating, distributing, controlling, holding, mortgaging, pledging, disposing, using, benefiting or deriving benefits from, or owning Emission Reductions.

Section 5.2 The Participant represents, warrants, acknowledges and agrees with the Trustee as of the time that the Participant makes its Contribution, as follows:

- a) The Interest being purchased by the Participant is purchased for the account of the Participant only and not with a view to, or with any intention of, a distribution or resale thereof, in whole or in part, or the grant of any participation therein by subdivision or otherwise. The Participant also understands that there will be no public market for the Interests and that it may not be possible for the Participant to liquidate its Interest. The Participant is prepared, therefore, to hold its Interest indefinitely.
- (b) The Participant has received and carefully reviewed the Information Memorandum and the Instrument, as each has been supplemented, revised or amended, prior to the date hereof, this Participation Agreement, and all appendices, schedules and exhibits to each of the foregoing, understanding that each such document supersedes all prior versions thereof and any inconsistent portions of previously distributed materials relating to the Fund. Based on this review, the Participant has determined that the Interest being purchased for herein is suitable for the Participant. The Participant recognizes that participation in the First Tranche of the Fund involves certain risks and it has taken full cognizance of and understands all of the risk factors, including those described in the Information Memorandum relating to the purchase of an Interest.
- (c) The Participant acknowledges that the Fund has only recently been established and has no financial or operating history, that Contributions need not be accepted in the order received, and that no Governmental Authority has passed upon the Interest or made any finding or determination as to the fairness of the Contribution made hereunder.
- (d) The Participant has all necessary power and authority to enter into this Agreement and the Note, to purchase an Interest in the First Tranche of the Fund in the amount indicated on the signature page of this Agreement, and to participate in the First Tranche of the Fund.
- (e) The Participant has duly authorized, executed and delivered this Agreement and the Note.
- (f) The Participant acknowledges that the tax consequences to the Participant of a Contribution in the First Tranche of the Fund may depend on its circumstances and that the Participant should consult with its own tax advisor regarding any and all applicable national, federal, state, and local tax considerations applicable to a Contribution in the First Tranche of the Fund. The Participant is relying solely upon the advice of its own tax and legal advisors, and shall not rely upon the general discussion set forth in the Information Memorandum with respect to such matters.
- (g) The Participant has no need for the liquidity of its Contribution and has sufficient knowledge and experience in financial and business matters, as well as the relevant applicable environmental matters, together with sufficient resources, to analyze and evaluate the merits, risks and suitability of the First Tranche of the Fund in the context of its financial position and particular circumstances.

- (h) The Participant has conducted such investigation and analyses of the Trustee and the Fund, participation in the First Tranche of the Fund, and environmental and other issues affecting the Trustee and the Fund as it deems necessary to arrive at an independent evaluation of the Trustee and the Fund and participation in the First Tranche thereof. The Participant understands that the Trustee has made no representation or warranty with respect to the information provided in the Information Memorandum, The Participant warrants that its decision to participate in the First Tranche of the Fund is not as a result of any reliance upon the IBRD or its employees, executive directors, officers or agents for any investment, tax, legal, or other advice in connection with its decision to participate in the First Tranche of the Fund. More specifically, but without prejudice to the generality of the foregoing, the Participant confirms that it has consulted with its own financial and legal advisors as necessary as to the risks and other considerations arising from acquiring or disposing of an Interest in the First Tranche of the Fund such as, but not limited to, its eligibility to receive credit under the UNFCCC, the Kyoto Protocol, the Marrakesh Accords and any other regulatory regime established or mandated by a Governmental Authority and with its tax advisors as necessary regarding the possible application of income and/or other taxes of any jurisdiction applicable to it.
- (i) The execution and delivery of this Participation Agreement and any other documents executed and delivered by the Participant in connection herewith do not, and the performance and consummation of the terms and transactions set forth or contemplated herein will not contravene or result in a default under any provision of existing law or regulations to which the Participant is subject, the provisions of the Instrument, charter, by-laws or other governing documents of the Participant as applicable, or any indenture, mortgage or other agreement or instrument to which the Participant is a party or by which it is bound, and does not require on the part of the Participant any approval, authorization, license, or filing from or with any government board or agency that has not already been obtained.
- (j) The Participant understands that the Trustee, the Fund Manager, their respective members, their respective affiliates and various clients advised by one or more affiliates thereof may engage in activities that are competitive with that of the First Tranche of the Fund and agrees to such activities even though in some circumstances there may be conflicts of interests inherent therein. The Participant agrees that by acquiring an Interest, it will be deemed to have acknowledged the existence of the actual and potential conflicts of interest identified in the Information Memorandum and, as specified therein, to have waived any claim the Participant or any person claiming through it may have with respect to the existence of any such conflict of interest.
- (k) The Participant agrees to make all payments required by this Participation Agreement when the same shall become due and payable.
- (l) The Participant agrees, subject only to the acceptance of this Participation Agreement by the Trustee, to be bound by the terms and provisions of the Participation Agreement and the Instrument in the form delivered to it which

