

Head and Members of the CDM Executive Board
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Subject: Call for public input on "Issues included in the annotated agenda of the sixty-ninth meeting of the CDM Executive Board and its annexes"

2 September 2012

Honorable Members of the CDM Executive Board,
Dear Mr. Duan,

CDM Watch would like to thank the CDM Executive Board for the opportunity to comment on the annotated agenda of the 69th meeting of the CDM Executive Board. Please find our comments on the following pages.

Sincerely yours,



Anja Kollmuss

STANDARDIZED BASELINES

52. ► Action: The Board may wish to consider the draft standards for CDM project activities using standardized baselines, draft revised guidelines for completing the proposed new baseline and monitoring methodology form to incorporate provisions for standardized baselines, as contained in annex 6 to these annotations, and a concept note on impact of update of standardized baselines on CDM projects, as contained in annex 7 to these annotations.

CDM Watch welcomes that further progress is made on standardized baselines which may help to streamline the determination of baseline emissions and additionality, while improving environmental integrity. However, CDM Watch has serious concerns with the approach proposed by the UNFCCC secretariat, with regard to both its practicability and the consequences for the environmental integrity of the mechanism. Given the strong deficits in the proposed documents, CDM Watch encourages the Board that any further work on frameworks for standardized baselines should be undertaken in closer consultation with stakeholders and users of standardized baselines.

In the following, particular concerns with the proposed documents are discussed.

- CDM Watch supports that the requirements for projects using standardized baselines be clarified. However, we recommend that the PS, VVS and PCP are revised in the necessary parts and that not new standards are developed which need to be read in conjunction with other standards which may result in inconsistencies and lack of clarity. An amended PS and PCP would be easier to use than several separate standards.
- The proposed standards suggests that “prior consideration” shall not apply to projects that use standardized baselines. This provision would seriously undermine the environmental integrity of the mechanism:
 - Firstly, “prior consideration” is a key principle under the CDM to safeguard environmental integrity. If an investor took the decision to implement a project activity without considering at all the CDM, a project is clearly not driven by the CDM but would be implemented anyways. Removing this requirement could substantially increase the number of non-additional projects in the CDM.
 - Secondly, the question of whether the CDM was considered in the decision to proceed with a project activity is independent of the question which methodological approach is used to demonstrate additionality or determine baseline emissions. Under the current rules, projects using methodologies with a positive list also need to demonstrate “prior consideration”.
 - Thirdly, a standardized baseline can be used for the demonstration of additionality but is not necessarily used for this purpose. A standardized baseline can also be used for the determination of baseline emissions only. For example, grid emission factors can be submitted as standardized baselines. In this case, the project activities may still apply the normal additionality test as prescribed by the underlying methodology. The application of the proposed rule would imply that all renewable energy projects that use the grid emission factor as standardized baseline do not need to consider anymore “prior consideration”.
- The documents further implicitly assumes that, whenever a standardized baseline is used, any requirements with regard to additionality demonstration, the selection of the baseline scenario and the determination of baseline emissions are not necessary. The proposed standards and procedures basically remove or replace references to such requirements. This is very problematic for several reasons:

