

No. 45630 *

**Ireland
and
International Bank for Reconstruction and Development**

Participation Agreement between Ireland and the International Bank for Reconstruction and Development for the Second Tranche of the BioCarbon Fund (with exhibits). Dublin, 5 January 2007

Entry into force: *5 January 2007 by signature*

Authentic texts: *English*

Registration with the Secretariat of the United Nations: *Ireland, 5 January 2009*

**Irlande
et
Banque internationale pour la reconstruction et le
développement**

Accord de participation entre l'Irlande et la Banque internationale pour la reconstruction et le développement relatif à la deuxième tranche du Fonds BioCarbone (avec pièces jointes). Dublin, 5 janvier 2007

Entrée en vigueur : *5 janvier 2007 par signature*

Textes authentiques : *anglais*

Enregistrement auprès du Secrétariat des Nations Unies : *Irlande, 5 janvier 2009*

* *The text reproduced below is the original text of the agreement as submitted. For ease of reference, it was sequentially paginated. The final UNTS version of it is not yet available.*

Le texte reproduit ci-dessous est le texte authentique de l'accord tel que soumis pour enregistrement. Pour référence, il a été présenté sous forme de la pagination consécutive. La version finale RTNU n'est pas encore disponible.

[ENGLISH TEXT – TEXTE ANGLAIS]

**Participation Agreement between Ireland and the
International Bank for Reconstruction and Development as
trustee for the Second Tranche of the BioCarbon Fund**

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 BETWEEN IRELAND AND THE
INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
AS TRUSTEE FOR THE SECOND TRANCHE OF THE BIOCARBON FUND**

The offer and sale of interests ("Interests") in the Second Tranche of the BioCarbon Fund (the "Fund" or "BioCF") are made solely by means of the confidential Information Memorandum of the Fund, dated November 14, 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 US\$ 12, 879, 660 (twelve million eight hundred and seventy nine thousand six hundred and sixty USD) (the "Contribution") to the First *[insert number]* Window of the Second Tranche of the Fund *[if contributing to more than one Window, please specify separately the amounts to be allocated to each Window]* through the issuance and delivery of an executed and unconditional promissory note made payable on demand.

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) "Initial Contribution" means the Contribution specified on the signature page of this Participation Agreement;
- (d) "Contribution" means the Contribution specified in the notice of acceptance;

- (e) "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 D 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 Participant further acknowledges that, if the Participant is a Private Sector Participant, the Trustee may, as a condition for acceptance of the Participation Agreement, require the Participant to agree either to prepay the entire amount of the Contribution or to provide the Trustee with an irrevocable letter of credit from a financial institution acceptable to the Trustee that the Trustee can draw to meet demands for payments made by the Trustee in accordance with the instrument or provide such other form of security as is acceptable to the Trustee. The Trustee and the Participant hereby agree that this Participation Agreement shall not become effective against the Second 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 The first demand for payment pursuant to the Note will be made after the Operational Date of the relevant Window, with Participants in that Window of the Tranche given 30 days notice to deliver the payment to the Trustee. Following this payment, demands 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 relevant Window of that Tranche, including the anticipated requirements for payments to Recipients under Project Agreements. Participants will be given 30 days notice of any payment demands.

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.

Section 3.6 An Additional Participant in a Window of a Tranche shall be required to make a Catch-Up Payment in addition to its Contribution as provided in Section 5.3 of the Instrument.

IV. ADDITIONAL CONTRIBUTION

Section 4.1 At any time after the acceptance of this Participation Agreement and Note by the Trustee, the Participant may offer to the Fund to make Additional Contributions (1) in the same Window to which such Participant made its Initial Contribution or (2) in any subsequent Windows or Tranches of the Fund. Additional Contributions are in addition to and do not replace the Initial Contribution or other Additional Contributions already offered by the Participant and accepted by the Trustee.

Section 4.2 The Participant and Trustee acknowledge and agree that the Participant shall not be obligated to make any Additional Contributions.

Section 4.3 Any offer to make an Additional Contribution shall be made by the Participant using the form of offer for an Additional Contribution provided in Exhibit C hereto. The Participant acknowledges and agrees that this offer to make an Additional Contribution 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 4.4 The Participant acknowledges that any offer for an Additional Contribution 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 the offer for an Additional Contribution shall not become effective against the Fund unless and until the Trustee has received an executed Note and accepted the offer for an Additional Contribution by countersigning it and delivering a notice of acceptance to the Participant pursuant to Section VIII below. If the Trustee does not accept the offer to make an Additional Contribution within 180 days of the Participant's signature of the offer, the offer to make an Additional Contribution shall be deemed rejected by the Trustee.

Section 4.5 Each offer to make an Additional Contribution shall be accompanied by a Note in the appropriate amount. The payments under the Note for Additional Contributions shall be effected in accordance with the terms set forth in Section 3.3, Section 3.4, Section 3.5 and Section 3.6 above.

Section 4.6 All Additional Contributions offered by the Participant and accepted by the Trustee shall be subject to the terms and conditions of this Participation Agreement and of the Instrument.

V. REPRESENTATIONS AND WARRANTIES OF THE TRUSTEE

Section 5.1 The Trustee represents and warrants that: