

Eyes on the 56th meeting of the CDM Executive Board

The 56th meeting of the CDM Executive Board begins today, 13th September, and will last for a full week. As usual, CDM Watch has taken the opportunity to read between the lines of the annotated draft agenda in order to bring some transparency to the decisions it will take. The annotations to the draft agenda are published ahead of every Board meeting and are supposed to give a clearer overview of the Board's agenda. However, due to the complexity of the issues, they are written in highly technical language and don't seem to be aimed at revealing what's really at stake. In response to this lack of clarity, CDM Watch adds some meaning to the language by identifying the most critical points and setting out concrete recommendations for improvement.



The Brazilian Board Member and Chair of the Afforestation and Reforestation Working Group Mr José Domingos Miguez has invited his fellow Board members to Brasilia for the 5th meeting this year. Which means that it will be in the Brazilian capital that the fate of the infamous Plantar project, which has given rise to extensive criticism over the past few years, will be decided. Although there are also grave concerns about the project's environmental impact, Plantar is actually likely to be rejected on the grounds of deficient civil society participation, thereby setting a precedent.

Further to a milestone decision against coal projects in the CDM at the last CDM Executive Board meeting, which saw the rejection of the Indian Ultra Mega Power Project (UMPP) Tata Mundra, CDM coal projects remain high up on the agenda. Despite extensive criticism of the first – and so far only – registration of a (non-additional) coal power plant under the CDM in 2009, Adani Power Maharashtra Ltd is now seeking registration for another project in Tirora, India. However, several Board members have expressed serious doubts about the project's additionality and have asked to review the registration request of the project which will be decided upon during this week's meeting. A decision that will certainly be followed closely by Reliance Power Limited which has just applied for registration of the 3,960 MW Sasan UMPP in Madhya Pradesh, which lays claim to almost 4 million tonnes of annual emission reductions, the clearest example thus far of a non-additional plant.

As concerns about the additionality of 17 hydro projects will be discussed as part of this week's meeting, we take the opportunity to showcase two projects that show why large hydro projects in the CDM undermine the principles of the CDM. In addition to being clearly non-additional, the Dardanelos project has also caused outrage amongst indigenous people who occupied the site in July 2010 because it was built on an ancient burial ground. This Newsletter will also explain why a decision on the request to renew the crediting period of the HFC-23 Decomposition Project in Ulsan, South Korea can only be taken once the significant concerns about the current methodology have been addressed.

On a positive note, CDM Watch welcomes the news that a suggested revision to the methodology for biodiesel production has eliminated significant threats to peatlands. However, it is important to note that the revision does not yet address many other important issues, such as sustainability criteria and indirect land use impacts of biofuel production.

This Newsletter also gives a brief overview of the problem of project-by-project additionality testing and explains why a future appeals procedure must not overlook the right of stakeholders to be afforded access to redress from improper or unlawful decisions affecting the environment, as laid out in numerous international laws and agreements.

Finally, CDM Watch is happy to present a new version of the CDM Toolkit. The CDM Toolkit is designed for NGOs, activists and citizens who have little or no prior experience with the CDM. It is a guide that provides an explanation of how the CDM and its tools for public participation work. The English version can be downloaded from http://www.cdm-watch.org/?page_id=845 and other language versions will follow soon

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Carbon Rush for Coal:

The Fate of Fossil Fuel Carbon Credits – The Tirora and Sasan Projects



At their last meeting, the CDM Executive Board made a landmark decision against coal projects in the CDM by rejecting the Indian Ultra Mega Power Project (UMPP) Tata Mundra¹. It had been claimed that the 4000-MW super-critical coal plant owned by Coastal Gujarat Power would reduce 2.6m tonnes of CO₂e over the next 10 years. However, it was rejected because the project developers failed to prove that the CDM revenue was decisive for the investment decision, i.e. they could not prove that it was additional, an essential CDM requirement.

CDM Watch applauds the Board for this milestone decision, which goes some way towards restoring credibility to the

CDM. That the project was clearly non-additional was a sentiment echoed by several anonymous analysts who were reported to have said "The carbon crediting probably was not factored in at the time of the bid" adding "Estimates would not have considered such credits ahead of U.N. project approval"². A senior investment specialist at the Asian Development Bank, which backs the project financially, further demonstrated Tata Mundra's lack of additionality. He is reported in the same article as saying that the bank will support Tata's project despite the rejection.

Despite heavy criticism of the first – and so far only – registration of a (non-additional) coal power plant under the CDM in 2009, Adani Power Maharashtra Ltd is now seeking registration for another project in Tirora³, India. However, three members of the CDM Executive Board have expressed serious concerns about the project's additionality and have asked to review⁴ the

¹ <http://cdm.unfccc.int/Projects/DB/DNV-CUK1254830678.73/Rejection/IWNNWJIB1G6WAG6F9RW59N3A0LQEXP>

² http://www.moneycontrol.com/india/newsarticle/news_print.php?autono=477761&sr_no=0

³ <http://cdm.unfccc.int/Projects/DB/SGS-UKL1260815245.04/view>

⁴ <http://cdm.unfccc.int/Projects/DB/SGS-UKL1260815245.04/Review/FG74NWW0ZYFK2Y2RIM7KORPL5GB0G5/display>

⁵ <http://cdm.unfccc.int/Projects/DB/SGS-UKL1260815245.04/Review/FG74NWW0ZYFK2Y2RIM7KORPL5GB0G5/display>, page 6

⁶ <http://cdm.unfccc.int/Projects/Validation/DB/259L8CYWH665QF5EXXKIGR1A6FO0Y/view.html>

⁷ EPA GHG equivalent calculator available at <http://www.epa.gov/cleanenergy/energy-resources/calculator.html#results>

registration request of the Tirora project which will be decided upon during this week's meeting.