- For some project types, the standardized baseline may only be used for the determination of baseline emissions and/or the baseline scenario but not necessarily for additionality demonstration. The decision 3/CMP.6 allows but does not require the use of standardized baselines for additionality demonstration .
- Even if a standardized baseline is used for the determination of baseline emissions, some information with regard to the baseline determination may still be required. Standardized baselines are often emission factors or default values which alone do not yet provide provisions to calculate absolute baseline emissions. The standardized baseline emission factor or default value usually needs to be multiplied with an activity level. For example, where the grid emission factor is used as a standardized baseline, this section may need to include provisions to determine the baseline electricity consumption. In the case of a cement plant the standardized baseline emission factor may need to be multiplied with the cement production under the project activity to determine baseline emissions.
- Many methodologies and project types have several baseline emission sources, such as, electricity generation and methane avoidance. In such situations, a standardized baseline could be used for only one of the emission sources but does not necessarily need to be used for both emission sources. For this reason, requirements for the determination of the baseline scenario or the baseline emissions may still be required for some emission sources.
- CDM Watch is also concerned that many provisions proposed in the new standard are not clear, introduce inconsistencies with existing rules and would unnecessarily limit the options available to the project participants, as explained with the following examples:
 - It is not clear why the documents assume that specific applicability conditions for standardized baselines are required in all cases. In many cases, it may not be necessary to include specific applicability conditions (e.g. where the grid emission factor is used as a standardized baseline).
 - Para 11 of the new project standard: The standard proposes that for projects using standardized baselines, the term “methodology” shall be replaced with “methodological standard” in the project standard (paragraph 11). This proposition does not work, as many provisions in the project standard refer to the specific methodology being applied and not to “methodological standards” in general. Even if a standardized baseline is used, a specific methodology still needs to be applied in conjunction with the standardized baseline, for example, for determining project and leakage emissions.
 - Para 12 of the new project standard: The new text for paragraph 23 of the project standard suggests that project participants can select, when requesting the registration of a project activity, how the standardized baseline has been derived (from the guidelines or a methodology). However, once a standardized baseline is approved, this choice is not possible anymore. In addition, the text in paragraph 23 of the project standard also applies when using standardized baseline and should therefore not be replaced. The new provision could be misinterpreted in many ways, e.g. in the way that a project can be registered only with a standardized baseline but without applying a baseline and monitoring methodology.

- Para 13 of the new project standard: The same argument applies to the proposed replacement of paragraph 24(b) of the project standard: even when using a standardized baseline, project participants may still propose to submit a new methodology. The replacement of this provision with the existing provision would limit the choices of project developers in an unreasonable manner.
- Para 14 and 15 of the new project standard: As highlighted above, it can be necessary in some cases to determine the baseline scenario even if a standardized baseline is used. An example is the use of the grid emission factor as standardized baseline.
- Para 17 to 20 of the new project standard: As highlighted above, a standardized baseline can be used for the purpose of demonstrating additionality but must not be used for this purpose. The proposed provision does not consider this latter case but implicitly assumes that standardized baselines will always be used to establish additionality.
- Para 22 of the new project standard: As argued above, some baseline parameters may still be monitored when a standardized baseline is used. Paragraph 2 of Appendix 1 of the project standard provides flexibility to project developers to address data availability problems in monitoring while preserving environmental integrity. It is therefore recommended to maintain the paragraph in the project standard.
- The proposed revision to the guidelines for completing the proposed new baseline and monitoring methodology form appears inconsistent with the approach taken on standardized baselines in the decision 3/CMP.6 and in relevant procedures and guidelines adopted by the Board to date. The approach followed so far, as contained in the procedure for submission of standardized baselines, assumes that a standardized baseline is developed for a specific host country or a group of host countries and that the standardized baseline is either derived from the “Guidelines for the establishment of sector specific standardized baselines” or from an approved baseline and monitoring methodology. The document seems inconsistent with these existing procedures. The document assumes that a proposed new methodology is used in conjunction with a specific proposed or approved standardized baseline. This seems inconsistent with the approach that standardized baselines are derived from approved methodologies. How could a proposed new methodology be submitted in conjunction with a proposed or approved standardized baseline (page 20 of the proposed document) if the standardized baseline cannot yet be submitted as long as the methodology is not approved?

→ **CDM Watch recommends the Board:**

- ***To incorporate relevant elements in the PS, VVS and PCP rather than developing separate new standards.***
- ***To continue to apply the principle of “prior consideration” to all CDM project activities, whether or not they apply standardized baselines.***
- ***To use an approach where standardized baselines can partially substitute the baseline emission calculation and where they can but not must be used for additionality demonstration.***
- ***Find means to ensure a better consultation of important documents with experts on standardized baselines and stakeholders before they are presented to the Board.***

55. ► Action: The Board may wish to consider the draft guidelines for determination of baseline and additionality thresholds for standardized baselines using the performance-penetration approach and analysis of the implications of these options for the sectors covered, as contained in annex 11 to these annotations.