are applicable to it as a Participant in the First Tranche of the Fund, and has read, is familiar with, and understands the nature and scope of the rights and remedies provided to the Trustee on behalf of the First Tranche of the Fund in the event of the Participant's failure to pay any part of its Contribution under the Instrument when due, or other event and is prepared to accept the exercise against the Participant of such rights and remedies in the event of such failure on the Participant's part.

VI. APPROVAL PURSUANT TO KYOTO PROTOCOL AND OTHER AGREEMENTS AND REQUIREMENTS

Section 6.1

The Participant covenants to execute any other document, agreement, certification, authorization or instrument, or to take any other action, in each case as reasonably requested by the Trustee, to facilitate, effectuate, approve, support, validate, reinforce, sanction, confirm, authenticate or corroborate the registration of Projects under the Executive Board, the issuance of all Emission Reductions generated by Projects or otherwise contracted for by the Trustee, and the transfer, assignment or distribution of such Emission Reductions.

[Section 6.2 [##Sections 6.2-6.4 on/y to be included in Participation Agreements for Public Sector Participants that are Parties to the Kyoto Protocol. Such Participants are also to attach a completed and signed copy of the attached "Written Approval of Voluntary Participation and Authorization to Participate in CDM Project Activities" ##] The Participant acknowledges and agrees that this Participation Agreement constitutes a "written approval of voluntary participation" for purposes of the Kyoto Protocol and any subsequent decision adopted by the Parties to the UNFCCC or the parties to the Kyoto Protocol.

Section 6.3 The Participant acknowledges and agrees that this written approval of voluntary participation extends to all Projects of the First Tranche of the Fund and to all the Emission Reductions generated by the Projects of the First Tranche of the Fund or otherwise contracted for by the First Tranche of the Fund.

Section 6.4 The Participant hereby authorizes the Trustee to act as a private entity on the Participant's behalf for purposes of paragraph 9 of Article 12 of the Kyoto Protocol or any other agreement or requirement adopted by the parties to the UNFCCC or the Parties to the Kyoto Protocol.]

VII. NOTICE OF ACCEPTANCE

The Trustee, upon acceptance of this Participation Agreement, will forward to the Participant a notice of acceptance.

VIII. SURVIVAL, SUCCESSORS AND ASSIGNS

Upon acceptance by the Trustee, this Agreement shall be binding upon, and inure solely to the benefit of the Participant and the Trustee and their respective representatives, successors and assigns.

IX. AMENDMENT

This Agreement may only be amended with the written consent of the parties hereto.

X. TERMINATION

This Agreement may be terminated by written notice of the Trustee, in accordance with the terms and conditions of the Instrument.

XI. NOTICES

Section 11.1 All communications shall be in writing (including facsimile communications), or by telephone (to be promptly confirmed in writing) or, in the case of communications to Participants, by electronic mail. Each communication will be made to the relevant person at the address, facsimile number, telephone number or electronic mail address, from time to time designated by that party to the others for that purpose. The address, facsimile number, telex, telephone number and electronic mail address so designated are set out below:

Name: Department of Environment, Heritage and Local Government

Address: Custom House, Dublin 1

Attention: Mr Owen Ryan

Telephone: +353 188 2622

Facsimile: +353 188 2890

Telex: -

Electronic Mail: owen_ryan@environ.ie

Name: International Bank for Reconstruction and Development, as Trustee for the First Tranche of the World Bank/EIB Carbon Fund for Europe

Address: 1818 H Street, N.W. Washington, D.C. 20433, U.S.A.

Attention: World Bank/EIB Carbon Fund for Europe Manager

Telephone: 1(202) 473-1525

Facsimile: 1 (202) 522-7432

Electronic mail: apinna@worldbank.org

Section 11.2 A communication will be deemed received, if sent by mail, when delivered, if sent by facsimile, when a transmission report shows that the facsimile has been sent, if given by telephone, when made (and promptly followed up by a writing, and if sent by electronic mail, when sent to the electronic mail address provided by

the Participant to the Trustee provided, however, that any communication which is received outside business hours or on a non-business day in the place of receipt shall be deemed received on the next following business day in such place.