According to the validation opinion of SGS the Tirora "project is not a likely baseline scenario. Emission reductions attributable to the project are hence additional"⁵. However, CDM Watch believes that the project is, in fact, not additional precisely because supercritical, not subcritical, is the baseline. For more detailed criticism on the Tirora project please refer to comments by Naveen Sharma⁶.

Table 1: Problems with ACM0013 investment analysis by project and issue

Project Title	Host	Type	Does not calculate LCOE	Does not consider revenues	Does not list parameters/assumptions	Does not justify parameters/assumptions	Varies fuel price without justification ^a	Varies plant loads without justification ^a	Does not provide full spreadsheets	# Problems by project
Thermal Power Plant Manauara CDM Project Activity	Brazil	Oil	•			•			• ^c	3
Thermal Power Plant Ponta Negra CDM Project Activity	Brazil	Oil				•			•	2
Anhui Wenergy Tongling 1000MW Ultra-Supercritical Coal-Fired Power Project	China	Coal		•		•	•	•	•	5
Guangdong Pinghai Power Plant Phase I Project	China	Coal		•					•	2
Jiangsu Guodian Taizhou Ultra-supercritical Power Project	China	Coal		•				• ^d	•	3
Jiangxi Xinchang 2×660MW Ultra-Supercritical Project	China	Coal		•					•	2
Shanghai Caojing 2×1000MW Ultra-Supercritical Project	China	Coal		•					•	2
Shanghai Waigaoqiao coal-fired power project using a less GHG intensive technology	China	Coal		•				•	•	3
Zhejiang Guodian Beilun Ultra-supercritical Power Project	China	Coal		•		• ^b	•	• ^d	•	5
Zhejiang Guohua Ninghai Ultra-supercritical Power Project	China	Coal		•		•			•	3
Energy efficient power generation in Tirora	India	Coal		•		•			•	3
GHG Emission Reductions through grid connected high efficiency power generation	India	Coal					• ^c			1
Greenhouse Gas Emission Reductions Through Super Critical Technology – Sasan Power Ltd.	India	Coal		•		•	• ^c		•	4
Grid connected energy efficient power generation	India	Coal		•					• ^f	2
Grid connected energy efficient power generation in Jhajjar, Haryana	India	Coal	•					•	• ^f	3
Grid Connected Power Generation through Supercritical technology	India	Coal		•		• ^b		•	•	4
Rudeshur Efficient Gas Power Plant	Iran	Gas		•	•	•			•	4
# Problems by issue			2	13	1	9	4	6	16	51

^a This table highlights variation without justification for fuel prices and plant loads only. Some projects also vary other factors without justification (e.g., operations and maintenance costs).

^b Provides some citations but not for all critical parameters and assumptions.

^c Variation in fuel price is between domestic and imported coal, but as per the Meth Panel's recommended revisions, this is not an allowed consideration for additionality under ACM0013.

^d Variation in load is between coal and natural gas alternatives. Most coal projects fail to consider natural gas as a plausible alternative at all.

^e Provides some spreadsheets, but the image quality is poor, rendering the information illegible.

^f Provides some spreadsheets, but for less than the operational lifetime of the project.

The Tirora project claims around 12m tonnes of emission reduction over the next 10 years, equivalent to the annual CO2 emissions of about 3 coal-fired power plants⁷.

Analysis conducted by CDM Watch and the Stanford Environmental Law Clinic in March 2010 reviewed 14 coal projects pending validation. The research showed that none of the expected reductions of the reviewed coal projects are contingent on the additional CDM revenue. These projects would occur regardless of CDM financing as they are included in national energy policies. The analysis also found significant shortcomings in the investment analysis of the Tirora project, see table below. Problems included (1) the fact that it neglects to consider revenues as clearly as costs thereby distorting the financial calculation, (2) it does not justify parameters/assumptions, and (3) it does not provide full spreadsheets making it impossible to reproduce a financial analysis. However, above all, the analysis found that in the case of all projects in India and China supercritical – not subcritical – should be used as the baseline scenario, which would render supercritical coal plants non-additional within the CDM.

While the Board decides upon projects on a project-by-project basis, CDM Watch believes that the findings outlined above are

likely to hold true for the additional 13 coal projects submitted after the analysis was conducted. Since the registration of the first project in December 2009, the CDM has witnessed an incredible rush of applications. In the past two weeks alone three new coal projects totaling four million tonnes in annual emission reductions were submitted for validation.

Looking ahead, our eyes are set on the Board's decision, especially as the largest of all the coal power plants and the most controversial project currently under validation has requested registration under this faulty baseline methodology. The 3,960 MW Sasan UMPP in Madhya Pradesh, which lays claim to almost 4 million tonnes of annual emission reductions is the clearest example thus far of a non-additional plant. In the Ultra Mega Projects bidding process that awarded the project to Anil Ambani-led Reliance Power Limited in 2008 the following criteria⁸ were fixed: (1) the location: Sasan; (2) the technology: supercritical; (3) and the fuel: imported coal. With the technology and the fuel being specified in the tender, it is hard to follow Reliance's argument that a subcritical plant using Indian coal was a viable alternative⁹.