The proposed guidelines provide detailed guidance on how to determine stringency of standardized baselines. An initial assessment of the guidelines suggests that they are very complex and demanding for project developers, e.g. requiring a significant amount of data, while at the same time still not ensuring to preserve environmental integrity. The initial assessment suggests that the application of the guidelines could for many countries lead to a situation where the fuel switch from coal to gas or oil would become automatically additional. This result would be very questionable, given that in many situations a fuel switch is driven by changes in fuel prices. An automatic additionality for fuel switch projects could seriously undermine environmental integrity.

→ CDM Watch recommends the Board to launch a call for public inputs and road test the guidelines in at least five countries and sectors with the view to assess the practicability, transaction costs and environmental integrity. The guidelines should only be adopted after successful completion of road-testing.

ADDITIONALITY

58. ► Action: The Board may wish to consider the draft revised "Guidelines on additionality of first-of-its-kind project activities" and "Guidelines on common practice" as contained in annex 14 to these annotations.

Many stakeholders including project developers have raised concerns with the clarity and practicability of the approach adopted earlier by the Board. CDM Watch shares these concerns. The proposed revisions only partially address these concerns and some of the new concepts and definitions appear even less clear than the currently approved version of the guidelines.

- The new definition of key terms, such as “output”, “measure” and “technology” does not work well for a large number of project types.
- The use of the host country as geographical scale does also not make sense for a number of project types. For some project types a larger scale is more meaningful. The conditions under which a smaller geographical scale can be used are not very clear.
- The guidelines could lead to situations where projects, which use outdated or standard technologies and are clearly not additional, are declared as additional – just because they are by incident the first plant that is implemented within a limited geographical scale.

→ CDM Watch recommends the Board not to adopt the proposed draft but to launch a call for public inputs to provide comments on the guidelines and alternative proposals to address first-of-its-kind and common practice.

59. ► Action: The Board may wish to consider a concept note on three issues in the demonstration of additionality, as contained in annex 15 to these annotations.

Several studies have repeatedly shown that for many CDM projects the additionality is very questionable. Many CDM projects would also be implemented without the incentives from the CDM, thereby increasing global GHG emissions above the targets agreed under the Kyoto Protocol.

Despite several requests from the CMP to improve the environmental integrity of the CDM, the current rules still provide numerous loopholes for project developers to make a project appear additional in the PDD. A number of these loopholes

were identified in the note prepared by the secretariat for EB68. The note prepared for this meeting, discusses some of the worst loopholes. We believe that the following issues need to be addressed urgently and in a very timely manner:

- The current rules completely ignore whether CER revenues actually makes any real difference to the project developer. In some cases, projects are deemed additional, even if the CER revenues would make up less than 0.1% of the investment costs. It is obvious that in such cases it is very unlikely that such a small difference would make an investor use a completely different technology, in particular in the case of investments of billions of US\$.

In the discussion on options how to address this loophole it was argued that the consideration of CER revenues is legally not in line with the modalities and procedures for the CDM. However, the modalities and procedures only contain a relatively generic statement on additionality. Therefore the argument that specific tests for additionality, (such as the consideration of CER revenues) are not in line with the modalities and procedures does not seem valid. On the contrary, it could be argued that the current approach has a systematic flaw which contradicts the modalities and procedures and should be fixed as quickly as possible: The concept of additionality in the modalities and procedures is linked to the baseline scenario. The note prepared by the secretariat highlights that in a number of cases the current test is indeed not able to confirm that the project emissions are below the baseline if the baseline is the most attractive option with or without CER revenues.

Another argument brought forward is that it may be difficult to determine the CER revenues. While CDM Watch acknowledges that additional guidance and further work is required to determine the CER revenues in a robust and consistent way, these challenges appear relatively easy to fix, given that price information on CERs, including on future contracts and including on primary CERs, is publicly available.

