



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 72st meeting of the CDM Executive Board and its annexes"

23 February 2012

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

CDM Watch would like to thank the CDM Executive Board for the opportunity to comment on the annotated agenda of the 72th meeting of the CDM Executive Board. Please find our comments on the following pages.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "A. Kollmuss", is written over a light blue circular stamp.

Anja Kollmuss



RECOMMENDATIONS TO CHANGES TO THE CDM MODALITIES AND PROCEDURES

4. Action: The Board may wish to consider the report on the UNFCCC secretariat’s experience in implementing the CDM and a summary compilation of stakeholder inputs regarding possible changes to the CDM modalities and procedures (open from 17 December 2012 to 23 January 2013), as contained in annexes 1 and 2 respectively to these annotations, and, together with the ideas generated by the Board at its last meeting, prepare recommendations to the Subsidiary Body for Implementation (SBI) at its thirty-eighth session on possible changes to the CDM modalities and procedures.

INTRODUCTION

At CMP-8, Parties confirmed the decision to review the modalities and procedures of the CDM (CDM M&P). Such changes may be considered at SBI-38 and adopted at CMP-9. At its upcoming 71th meeting the CDM Executive Board will discuss its recommendations to the CMP.

Carbon Market Watch was unable to make at submission at the CDM Executive Board’s recent call for inputs had issued. We therefore take the opportunity in this letter to outline the most important changes we would like to see implemented in the review of the CDM M&P. Carbon Market Watch urges the CDM Executive Board to develop recommendations that strengthen the social and environmental integrity of the CDM and to include, as a matter of priority, recommendation for reform on the following issues:

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1. FUNDAMENTALLY REFORM ADDITIONALITY REQUIREMENTS

The demonstration of additionality, the proof that projects are only viable because they receive CDM support, has long been criticised as ineffective. Several scientific studies confirm that a large number of CDM projects are likely not additional – they would be implemented even without the incentives from the CDM. Carbon credits from such free-rider projects do not represent real emissions reductions and lead to an increase in global greenhouse gas emissions.

Research¹ recently released under the CDM Policy Dialogue confirms that large-scale power supply and methane projects are unlikely to be additional. If such projects remain eligible in the CDM, they could increase cumulative global GHG emissions by up to 3.6 Giga tonnes CO₂e through 2020. Non-additional credits also undermine the economic effectiveness of the CDM by artificially increasing the supply of credits that do not represent actual emission reductions. This is especially relevant, since the CDM is projected to be significantly oversupplied until 2020. Reducing the large number of non-additional projects therefore not only strengthens the CDM's environmental integrity, it is also a vital step in ensuring the continuation of the mechanism. A transition away from large-scale power supply CDM projects and other project types with low probability of additionality would address the over-supply CDM credits, enable projects that truly depend on the CDM, and improve the overall integrity and mitigation impact of the CDM.

RECOMMENDATIONS:

1. **Strengthen and elaborate on the criteria of assessment of additionality and require, inter alia, to consider the impact of CER revenues on the economic attractiveness of a proposed CDM project activity and to define appropriate thresholds that determine whether a project is deemed additional.**
2. **Limit CDM project types to the ones that have a high likelihood of being additional and exclude those project types with low likelihood of additionality (e.g large greenfield infrastructure projects).**
3. **Exclude project types where baselines and additionality are intrinsically difficult to determine (e.g. because of signal-to noise ration issues).**

2. CHANGE LENGTH OF CREDITING PERIODS

The current crediting periods (10 years or three times 7 years) are in many cases not appropriate because:

- Lifetimes of many technologies are shorter than these crediting periods
- In many cases the CDM only advances an investment which would be carried out at a later stage anyhow. Such CDM projects should only receive credits for the number of years the projects implementation has been advanced.

RECOMMENDATIONS:

The length of the crediting period should be set in a conservative way as to avoid issuance of credits from projects that can no longer be considered additional. Therefore, length of the crediting period should be defined individually in a methodology and take into account, inter alia, the rate of innovation and change in the relevant sectors as well as larger market and socio-economic developments that impact.

¹ Assessing the Impact of the CDM. Report Commissioned By The High-Level Panel On The CDM Policy Dialogue. July 2012.
http://www.cdmpolicydialogue.org/research/1030_impact.pdf

3. REQUIRE THAT NO CDM PROJECTS CAN VIOLATE HUMAN RIGHTS

In 2011, the CDM Executive Board registered two projects despite evidence of human rights abuses in both cases. The CDM Executive Board argued that it has no mandate to address the issue of human rights and that the responsibility for ensuring sustainable development lies with the host country.

However, numerous international human rights instruments are relevant to the CDM Executive Board. For example, the United Nations Charter, which is applicable to all UN bodies, imposes rights obligations on the CDM Executive Board (for example, Articles 1(3) and 55(c) call for international cooperation on economic and social issues and respect for human rights). More specifically, with respect to climate change, the UNFCCC Conference of the Parties decided that *“Parties should in all climate change related actions fully respect human rights”* (Decision 1/CP.16 paragraph 8).