Action to be taken by the Board: CDM Watch believes unequivocally that the Tirora project is not additional. It must therefore be reviewed and subsequently rejected. At the same time, the Board should request a review of the registration request of the Sasan project, based on the same faulty baseline methodology, in order to ultimately reject it.

Allowing coal-based power projects in the CDM at a time when the mechanism's integrity is being questioned for a range of other fundamental flaws would deal a terrible blow to its reputation. The inclusion of coal-based power in the CDM not only risks allowing industrialized countries to increase their own emissions without reducing emissions elsewhere, it also risks increasing emissions in developing countries by artificially improving the financial returns to the most carbon-intensive form of electricity production in the world - coal-based power. In order to maintain the integrity of the CDM it is clear that Tirora, Sasan, and all other coal projects based on this faulty baseline methodology must be rejected.

Legitimacy of civil society participation in the CDM - The Plantar Project

This week, the Board is likely to take another landmark decision towards meaningful civil society participation in the CDM process by rejecting the controversial Plantar project.

The Board had decided to review the registration application of the project because it had failed to comply with CDM requirement to give global stakeholders the opportunity to provide comments¹⁰. In their review decision the Board asked TÜV SÜD, which validated the project, to re-open the public consultation period in order to determine whether the project complies with the following two CDM requirements:

1. DOEs shall make PDDs for large scale A/R project activities and large scale A/R programmes of activities publicly available on the UNFCCC CDM web site for a period of 45 days after comments have been invited from local stakeholders and appropriately taken account of¹¹.
2. DOEs shall make available the required competence needed for validation and verification activity(ies). Such competences include having the necessary knowledge, skills, experience, supporting infrastructure and capacity to effectively complete validation or verification activities¹².

At this week's meeting, the Board will consider whether the corrections undertaken as part of the review were satisfactory, in which case it will register the project or otherwise, reject it.

⁸ http://www.powermin.nic.in/whats_new/pdf/ultra%20mega%20project.pdf

⁹ For more details, see <http://cdm.unfccc.int/Projects/Validation/DB/JB9AVH5IAWF0MDFULY3P4678XR05JN/view.html>

¹⁰ <http://cdm.unfccc.int/Projects/DB/TUEV-SUED1242052712.92/UnderReviewScope/DBJKU72W10XA8T46RV9GZ3FSINHQLE>

¹¹ EB 43 (Annex 12, paragraph 4)

Many civil society representatives were keen to submit input to the project but were not able to do so for the following reasons:

1) The period for public comments was re-opened at an unexpected time:

- a. The decision to re-open the public consultation was taken while TÜV SÜD was suspended and was therefore not allowed to upload PDDs for public comments as part of the validation process. Nonetheless, TÜV SÜD uploaded the PDD for the Plantar project for public comments from 15 April to 28 May (the suspension was only lifted in July 2010).
- b. No civil society representative expected the PDD to be uploaded before the suspension was lifted and hence did not check the complicated UNFCCC website during that period. However, CDM Watch had done a routine check on the validation page and was able to notify civil society several days before the closing of the public commenting period.
- c. Despite this, civil society representatives were unable to respond at such short notice, not least owing to the fact that they were unable to translate the documentation from the original English in time for the deadline.

2) The period for public comments was closed before the expected deadline (28 May 2010 00.00 GMT):

- a. The public commenting period was arbitrarily closed without notice and left civil society representatives who took the time to prepare comments with no opportunity to submit them via the UNFCCC website after 28 May 2010 18.00 CET.

While the last CDM Watch Newsletter of 4th July 2010¹³ held TÜV SÜD responsible for these deficiencies, it was subsequently reported to CDM Watch that it was indeed the UNFCCC secretariat that “had explicitly authorized TÜV SÜD for the upload of the PDD because otherwise the deadline for the completion of the project would have been missed”. It was also clarified that “the UNFCCC – not TÜV SÜD – closed the homepage. It is up to the UNFCCC to decide over the deadlines”.

With this in mind, CDM Watch has regularly checked the UNFCCC page for comments submitted to the project and how they have been taken into account in line with the CDM validation requirement EB 43 (Annex 12, paragraph 4). CDM Watch knows of at least of 5-10 comments that were officially submitted before the period for public comments was closed and of at least 2 comments that were sent to the UNFCCC secretariat after the period had closed at 18.00 GMT. However, until the time of writing, no comments have been uploaded to the website¹⁴. CDM Watch is also missing an updated validation report at the UNFCCC website that would take into account the comments received.



Action to be taken by the Board: Neither the documentation of the corrections nor comments received are publicly available. In particular the absence of an updated validation report puts the legitimacy of the global stakeholder consultation process at risk. With the review of the project being based on the fact that this very requirement wasn't fulfilled, the project cannot be registered without making public the comments received and providing an updated validation report that takes these comments into account. If civil society participation in the CDM is to be taken seriously, CDM Watch believes that the only viable decision to take is to reject PA 2569.