- Input parameters in an investment analysis considerably influence the result of the investment analysis. The current rules are quite vague and leave project developers a lot of freedom in choosing their input parameters. For example, the concept note by the secretariat observes that for super-critical coal power projects the coal prices assumed in PDDs for the same country vary by more than 100 percent, due to the use of different coal price escalation factors. This shows how easy the life of project developers is when they need to show that their project is not economically attractive. CDM Watch observed that this problem is not only pertinent for fuel prices but also for many other input parameters. Apparently project developers also sometimes prepare a less favorable investment analysis for CDM purposes than is presented to the funders of the project.

We urge the Board to address these flaws in the system as a matter of priority.

→ **The Board should initiate work on a revision to the “Additionality tool” and “Combined tool”. This revision should address the issues identified by the secretariat in its note prepared for EB68 and should provide for an assessment of how the CER revenues influence the financial attractiveness of the project. Only projects for which CER revenues make a substantial difference should be regarded as additional.**

→ **The Board should initiate work on an amendment of the VVS, requesting DOEs, in case of projects that have debt funding (e.g. a loan from a bank), to ensure that the investment analysis presented in the PDD is consistent with the investment analysis presented to the entity providing the debt funding.**

→ **The Board should initiate work to amend the “Guidelines for the assessment of investment analysis” to provide clear and robust guidance how input parameters and fuel prices should be selected and to further improve the objectivity of the investment analysis, addressing the issues identified by the secretariat in its note prepared for EB68.**

NITRIC ACID PROJECTS (AM0028, AM0034, AM0051, ACM0019)

61. ► Action: The Board may wish to consider withdrawing:

- (b) The approved methodology AM0034 "Catalytic reduction of N₂O inside the ammonia burner of nitric acid plants";
- (c) The approved methodology AM0051 "Secondary catalytic N₂O destruction in nitric acid plants".

63. ► Action: The Board may wish to approve the revision/amendment to the following approved methodologies and tools:

- (b) AM0028 "Catalytic N₂O destruction in the tail gas of Nitric Acid or Caprolactam Production Plants" and AM0034 "Catalytic reduction of N₂O inside the ammonia burner of nitric acid plants".
- (p) ACM0019 "N₂O abatement from nitric acid production"

The Meth Panel prepared an information note, (57th meeting, annex 5) on N₂O abatement from nitric acid production. Their research confirmed our previously voiced concerns that the current methodologies (AM0028, AM0034 and AM0051) provide a disincentive to use better performing primary catalysts. The use of less efficient primary catalysts can lead to inflated baselines which may result in the issuance of too many CERs for such projects.

For ACM0019, the Meth Panel recommends introducing the following default emission factors starting with the values of 4.4, 5.9 and 8.2 kgN₂O/tHNO₃ for low, medium and high pressure ammonia burners and decreasing every year by 0.2 to take into account the technological development in the sector. The suggested factors would remove the perverse incentives and also reduce project transaction costs because a baseline campaign is no longer necessary when the type of primary gauze catalyst is changed.

→ The Board should follow the recommendations of the Meth Panel, to revise the approved methodology AM0028 to limit its applicability to caprolactam plants, to withdraw approved methodologies AM0034 and AM0051 and to revise the methodology ACM0019 to introduce default emission factors for existing plants.

Note on the 2010 study by the Stockholm Environment Institute (SEI) on Nitric Acid CDM projects.¹ Project proponents have repeatedly quoted the SEI study to make the argument that there is no evidence that the current N₂O methodologies pose perverse incentives that could lead to inflated baselines. As a co-author of the study, I would like to point out that the study is outdated in this respect. At the time of writing the study we did not have the evidence that is provided in the note by the Meth Panel. Our study therefore does not provide any evidence that the Meth Panel's conclusions are invalid.