RECOMMENDATIONS:

The CDM M&P should clarify that international law, including the UN Charter fundamentally requires the CDM Executive Board to set up relevant human rights standards and impose them on investors to ensure that CDM projects uphold human rights. Such clarification should ensure that, inter alia:

1. **All project activities registered, or seeking registration, under the CDM must be undertaken in a manner that respect human rights;**
2. **Project activities are suspended if they are found to not meet human rights obligations and standards, shall be suspended until the relevant concerns have been fully addressed;**
3. **Designated National Authorities have the authority to withdraw letters of approval in the event that CDM projects that do not meet sustainable development criteria (at any stage of the project cycle), or violate applicable environmental, health, labor and human rights standards, laws and policies;**
4. **The CDM Executive Board establishes a grievance procedure to consider and address concerns raised by or on behalf of individuals or communities who may be adversely impacted by CDM projects.**

4. IMPROVE THE CDM’S CONTRIBUTION TO SUSTAINABLE DEVELOPMENT

The CDM has two main objectives – achieving cost-effective emission reductions and achieving sustainable development in the host countries. Carbon Market Watch and other NGOs have 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.

RECOMMENDATIONS:

To improve the CDM’s contribution to sustainable development the revised CDM M&P should:

- **define minimum global standards on sustainability and “no harm” requirements that each CDM project has to meet;**

- **include requirements for monitoring, reporting, and verification of sustainability benefits during the whole project cycle;**
- **establish a procedures for a grievance procedure be applicable when sustainable development co-benefit indicators are not realised as described in the PDD during the lifecycle of a CDM project.**
- **exclude project types that support technologies or practices with high GHG emissions and that are associated with other high environmental and social costs (e.g. coal power projects).**

5. STRENGTHENED CIVIL SOCIETY PARTICIPATION IN THE CDM PROCESS

Although stakeholder consultation is a key requirement in the CDM registration process, project developers and Designated Operational Entities (DOEs) lack clear criteria or guidance on how to conduct and validate stakeholder consultations. In many cases, civil society (“global stakeholders”) and peoples and communities that are directly affected by CDM projects (“local stakeholders”) are not adequately informed about CDM projects and their potential on-the-ground impacts. In addition to shortcomings in the notice and comment processes, there is no means for civil society to raise concerns once a project is registered even if adverse impacts occur during project implementation. As more than 5.000 CDM projects are currently registered and will be operational for many years to come, the current procedure of stakeholder involvement in the CDM needs to be reassessed and improved.

RECOMMENDATIONS:

To strengthened civil society participation in the CDM process the revised CDM M&P should:

- **Strengthen and clarify the requirements for stakeholder involvement.**
- **Establish a grievance mechanism to address the social and environmental impacts of CDM projects. Such a mechanism would help to ensure that CDM projects do no harm and build the public’s confidence in the integrity of CDM project activities.**

6. DOE, ACCREDITATION

DOEs are currently chosen and paid by a project’s developer. This can put pressure on auditors to approve projects and work quickly in order to preserve their business relationships with the developers. This compromises the auditors’ independence and neutrality.

According to Decision 3/CMP.1 (Marrakech Accords – Modalities and Procedures for a CDM) a DOE shall acquire and transfer CERs for cancellation if a review reveals that “significant” deficiencies in validation, verification and certification reports issue by that DOE resulted in excess CERs, thus endangering the integrity of the CDM. Although a draft procedure (annex 28 to report EB-69) was submitted for adoption at CMP8, CMP8 deferred the issue to be dealt with as part of the CDM M&P review.

RECOMMENDATIONS:

To develop rules and procedures under which DOEs are assigned and paid by a UNFCCC body and where CDM project developers pay validation and verification fees to that body.

To established rules for dealing with significant deficiencies in validation, verification and certification reports are that preserve the integrity of the CDM and ensure that excess CER issuance due to such deficiencies are compensated.

7. IMPROVE THE CONSTITUTION AND CONDUCT OF THE CDM EXECUTIVE BOARD

In 2012, the CDM Policy Dialogue identified the following issues pertaining to the CDM Executive Board:

- failure to implement criteria (other than maintaining regional balance) for the nomination of members;
- lack of transparent processes by which members are nominated by their regional groupings; and
- absence of an explicit code of conduct that does not rely on each individual member to determine what should be reported and whether he or she is in a position of conflict of interest.

Carbon Market Watch emphasizes the importance of professional, transparent, accountable and independent governance for the CDM. The composition of the Board directly impacts how CDM rules are developed and implemented. Decisions in the past indicate that the two primary goals of the CDM (real, additional and verifiable emission reductions and sustainability benefits) are not always sufficiently considered. This can undermine the success of the CDM.

RECOMMENDATIONS:

To improve the constitution and conduct of the CDM Executive Board the revised CDM M&P should:

- **Require that the CDM Executive Board implement robust codes of conduct for all members of the CDM governance structure, including the CDM Executive Board, working groups or teams assisting the Board, and members of the UNFCCC Secretariat. These codes of conduct must include means for objectively assessing and addressing conflicts of interest.**
- **Prohibit nominations from representatives with vested interest in the CDM in order to prevent potential conflicts of interests. CDM Executive Board members should not be allowed to work for a Designated National Authority (DNA), a Designated Operational Entity (DOE) or for a public or private institution that develops CDM projects or purchases or trades CERs.**
- **Ensure that quota rules on composition of the Board are established that ensure that members from environmental and academic organisations are represented.**
- **Establish term limits so that board members are limited to serve a maximum of two terms of two or three years each.**