How Large Hydro Undermines the Principles of the CDM - The Dardanelos and Bujagali Projects

As of this week there are 1529 Hydro projects seeking CERs through the CDM. But large hydro power projects seriously undermine the objectives of the CDM because hardly any of them are additional. Concerns about the additionality of 17 of these projects based in China have been highlighted by Board members prior to this week's meeting. This week's meeting will decide

¹² VVM (paragraph 40)

¹³ <http://www.cdm-watch.org/?cat=3>

¹⁴ <http://cdm.unfccc.int/Projects/Validation/DB/FGZRODLCVW8L8SADKS4WIRHPGKS2PO/view.html>

whether to put them officially under review, a first step towards rejecting them.

But the additionality of large hydro projects is not only an issue in China. Below you will find a comment by International Rivers on the Bujagali Hydropower Project in Uganda that applied for the CDM in July 2010. This project that claims 904,000 annual emission reductions clearly shows the typical problems of large hydro projects in the CDM: the extra CDM revenue is often just additional cash for project developers but was not decisive for the initial investment decision, making the project non-additional. This means that, if registered, non-additional projects generate fake CERs which replace real emission reduction obligations and therefore serve to increase global GHG emissions.

Large hydro projects not only face criticism for their lack of additionality. Their failure to contribute to sustainable development is well known, as they often destroy homes and lives. Below you will find another short note on the Dardanelos project in the Brazilian Amazon which applied for CDM status in February 2010. Despite being non-additional, the project has caused outrage amongst indigenous people who occupied the site in July 2010 because the project was built on an ancient burial ground.

International Rivers Comments on CDM Project Design Document for Bujagali Hydropower Project, Uganda¹⁵:

To understand the largely fictional nature of this application to the CDM one needs only to read the first line of the PDD. "The Bujagali Hydropower Project is a proposed hydropower facility . . ." It is not proposed. It is well over half complete. This basic fact is not mentioned anywhere in the PDD. The Bujagali Dam will be completed regardless of whether or not it is able to receive income from selling CDM offsets. It is non-additional and should not be validated as meeting the CDM's requirements.

According to the latest online issue of Bujagali Energy Limited's newsletter, as of 31 March 2010, engineering for the project was 91% complete; procurement 99% complete; and construction 58% complete. Project commissioning was at that time set for the third quarter of 2011. It has since been set back until 2012 – but there is no mention anywhere in the extensive on-line and hard copy literature about Bujagali that it will not be completed if it is not approved under the CDM.

The PDD bases its flimsy case for Bujagali's additionality on the claim that CDM income was "considered" by project participants before construction started in 2007. This is certainly true. Bujagali had already tried (and failed) to apply for the CDM under its previous guise as an AES project. The Government of Uganda, the current project developers (IPS and Sithe Global), and the World Bank, were all well aware that the project could receive some tens of millions of dollars a year in extra revenue were it approved under the CDM. But to claim that the investors and developers only went ahead with the project because of the potential for CDM income is blatantly misleading.

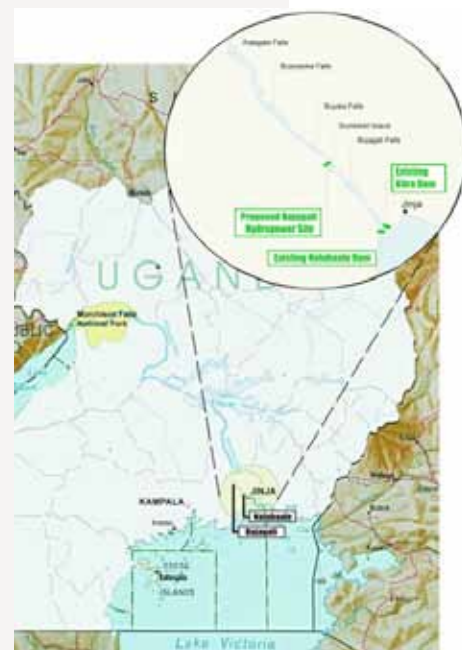
Bujagali was one of the most contentious World Bank projects of the 1990s and early 2000s (see numerous documents at www.internationalrivers.org/en/africa/bujagali-dam-uganda). The World Bank, the Government of Uganda, and the developers, first AES, and then Bujagali Energy Limited repeatedly claimed during these years that the project was the best, least-cost option for increasing electricity generation in Uganda — yet they never mentioned that carbon credit income was necessary for the project to be viable. None of the various economic and financial reviews of the project states that CDM income was necessary for project viability or for attracting investors.

In fact the key economic document leading to the World Bank's approval of Bujagali — the February 2007 Economic and Financial Evaluation Study (EFES) — assessed the impact of receiving carbon credit income and concluded "The greenhouse gas benefits are . . . not significant in the economic justification of the project." (p.15).

The PDD also claims that "anticipated CER revenues contribute significantly to mitigating" risks such as lower demand growth, low hydrology and capital cost escalation." Yet according to the EFES: "the expected economic return of the Bujagali project is high and very robust to adverse outturns" (p.139) in the key parameters including lower demand growth, low hydrology and cost escalation.

The PDD recognizes that the EFES identifies Bujagali as the least-cost power supply option for Uganda. Yet its authors attempt to wriggle out of the problem this poses for their argument that Bujagali really wasn't a very attractive investment, by saying that being least-cost "does not necessarily attract private investors." This is true. But it is also true that Bujagali did attract a private investor (with the help of \$360 million in loans and guarantees from the World Bank and more from other international public sector funders).