ACM13

63. ► Action: The Board may wish to approve the revision/amendment to the following approved methodologies and tools:

The Meth Panel has provided another revision of ACM0013. As described in the information note (Annex 21), the Meth Panel considered three elements of the methodology as requested by the EB. Our concerns raised before the last Board meeting still hold true: The revised methodology does not fully address the concerns that have initially led to the suspension of the methodology. Particularly, the revised methodology falls short to:

¹ See: <http://sei-us.org/publications/id/354>

- Address the low signal-to-noise ratio of efficiency improvements in coal fired power plant;
- Limit the unintended outcomes contrary to the objectives of the CDM, notably by putting advanced pollution control devices at a disadvantage;
- Overcome the challenge of obtaining required and verifiable data;
- Avoid perverse incentives that may be caused by the new standardized baseline scenario;
- Avoid an underestimation of baseline emission rate;
- Uphold the environmental integrity of the additionality assessment;
- Address the shortcomings of the common practice test in the context of coal fired power plants.

See Annex 1 for details on each of the listed issues.

The new revisions for ACM0013 are actually weaker than the ones proposed at the last Board meeting, for example:

- **Fuel price forecasts.** The revised language allows PPs to forecast fuel prices “[...] or any other third party sources that can be validated by the DOE”. In other words, the revision enables the use of information chosen and/or developed by the PP. This could introduce bias and gaming. The use of “or” as the conjunction could also allow the PP and DOE to ignore international and national sources that might be viewed as more reputable.
- **Inclusion of projects requesting registration/under validation in determining the baseline technology.** The 5% “exception” or penetration rate threshold is too lenient and would allow potentially many coal power plants to be considered first of its kind.
- The current version **does not restrict the methodology to projects.** This means it could applied to PoAs.

Along with these technical issues, the broader issues remain: Using CDM finance for large, new and long-lived coal plants directly undermines the 2°C objective. Coal plants are the highest-emitting electricity resource. Using much-needed climate finance to support construction of these plants (even if it leads to slight increases in the efficiency of some coal plants) undermines the overall objective of limiting dangerous climate change.

➔ **CDM Watch urges the Board to reject the proposed methodology revisions for ACM0013.**

SUSTAINABLE DEVELOPMENT

75. ► Action: The Board may wish to consider the draft voluntary tool for highlighting the sustainable development co-benefits of CDM project activities and PoAs (<https://www.research.net/s/SD_tool_vers6>), and information on the draft tool and a summary of the stakeholder inputs, as contained in annex 21 to these annotations.

In past submissions, CDM Watch has highlighted the need for monitoring, reporting, and verification of compliance with CDM rules and procedures, in particular, as they relate to the contribution of CDM projects to sustainable development. Experience has shown that the lack of monitoring, reporting, and verification of claimed sustainability benefits has led to the registration of CDM projects that have no contribution to sustainable development and sometimes even negative impacts. Monitoring, reporting, and verification of the environmental, social, and economic impacts of CDM activities at the international level is essential to protect the rights and interests of project-affected peoples and communities, as well as to uphold the CDM’s stated purpose of achieving sustainable development. We welcome the proposed SD tool, which facilitates reporting, as a step in the right direction. However, the absence of monitoring and verification, the voluntary nature of the tool, and the fact that only project participants and coordinating/managing entities (CMEs) are able to use the tool undermine the legitimacy of the SD tool and limit its utility as a reporting tool. Furthermore, the SD tool does not request sufficient level of detail to enable effective evaluation of whether a project participant or CME complied with “do no harm” safeguard principles or whether stakeholders had opportunities for meaningful engagement in the consultation process.

The following key concerns about the proposed SD tool, manual, and report remain to be addressed:

- **Access To Tool:** All stakeholders must be able to participate in the application of the SD tool.
- **No Harm Safeguards:** The declaration should state obligations in positive terms and reflect the full scope of human rights obligations.
- **Stakeholder Involvement:** The stakeholder involvement declaration lacks detail and does not encourage adequate consultation.
- **Conformity With Applicable Laws And Regulations:** This information is not helpful without an assurance that the project participant or CME is aware of what the applicable laws and regulations are.

For more information, see the submission by CDM Watch, CIEL, and Earthjustice which is available at http://cdm.unfccc.int/public_inputs/2012/eb69_04/cfi/BVQ29MDWINH1SGH70A3XBLP6IR6A95.