XII. MISCELLANEOUS

Section 12.1 The Participant shall keep confidential and not publish, disclose or otherwise divulge to anyone (and shall cause its officers, directors, employees, agents and representatives to keep confidential, and not publish, disclose or otherwise divulge to anyone) any and all information to which it gains access in relation to the operation of the Fund or as a result of its participation in the First Tranche of the Fund, unless specifically authorized to be disclosed under the IBRD's and, depending on the Project, the European Investment Bank's, the International Finance Corporation's, intermediary's, or project sponsor's general disclosure policy, or as otherwise agreed in writing by the Trustee.

Section 12.2 The Participant agrees that, upon demand, it will furnish promptly to the Trustee such information and execute and deliver such documents as may reasonably be required by the Trustee to comply with, or to confirm compliance with, any applicable laws or regulations or other obligations of the Trustee or the Fund.

Section 12.3 The Participant agrees that, where it has an interest in a Project of the Fund or in another investment vehicle having objectives and policies similar to those of the Fund, which, as a result, compete with the Fund for investment opportunities, it will disclose such interest to the Trustee prior to the review of any Project of the Fund. Upon advice of the Trustee, the Participant shall recuse itself from the Participants' Committee's deliberations with respect of such Project. If the Participant disagrees with the Trustee's determination, it shall advise the Participants' Committee of the conflict or potential conflict and the Participants' (excluding the Participant making the disclosure) shall decide whether such Participant should be permitted to participate in the Committee's deliberations on such Project. The failure of a Participant to disclose its interest in a Project or other venture in a timely manner may result in sanctions to be determined by the Trustee after consultation with the other Participants.

Section 12.4 The Participant understands and agrees that the Trustee, in its sole and absolute discretion, may at any time either withdraw and terminate the offering of the Interests in whole or in part or in respect of any particular jurisdiction if any such offering would, in the Trustee's opinion, adversely affect the First Tranche of the Fund.

Section 12.5 The Participant agrees that, following the provision of information of a proposed Project of the Fund to the Participants, it will not commence any discussions or negotiations with the Project Entity or any shareholder of the Project Entity regarding the purchase by the Participant of any Emission Reductions generated or to be generated by the Project and it will not enter into an agreement with any other person regarding the dealing in or sale of the Emission Reductions generated or to be generated by the Project as a result of any such discussions or negotiations until the earlier of termination of the letter of intent or signature of an ERPA.

Section 12.6 Words importing the singular number hereunder shall include the plural number and vice versa, and any pronoun used herein shall be deemed to cover all genders.

Section 12.7 This Participation Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof.

Section 12.8 Within five days after the receipt of a written request from the Trustee, the Participant agrees to provide such information and to execute and deliver such documents as reasonably may be necessary to comply with any and all laws and ordinances to which the First Tranche of the Fund is subject.

Section 12.9 The representations and warranties of the Participant set forth herein shall survive the sale of an Interest to the Participant pursuant to this Participation Agreement.

Section 12.10 Every provision of this Participation Agreement is intended to be severable, and if any term or provision herein is held to be illegal or invalid for any reason whatsoever in any jurisdiction, such illegality or invalidity shall not affect the validity of the remainder hereof or of such term or provision in any other jurisdiction.

XIII. EXECUTION IN COUNTERPARTS

This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, has signed this Agreement on the date set forth below.

PARTICIPANT: Ireland

By: Dick Roche

Name: Mr Dick Roche T.D.