The PDD states that "In February 2003, the Dutch government decided to abstain from buying emission reductions from the Project. Shortly thereafter [actually it was 6 months later – see below] AES decided to discontinue the development of the Project." The clear implication



<http://www.bujagali-energy.com/default.htm>

¹⁵ <http://cdm.unfccc.int/Projects/Validation/DB/JXV07L07KBYTY9LPCX5JHSR8HRYT0/view.html>

is that the Dutch decision led to AES's withdrawal. The reality is that, just as in this application for the CDM, carbon credit income was never an important consideration for AES.

A 2004 Harvard Business School case study of Bujagali (<http://www.people.hbs.edu/besty/projfnportal/casehbs.html>) explains the context of AES' withdrawal:

"AES suddenly announced on August 8, 2003 that it was pulling out of the Bujagali project . . . "It boils down to two results," Dale Perry, the Bujagali project director, explained, "lowered returns for AES in the ongoing project balanced against increased risk. Those lower returns come about because there are some continued project delays." Another AES executive added, "The delay boosted costs, and the Ugandan government wouldn't agree to higher power prices to cover the expenses."

AES pulled out of Bujagali because of delays and uncertainties caused by a range of factors including a local and international environmentalist campaign against the project, criticism from Ugandan parliamentarians about the terms of the PPA, a corruption investigation by the US Dept. of Justice, and several postponements of World Bank financing.

In conclusion, this is a deeply deceitful PDD containing false claims, deliberately misleading implications, and material omissions. Bujagali should not be validated for the CDM.

Dardanelos Hydropower Plant Project Activity

The Dardanelos project applied for CDM status in February 2010. This is also when, according to the project design document¹⁶, the plant turbines started operation. The last turbine covered by the CDM project started operation in August 2010. However, the project design document fails to mention an important aspect that was highlighted by Leonor Mendes (UFMT) in the following comment¹⁷ submitted during the public consultation period:

Dear UNFCCC team,

I would like to call the attention that this project is well known among specialists of the power sector in Brazil as one of the "Botox" hydro power plants. This expression comes from the fact that those projects (including the 261 MW Dardanelos Hydro Power project) represent old projects, which have been previously conceived, but ended up being treated as brand new projects by the Brazilian regulatory framework. The story of the "Botox" projects has began even before the Brazilian Power sector reform in the 1990's. These cases reach their final steps in the 2007 auction, already under the revised Brazilian power sector model launched in 2004, which marked the opportunity of the so-called "Botox" projects to participate close deals to sell long term Power in a specially designed auction. The so-called "Botox" power plants are analyzed in details in the study:

REGO, E. R. Usinas Hidrelétricas "Botox": aspectos regulatórios e financeiros nos leilões de energia. 2007.

The complete study is made available online at the website of the Brazilian Energy Agency (ANEEL): http://www.aneel.gov.br/biblioteca/trabalhos/trabalhos/Dissertacao_Erik%20Eduardo.pdf

I am really surprised that consultants who are known for their deep knowledge about the Brazilian power sector as well for their expertise in the CDM (one of the involved consultants is even a member of the CDM Registration and Issuance Team) could put together a PDD for a 261 MW project which is clearly not additional. How the proposed CDM project can be regarded as additional if it was conceived before the design of the CDM flexible mechanism? More and more I am convinced that several of the CDM projects represent real cherry picking opportunity for some "creative" people.

It is also noteworthy that the whole environmental licensing process for this project faced protests and court actions from several parties. See details at the following articles:

http://www.ecolnews.com.br/usina_dardanelos/dardanelos.htm

<http://www.amazonia.org.br/noticias/print.cfm?id=178598>

<http://www.jornaldaciencia.org.br/Detailhe.jsp?id=38981>

The last article even highlights that the EIA was approved in a secret and not transparent section involving local authorities of Mato Grosso State . . . What a shame!

Despite being clearly non-additional, the project has caused outrage amongst indigenous people who have occupied the site in July 2010 because it has been built on an ancient burial ground. See recent BBC coverage¹⁸ of 26 July 2010.



"Severino Motta, iG Brasilia"

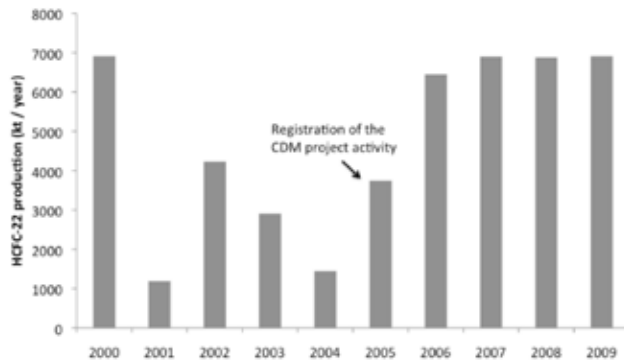
¹⁶ <http://cdm.unfccc.int/UserManagement/FileStorage/7VAFDL3XBJ1GE4M98YZNTWSUP012Q0>

¹⁷ <http://cdm.unfccc.int/Projects/Validation/DB/PXVVMF3ECA13AMDZDRCT8EHDC42ER/view.html>

¹⁸ <http://www.bbc.co.uk/news/world-latin-america-10759465>

„The HFC-23 destruction scandal The Ulsan Project“

Further to serious concerns that were highlighted with regard to the methodology for HFC-23 destruction, the Board will discuss the first renewal request to renew the crediting period for a HFC-23 destruction project. The HFC-23 Decomposition Project in Ulsan, South Korea, operated by the Ineos Group (Project 003) generated 1.4m credits over the first crediting period (2003-2010) and is applying for another 2.2m credits from 2010 to 2017.