IMPROVING LOCAL AND GLOBAL STAKEHOLDER CONSULTATIONS

76. ► **Action:** The Board may wish to consider a concept note on improving the stakeholder consultation process, as contained in annex 22 to these annotations.

CDM Watch has long been raising the issue that CDM stakeholder consultations are too often carried out insufficiently. We are therefore welcoming the efforts of the Board to improve and clarify the rules and guidance for both the local and the global stakeholder consultation.

Robust stakeholder consultation standards are required under existing international obligations e.g. Rio Declaration, Agenda 21. The UNFCCC provides that Parties must promote and facilitate »public participation in addressing climate change and its effects and developing adequate responses«. In addition, the right to consultation with indigenous and tribal peoples and local communities before adopting measures that may affect them is well-established under international law (UNDRIP, ILO Convention 169).

Emphasizing higher costs that may occur for PPs is ill advised. Enhanced consultation processes include tangible benefits for all CDM stakeholders. Such improvements help, for example, to standardize, streamline and improve the CDM process and thus can create greater efficiencies.

LOCAL STAKEHOLDER CONSULTATION

We strongly support the suggestions in the concept note on improving LSC elaborated in table 1. Some of them need to be further clarified and defined, e.g. how PPs have to substantiate the choice of stakeholders. It is important that stakeholders are given an option to voice their concerns if they consider that their comments were not taken into account. We therefore welcome the suggested "grievance mechanism."

GLOBAL STAKEHOLDER CONSULTATIONS

We strongly support:

- The suggestion in para 32 to elaborate on existing requirement to provide guidance to DOEs on treatment of the comments received.
- Extending the commenting period for submission of global stakeholder comments to 45 or 60 days (Option 2 or 3).
- Expanding the types of documents that are required to be published for GSC including, inter alia, the report of the feedback round of LSC, summary of the EIA report, complete information on how additionality was demonstrated.
- Requiring that the PDD be submitted in the prevailing local language in addition to English (Option 1)

- Improving the GSC web pages, including, inter alia, better definition of the time zone where the commenting period ends, adding sign up option so people are notified when the GSC starts for projects of a certain type or region.
- Allowing comments to be submitted in local languages used in the location of the project.
- Providing clarity to DOEs on which comments to take on board and which not and ensuring that DOEs consider all comments and provide reasoning in their consideration.

Although we support the notion that only comments that are pertinent to the project under validation should be submitted, **we strongly oppose:**

- the suggestion that a warning be included on the webpage where the PDD is uploaded to inform stakeholders who submit defamatory or vexatious comments that legal actions could be initiated against them by the DOE or the PPs.
- a registration requirements for comment submitters, which would include mandatory fields for full name and contact details. Although we support more transparency, requiring that comment submitters reveal their identity is problematic. Especially in countries where people have to fear repercussions for speaking up.

CONCERNS WITH REGARD TO THE LENGTH OF TIME BETWEEN THE CONDUCT OF CONSULTATIONS AND REGISTRATION OF THE CDM PROJECT

We welcome the suggestion to address this issue. We recommend the following:

- ➔ **If significant changes are made to the project design after the stakeholder consultations have been conducted or if the project seeks registration more than two years after the stakeholder consultations have been conducted, both the LSC and the GSC should be repeated. The DOE should receive guidance on how to examine if a project design change is to be considered “significant.”**

STAKEHOLDER CONCERNS RAISED AFTER THE GSC OR REGISTRATION OF THE CDM PROJECT

We welcome the introduction of a process for stakeholders to raise concerns after a project has been registered. A well designed and implemented accountability process would decrease risks for all stakeholders including PPs. Introducing such means of accountability is critical to the success of stakeholder consultations and should absolutely be included in the final concept note.

We prefer a procedure as outlined in option 1 over option 2. As pointed out in para 42, option 1 allows the DOE “to make a professional judgement in its role as operational arm of the Board. Where the issue is related to CDM requirements, it would also provide an opportunity to the PPs to take corrective actions and restore the compliance with the CDM requirements.”