Title: Minister for Environment, Heritage and Local Government

Address: Custom House, Dublin 1

Date: 5 January 2007

EXHIBIT A

PROMISSORY NOTE FOR THE FIRST TRANCHE OF THE WORLD BANK/EIB CARBON FUND FOR EUROPE

1. For value received, Ireland (the “Participant”), having an address at Department of Environment, Heritage and Local Government hereby promises to pay to INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT, AS TRUSTEE OF THE WORLD BANK/EIB CARBON FUND FOR EUROPE (the “Trustee”), having an address at 1818 H Street, N.W., Washington, D.C. 20433, on demand, the sum of EUR 10 M (ten million Euros) or, if the Trustee has accepted the Participant’s contribution in the First Tranche of the Fund in a lesser amount, the sum set forth in the Trustee’s notice of acceptance of the Participation Agreement (as defined below), without interest.
2. The amount of this Note is equal to the sum set forth in the initial paragraph.
3. All or any part of the above sum shall be paid, within 30 days following demand made in writing or by fax or by electronic mail to Principal Officer, Climate Change Section [*Participant’s officer’s title NOT name (i.e., minister, deputy minister, CEO or company president, treasurer etc.)*] at the address provided in the Participation Agreement (defined below) by credit of the amount so demanded to the account of the International Bank for Reconstruction and Development with Bank of America, N.A. Main Branch, P. O. Box 407 1, Alie Street London E1 8DE, United Kingdom, with the following account designation: “IBRD-T for CFE Tranche One” pursuant to Section VII of the Participation Agreement entered into between the Participant and the Trustee and signed by Mr Dick Roche T.D. on 5/1/07 [date] (the “Participation Agreement”).
4. If payment of a part only of said sum shall be demanded and made, a new note, in substantially the same form as this Note, for the sum remaining unpaid shall be executed and delivered in exchange for this Note.
5. The Participant may pay more than the amounts demanded by the Trustee from time to time but neither such over funding payments nor any other payments made by Participant under this Note shall entitle Participant to receive, or Trustee to pay, any interest on the principal balance of this Note outstanding from time to time.
6. This Note is executed and delivered pursuant to the provisions of Article III of the Instrument establishing the World Bank/EIB Carbon Fund for Europe, and the Participation Agreement.
7. This Note is non-negotiable
8. The Participant represents and warrants that it has full power and authority to execute and deliver this Note, the execution and delivery of this Note has been duly authorized and does not conflict with or constitute a default under any law, judicial order or other agreement affecting the Participant.

9. If the Participant consists of more than one person, the obligations and liabilities of each such person hereunder shall be joint and several.

Date: 5 January 2007

PARTICIPANT: Ireland

By: Dick Roche

Name: Mr Dick Roche T.D.

Title: Minister for the Environment, Heritage and Local Government

EXHIBIT B

FORM OF NOTICE OF ACCEPTANCE

The undersigned accepts the offer for the Contribution to the First Tranche of the World Bank/Em Carbon Fund for Europe in the form of a Note submitted by the Participant hereinafter named in the amount set forth below:

AMOUNT: EUR _____
 € _____

PARTICIPANT: _____

Dated as of _____.

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT, AS TRUSTEE OF THE
FIRST TRANCHE OF THE WORLD BANK/EIB CARBON FUND FOR EUROPE

By: _____

Name: _____

Title: _____

EXHIBIT C
[INSERT FOR PUBLIC SECTOR PARTICIPANTS]

**WRITTEN APPROVAL OF VOLUNTARY PARTICIPATION AND
AUTHORIZATION TO PARTICIPATE IN CDM PROJECT ACTIVITIES**

1. The undersigned is a participant in and has made a monetary contribution to the capital of the World Bank/EIB Carbon Fund for Europe (the “Fund”), an international trust established by the International Bank for Reconstruction and Development (the “IBRD”).
2. This written approval certifies that the undersigned has voluntarily participated in any and all projects submitted for registration to the Executive Board of the Clean Development Mechanism by the Fund, the IBRD as trustee for the First Tranche of the Fund, the IBRD as trustee of the Umbrella Carbon Facility or any designated operational entity acting for the First Tranche of the Fund (“Projects”).
3. This written approval is intended to be a “written approval of voluntary participation” for purposes of the Kyoto Protocol, the Marrakesh Accords and any other subsequent agreements, modalities or procedures regarding the registration of projects or the certification of emission reductions under the Clean Development Mechanism.
4. This written approval of voluntary participation extends to all Projects of the First Tranche of the Fund and to all the emission reductions generated by the Projects of the Fund or otherwise contracted for by the Fund.
5. The undersigned hereby authorizes the IBRD as trustee for the First Tranche of the Fund to act as a private entity for purposes of Article 12(9) of the Kyoto Protocol, the Marrakesh Accords and any other subsequent agreements, modalities or procedures regarding the registration of projects or the issuance of emission reductions under the Clean Development Mechanism.
6. This written approval and authorization is irrevocable.

PARTICIPANT: Ireland

By: Dick Roche

Name: Mr Dick Roche T.D.

Title: Minister for Environment, Heritage and Local Government

Date: 5 January 2007