However, an analysis of monitoring data shows that the Ulsan project has also artificially increased HCFC-22 production. The figure on the left illustrates that from 2001 to 2005 the Ulsan project produced HCFC-22 in the range of about 1000 – 4000 kt/year. When submitting the project for CDM registration, the plant operators declared that they would produce about 4111 kt/yr. However, after the registration of the CDM project in 2005, annual HCFC-22 production increased to about 7000 kt/year.

Action to be taken by the Board: In light of the serious concerns that the methodology for HFC-23 destruction

incentivises project developers to artificially increase their production, CDM Watch believes that a decision about the renewal of the crediting period can only be taken once the significant concerns about the current methodology have been addressed. The Board must put the request for renewal of the crediting period of this project on hold until the results of the investigation have been presented and a revised methodology adopted.



Board to close loophole in CDM biodiesel methodology

The Methodology Panel has prepared a revised methodology ACM0017 Production of biodiesel for use as fuel to address several deficiencies of the first version of this methodology that was adopted in 2009. At the time, CDM Watch and Wetlands International highlighted serious concerns related to loopholes in the methodology that allowed the production of biodiesel from designated plantations established on degraded lands.

These degraded lands could still contain large amounts of soil carbon. The most extreme example is the widespread use of peatlands in Southeast Asia for the production of palm oil (for either food or biodiesel). This production requires drainage of peat swamps to a depth of at least 80 centimetres to enable the palms to grow, thus exposing the organic carbon of the peatsoils to the air and triggering biological processes that turn the organic carbon into carbon dioxide (CO₂). This results in continuous emissions of 50-75 tonnes carbon dioxide per hectare per year. Currently, several million hectares of oil palm plantations are active

¹⁶ <http://cdm.unfccc.int/UserManagement/FileStorage/7VAFDL3XBJ1GE4M98Y2NTWSUPO12Q0>

¹⁷ <http://cdm.unfccc.int/Projects/Validation/DB/PXVVMF3ECA13AMDZDRLLCT8EHDC42ER/view.html>

on peatlands, and several million supplementary hectares have already been allocated in concessions for palm oil plantation development in Indonesia and Malaysia.

The existing CDM methodology would allow CDM projects to take place in these areas once the forest cover is gone and the areas are classified as “degraded”. Use of palm oil produced on peat as a biodiesel results in eight times more emissions than the use of fossil fuel diesel. This in turn would mean that CDM revenues would directly support projects that result in huge emissions.

A detailed analysis on this has been published by scientists of the Greifswald University¹⁹.

The draft revision is now putting things straight by explicitly excluding the use of peatlands for A/R CDM projects excluding a direct threat to peatlands, the most important carbon stores in the world. For more information, contact Alex.kaat@wetlands.org.

Action to be taken by the Board: Wetlands International and CDM Watch recommend the adoption of this revised version 01.1 that eliminates the threat this methodology poses to peatlands. However, it is important to note that the revision does not yet address many other important issues, such as sustainability criteria and indirect land use impacts of biofuel production. Without taking full account of the negative impacts of biofuel production, CDM Watch does not believe that biofuels production should be supported as part of the CDM.



Additionality criteria back on the Board's agenda

The Board might again tackle the impossible task of improving project-by-project additionality testing during this week's meeting. Numerous discussions in the past about the stringency of the additionality criteria in the so-called “first-of-its-kind” and “common practice” tests have not yet resulted in an agreement. This week could see a further instalment in this ongoing struggle as the Secretariat might present new draft guidelines.

While CDM Watch has already presented some ideas in previous newsletters, we would again like to take the opportunity to present a brief overview of the problem at hand:

The current approaches for demonstrating additionality are essentially composed of three elements:

- A barrier analysis to demonstrate that barriers exist which would otherwise prevent the proposed project from going ahead
- An investment analysis to demonstrate that the proposed project activity is economically less attractive than another alternative
- A common practice analysis which requires an assessment of the extent to which the proposed project type has already been deployed.

As seen in the aforementioned cases of large hydro projects, where additionality is doubtful in almost all cases, these approaches have often been criticised as intention-based and highly subjective. The International Emissions Trading Association (IETA) stated in a position paper for COP/MOP1: “Business perception is that in its current form the test for additionality (...) exposes every project to a highly subjective assessment of its CDM eligibility and allows for second-guessing by the EB”. Similarly, a report drawn up by CDM expert Lambert Schneider evaluated 93 CDM projects and found that for a significant number of projects the additionality seems unlikely or questionable. In a Delphi survey, conducted in 2007, 71% of the participants agreed with the statement that “many CDM projects would also be implemented without registration under the CDM” and 86% of the participants went so far as to state that “in many cases, carbon revenues are the icing on the cake, but are not decisive for the investment decision”.

¹⁹ <http://www.cdm-watch.org/?p=713>

The “first-of-its-kind” barrier

A project activity is assumed to be additional if no similar project has been implemented previously in a certain geographical area. If a project activity is “first-of-its-kind”, no additional assessment steps are undertaken to confirm additionality. Considering that project activities that are deemed to be “first-of-its-kind” pass the additionality test by default, the application of this barrier is highly problematic. Sometimes the project technology was defined so narrowly that the project was declared to be the “first of its kind” even though many similar plants had already been constructed. In many cases, no evidence for the barriers was mentioned or provided in the project design documents.