We welcome the suggestions in para 40 on opening a commenting period at the stage of publication of the monitoring report prior to issuance requests. The note states in para 41: *The Board may also wish to consider whether to introduce a procedure where it informs the relevant DNA(s) that it will withhold the issuance of CERs for a limited period of time (X days) pending the DNA(s) response(s). If no response(s) is/are received within that time frame the Board would proceed with the issuance of the CERs.*

We do not think that such a procedure is sufficient:

- ➔ **If the DOE verifies comments from stakeholders on any negative impacts that may have been triggered by the implementation of the CDM project activity, then the Board should have to possibility to decide to withhold the issuance of CERs until such issues are resolved. A delay in issuance as suggested in the above paragraph would not be sufficient. This is especially important if the raised issues are particularly severe, for example, allegations of human right abuses.**

CONCLUSIONS ON SC

It is essential to develop clear rules on how to conduct local consultations and establish clear guidelines to enable an independent entity to effectively assess the consultations. Many of the improvements can be accomplished within the existing mandate, as an elaboration or interpretation of the existing rules.

- **The Board should act swiftly and decisively to implement the proposed changes.**
- **The Board should clarify what the repercussions for a PP are when he is not in compliance with SC requirements. Clarifying and elaborating on the SC requirements must therefore include how non-conformity is identified and resolved. In case the PP remains non-compliant, projects should not receive a positive validation and should not be registered. If valid concerns are raised after project registration (e.g. human rights abuses) such projects should be suspended and not be issued any further CER.**

HFC-23

77. ► Action: The Board may wish to consider the policy and technical issues that arise from the discussions on the submission made by the DOE Forum at the sixty-eighth meeting of the Board on the clarification AM_CLA_0191 on the approved methodology AM0001.

At EB68, the DOE forum presented several issues with regard to the request for clarification AM_CLA_0191:

- The request for clarification was submitted for version 5 of the methodology. The DOE forum raised the question whether the request and response is also applicable to earlier versions of the methodology. Versions 2 to 5 of the methodology contain very similar provisions for the establishment of the waste generation rate w . A clarification by the CDM Executive Board only provides information how a methodology should be interpreted with the intention “to alleviate confusion relating to the application of requirements in a standard or procedure” (CDM EB Decision and Document Framework). It can therefore be argued that the same provisions contained in different versions of a methodology should be interpreted in the same way. It would not make sense to interpret the same provision in another way for a different version of the methodology. If a DOE would submit an identical request for clarification for versions 2, 3 or 4 of the methodology, this request would logically be clarified in the same way as CLA0191 – otherwise the decision would be inconsistent and arbitrary.
- The DOE forum states that the HCFC-22 plant is not part of the project boundary. However, validation and verification functions are clearly not limited to the project boundary. For example, as part of the emission reduction calculation, all DOEs regularly check the quantity of HCFC-22 produced even if the HCFC-22 production plant is not included in the project boundary. Similarly, in many other methodologies, DOEs verify information that is outside the project boundary (e.g. leakage emission sources). DOEs auditing functions are not limited to the project boundary. It is therefore clearly within the required competences of a DOE to audit project relevant information.
- The DOE forum also raises the issue that the waste generation rate “ w ” only needs to be assessed ex-ante during validation and not ex-post as part of verifications. This seems appropriate. However, w is defined as the waste generation rate “for the originating plant”. If the originating plant is changed during the crediting period, then a request for change of the project activity must be submitted to the CDM Executive Board.

ANNEX 1

Comments to the Methodology Revisions of ACM0013:

Prevailing concerns in the revised ACM13 “consolidated baseline and monitoring methodology for new grid connected fossil fuel fired power plants using a less GHG intensive technology”:

Low signal-to-noise ratio: The proposed revision does not require a quantification of the uncertainty of the measurements and/or calculations underlying either the baseline or project efficiency or require that the proposed project demonstrate that the claimed improvement is greater than this uncertainty. Under the proposed methodology, the project can qualify if it demonstrates any amount of improvement. The site-specific factors (noise) can have as great an impact on unit efficiency as the choice of boiler technology (signal), but are not fully accounted for. The feasibility study approach, suggested in the new methodology, only addresses the signal-to-noise issues related to differences in site conditions, and only with respect to approach 1. Furthermore, poor quality and availability of historical power plant performance data creates potential bias and added uncertainty, and further decreases signal-to-noise ratio. Given that in some cases, where difference in baseline vs. project emission rates could lie within the error bars of emissions estimation uncertainties, an uncertainty discounting or other remedy may still be called for.

Unintended outcomes contrary to the objectives of the CDM: Suggested approach 2 continues to disadvantage units that have advanced pollution control devices. One should not be able to claim that a unit is “more efficient” than its peers because it does not have flue gas desulfurization, selective catalytic reduction, or other modern pollution control devices. Even under the second revision, the Approach/Option 2 baselines may still have the effect of penalizing plants with emissions controls (where such controls are not present in the peer group used to determine the baseline).

The challenge of obtaining required, verifiable data: The detailed design work, operating characteristics, and contract terms are ordinarily considered confidential business information that would not be provided to third parties, especially for “baseline” projects that have not sought CDM support. Since different engineers make different underlying assumptions in developing design figures, merely comparing published efficiency claims (which may reflect contract guarantees rather than actual anticipated performance) is not likely to be sufficient. Detailed cost breakdowns for existing and recently constructed plants are not available in the public literature and may not be available even to a proposed project sponsor. The draft methodology attempts to address this issue by requiring the submission and use of the investment analysis that was actually used by a project sponsor.² This effort is directionally correct, but is virtually impossible to enforce, especially as it relates to a baseline project that the project proponent (or the vendor) may have little or no real interest in.³ The challenge to obtain data holds especially for the new, conservative baseline representing an 80th percentile “planned” unit test.

New standardized baseline scenario may cause perverse incentive: While the flawed methodology contained consistency and bias in Approach/Option 1 (most likely technology) baselines to lead to underestimation of baseline plant efficiency, a new, standardized baseline scenario procedure aims to establish a minimum baseline efficiency at the 80% percentile of plants under construction. However, this may create a perverse incentive whereby the same plant built later might accrue more CERs, as the result of the excluding registered projects from the determination of the 80th percentile. The subsequent example shows this: If a new higher-efficiency technology is proposed by a number of new project proponents, that all apply for registration they could cumulatively constitute 25% of the generation capacity under construction, as used to determine the 80th percentile baseline technology. This new technology would then constitute the baseline, even though none of the

² Draft revision, line 161

³ Under generally-accepted principles of contract law, a purchaser would be liable for the costs of developing a bid for a project that it was not seriously considering.

projects were yet built. None would be credited, even though all might be counting on CDM support. Imagine, instead, that they constitute 15% of the generation capacity. Then, the first registered projects would receive CERs/MWh representing roughly the top 5th percentile efficiency of other plant technologies under construction. Assuming all of the plants are registered, then the last of these new plants would receive credits/MWh representing roughly the top 20th percentile efficiency of other technologies, likely to be a far more generous baseline than the first plants. Thus the late adopters would receive more CERs than the early movers.

Use of outdated historical data in the Approach 2 baseline leads to underestimation of baseline emission rate: The revision provides two options (A and B) for estimating efficiency improvements, along with recalculation of Approach 2 at the first renewal of crediting period. This approach appears to be carefully constructed and a reasonably conservative remedy to the data vintage issue. However, the ability for proponents to opt for a lower 0.2% increase if no significant time trend can be found with respect to efficiency (option A), leaves the method open to potential gaming in situations where data quality is poor.

Limitations in the investment and sensitivity analyses compromise additionality assessment: While the draft revision provides increased specificity on the factors to include in the analysis, and points to feasibility studies as a key data source, it is difficult to see a) how this resolves the potential for bias in assumptions, or b) how DOE's will be equipped to provide appropriate levels of technical scrutiny of specific assumptions.

Common practice test is not effective in coal plant context: This revision will improve the accounting for common practice, in particular by including projects that are applying for registration. However, the exclusion of registered projects raises a possible perversity (see above), and may not be appropriate in this situation.

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