Action to be taken by the Board: In line with the recommendation in a previous note on the “first-of-its-kind” barrier by the Meth Panel, CDM Watch recommends that in the absence of a specific definition in an approved baseline and monitoring methodology, the “first-of-its-kind” barrier ²⁰ shall only apply if:

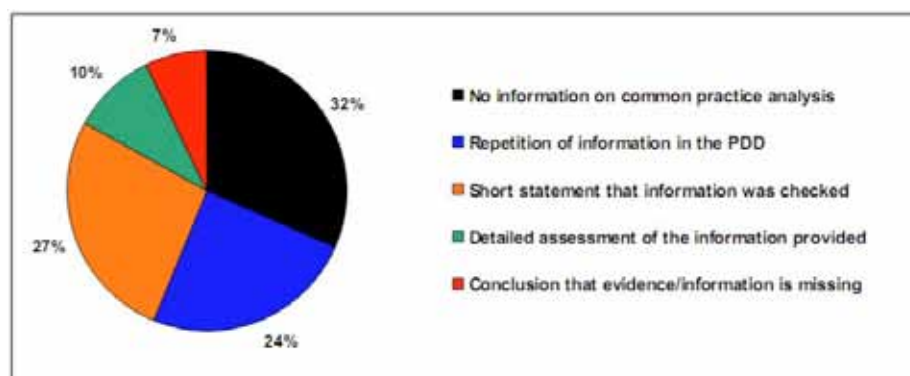
- > The project technology has not been in commercial operation in the host country; and
- > The project technology has not been proposed in another CDM project activity in the host country and published in the CDM-PDD by a DOE for public comments.
- > Other CDM project activities, including both those registered and submitted for validation, should be included in this assessment. The assessment should include all similar project activities in the host country.

The common practice analysis

The common practice analysis is an important credibility check to demonstrate that the project is not common practice in the region or country in which it is being implemented. If a project activity is “first-of-its-kind”, it is clear that implementation of the specific technology is not yet “common practice”. But similar problems as witnessed in the first-of-its-kind-analysis appear in the application of the common practice analysis: The current additionality tools do not clearly define when a project activity should be regarded as common practice and no threshold for common practice is provided. Only a few methodologies specify when a project should be considered common practice. Moreover, the baseline methodologies do not provide a clear definition of what a comparable technology is. In some cases, project participants have defined their technology so narrowly that practically no or only a few other similar projects have been implemented – even though the technology type in question (e.g. biomass cogeneration with high pressure boilers) is quite common in the country. At the same time, they define the comparison group very broadly (e.g. all power generation in the country) such that the project activity will automatically have a low penetration rate – independent of the fact that the project activity is frequently implemented in similar circumstances.

The assessment of the common practice analysis by DOEs is particularly weak. The image the below illustrates that in 32% of the projects that use the common practice analysis, the validation report does not provide any information on it at all. In a further 24% of the projects the information in the PDD is essentially repeated without a clear statement that the information was checked and deemed plausible and credible by the DOE. A detailed assessment of the information provided in the PDD is only

SOURCE: Öko-Institut “Is the CDM fulfilling its environmental and sustainable development objectives? An evaluation of the CDM and options for improvement”



Information in validation reports on common practice analysis

provided in 10% of the projects. This means that in more than half of the projects examined that applied the common practice analysis, the projects were registered even though independent information to support the analysis had not been presented or it was not clear if the information presented had been checked by the DOE

For power generation from renewable sources:

- Large hydro (> 15 MW)
- Small hydro (1 MW < X ≤ 15 MW)
- Micro hydro (< 1 MW)
- Biomass gasification
- Biogas combustion
- Liquid biofuel combustion
- Solid biomass combustion in low steam pressure (< 30 bar)
- Solid biomass combustion in medium steam pressure (30 bar ≤ X < 60 bar)
- Solid biomass combustion in high steam pressure (≥ 60 bar)
- On-shore wind power (≤ 1.5 MW)
- On-shore wind power (> 1.5 MW)
- Off-shore wind power
- Thermal solar power
- Photovoltaic power
- Geothermal energy

Action to be taken by the Board:

Until project-by-project additionality testing is replaced, quantitative thresholds and a clear definition on similar technologies must be introduced to improve the environmental integrity of the CDM and to prevent gaming by arbitrary definitions of technologies. CDM Watch makes the following recommendations:

- > The EB should work on quantitative thresholds to define common practice for each methodology. For example, a project could be regarded as common practice if it has been implemented X times AND in Y% of the relevant cases.
- > If more than five projects using the same technology are operational in the host country without receiving CDM support, the project is common practice
- > Baseline and monitoring methodologies should clearly define the project technology and what is regarded as a similar technology
- > If a project activity began commercial operation after the PDD was submitted to the DOE for validation, the situation when the CDM-PDD is published by the DOE for public comments should be applicable for the assessment
- > If a project activity began commercial operation before the PDD is submitted to the DOE for validation, the situation when the commercial operation of the project activity has started should be applicable for the assessment
- > In the absence of a clear definition of the project technology in the baseline and monitoring methodology, all technologies to which the methodology is applicable should be regarded as similar technologies (see list of technologies on the left/

CDM appeals procedure

Further to decision 2/CMP.5, the Board will discuss a first draft of procedures for appeals to challenge decisions by the CDM Executive Board at this week's meeting.

Every person has the right to live in an environment adequate to his or her health and well-being.... Considering that, to be able to assert this right and observe this duty, citizens must have access to information, be entitled to participate in decision-making and have access to justice in environmental matters, and acknowledging in this regard that citizens may need assistance in order to exercise their rights ...each Party shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters²¹...

The inclusion of an appeals procedure in the CDM project approval process presents a crucial opportunity for the Board to promote enhanced accountability, legitimacy and public trust in and acceptance of the CDM as a valid tool for reaching its goals under the Kyoto Protocol – namely, mitigating global climate change while promoting sustainable development. It also provides an opportunity to introduce coherence and quality control into the Board's decision-making process.

However, the draft procedures as presented by the UNFCCC secretariat fail to include the right for stakeholders other than project participants, DNAs and DOEs to lodge an appeal.

According to Decision 2/CMP 5, the EB is required to adopt appeal procedures for "stakeholders directly involved, defined in a conservative manner, in the design, approval or implementation" of a CDM project activity. Despite the suggestion that stakeholders entitled to appeal should be interpreted in a "conservative manner," it is up to the Board to interpret the term "stakeholders".

²¹ United Nations Economic Commission for Europe [UNECE], Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters preamble, art. 1, June 25, 1998, available at <http://www.unece.org/env/pp/documents/cep43e.pdf>.

²² Principle 10 of the 1992 Rio Declaration on Environment and Development, agreed to at the UN Conference on Environment and Development ("UNCED") available at <http://www.unep.org/Documents.Multilingual/Default.asp?DocumentID=78&ArticleID=1163>.

Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities,... and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided²².

Within this context it is important to note that the right of members of the public to access justice in environmental matters is enshrined in international law and numerous conventions to which many UNFCCC/Kyoto Protocol parties are party. These principles are based on the recognition that the public plays an important role by drawing to the attention of decision-makers concerns, errors, inaccuracies or facts that were overlooked, thereby acting as an extra check on actions that potentially harm the environment or public health. At the same time, introducing transparency and allowing public input into the process serves to eliminate distrust in the decision-making process, and in the decision-makers themselves. Thus, one of the key requirements of meaningful public participation in environmental decision-making is public access to judicial or administrative proceedings.

The European Commission has adopted various Directives and Decisions implementing the access to justice requirement of the Aarhus Convention. In 2006, the European Parliament and Council adopted Regulation (EC) N° 1367/2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies (OJ L 264, 25.9.2006, p.13) ("Aarhus Regulation").

The Aarhus Regulation enables environmental NGOs meeting certain criteria to request an internal review under environmental law of acts adopted, or omissions, by Community institutions and bodies

You can view more detailed comments on CDM Watch's view on appeals procedures in our submission²³ to a previous call for public input from the EB.



Action to be taken by the Board: CDM project activities affect the rights not only of communities living in the physical vicinity of the project, but also citizens across the globe who are affected, or will be affected, by global climate change. In sum, CDM Watch urges the Board, in determining which stakeholders may appeal against its decisions, not to overlook the right of stakeholders to be afforded access to redress from improper or unlawful decisions affecting the environment, as laid out in numerous international laws and agreements. As such, stakeholders who have submitted comments to CDM project activities should be granted the right to appeal.

Launch of CDM Toolkit

Finally, CDM Watch is happy to present the second edition of the CDM Toolkit. The CDM Toolkit is designed for NGOs, activists and citizens who have little or no prior experience with the CDM. Like the first CDM Toolkit that was released by CDM Watch in 2003, it is a guide that provides an explanation of how the CDM and its tools for public participation work.

The Toolkit is not designed as a critique of the CDM, but rather as a tool for use by those who are faced with evaluating CDM projects in their country, and want to know more about the mechanism and how to assess projects.

The Toolkit has been designed to bring clarity to key requirements when assessing CDM projects during the public commenting period and beyond. It begins by providing a general overview of the CDM and its history. It then explains the process a CDM project has to go through to obtain approval and be able to generate carbon credits. The focus is on explaining the key issues for civil society and identifying the opportunities for public input. The Toolkit also gives details about exceptional rules for certain project types, such as sinks projects and programmes of activities.

²³Submission by CDM Watch, Earthjustice and Transparency International available at http://cdm.unfccc.int/public_inputs/2010/cmp5_para42_43/cf/S71E74601LKE-WDX7VG76607DX8CBJ1;

The CDM involves a lot of jargon and acronyms that we have tried to avoid as much as possible. But to give you an accurate picture of how the CDM works, we had to use some. To make it easier, key terms and acronyms in the text are explained in more detail in the glossary at the end of the toolkit.

At this stage, the toolkit is only available in English. We will upload Chinese, Spanish, Portuguese and French versions of the toolkit within the month of October 2010 followed by other language versions. You can download it at http://www.cdm-watch.org/?page_id=845

Please forward this newsletter to anyone interested. To subscribe or unsubscribe to this newsletter, send an email to info@cdm-watch.org - please specify »subscribe« or »unsubscribe« in the subject line.

About CDM Watch

CDM Watch is an initiative of several international NGOs and was re-established in April 2009 to provide an independent perspective on CDM projects, methodologies and the work of the CDM Executive Board. The ultimate goal is helping to ensure that the current CDM as well as a reformed mechanism post-2012 effectively result in emissions reductions that are real, measurable, permanent, independently verified, and that contribute to sustainable development in CDM host countries.

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