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Date 15 October 2011
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Subject **Call for public input on "Issues included in the annotated agenda of the sixty-fourth meeting of the CDM Executive Board and its annexes"**

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

The PD Forum would like to thank the Board for the opportunity to comment on the annotated agenda to the 64th meeting of the CDM EB. Our comments are listed below and, as always, if you need any further detail or feedback from us, we would be very happy to oblige.

Para 3/ Annex 1: Draft outline plan of the policy dialogue on the Clean Development Mechanism

The PD Forum welcomes the launch of this policy dialogue to review past experience of the CDM and to consider the future of the CDM. We look forward to the launch of the Call for Inputs on the topics to be covered by the dialogue. We would also welcome the opportunity to be actively engaged in this process going forward and be represented on the proposed high level panel that will be taking this forward.

Para 9/ Annex 3: Compliance with Indicative Timelines

The indicative timelines reported in Annex 3 does not include a description of the timelines for the completeness checks. The delays during the completeness checks continue to exceed the limit set by the CMP, in particular the period prior to the scheduling of the commencement of completeness checks. Since the registration is being backdated (i.e. since April), the average project registration date has been backdated by 80 days, while the absolute limit should be 73 days (15 days prior to the commencement of the completeness check + 7 days completeness check + 23 days I&R check + 28 days requesting registration). In addition, the numbers of projects starting the completeness check has dropped significantly in the last 6 weeks, while the number of projects requesting registration has significantly increased.

Para 13/ Annex 5: Proposed implementation plan for standards for programme of activities

Although the PoA standards have been adopted, we understand that they are not effective until their consolidation at EB65. In para 9 of annex 5, the Meth Panel is mandated to review the use of large scale methodologies under PoAs. It is unclear what aspects of large scale methodologies would be looked at here especially as there are so many different types of large scale methodologies. The PPs and DOEs are best placed to see what methodology would work "on-the-ground" under a PoA and which would not. For instance in some projects, the preference of project proponents would be a small scale methodology but because biomass availability in the region is different and varies for each CPA, it would be impossible to use a small scale methodology. Therefore a large scale biomass methodology would be used. Many

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DOEs stipulate that there would be site visits for each CPA in the case of the use of large scale methodologies so arguably these are more stringent.

Para 14/ Annex 6: Proposed implementation plan for the Clean Development Mechanism PS, VVS and PCP

It is deeply disappointing that there is no time allocated for stakeholders to provide comments on the PS, VVS and PCP final versions, as well as the removal of 40 documents, and changes to 22 other documents. Significant improvements are required to the early drafts of the new documents which were open for comments for only a very short time in August & September and which required significant revisions. Given the impact that the changes will have, we suggest that stakeholders be engaged in a reasonable time to collect comments on the improved drafts. We recommend that the Secretariat also engage in an impact analysis to understand, in advance of approval and setting the date that the new documents will become effective, the impacts that the new standards will have on the registration pipeline in view of the externally created deadline for registration before 31/12/2012.

Para 19/ Annex 10: Draft procedure for addressing Significant Deficiencies in past Validation, Verification or Certification reports

The PD Forum has provided substantial input on this issue, both during the workshop in Bonn and through the Call for Inputs on the annotated agenda of EB63 (<http://www.pd-forum.net/files/ceb96a74eced1bb682d986461f92e8e6.pdf>). We are disappointed to see that little or none of our input has been considered in this draft. Therefore, we will highlight our key concerns again here:

- The PD Forum understands and accepts the desire to have a mechanism in place to correct errors in the number of offsets issued thereby protecting the environmental integrity of the mechanism. However, we also believe that it is not possible to "make the system whole" and replace every CER that has been issued incorrectly with a corresponding emission reduction. Therefore we urge the EB to take a pragmatic approach to ensure that environmental integrity is not questioned and that the procedure adopted does not lead to disproportionate risks for DOEs and PPs that could have a severe impact on the functioning of the mechanism as a whole.
- We urge the Board to recognise also the potentially disproportionate impact that this could have on small scale projects in under-developed regions and particularly LDCs. With some DOEs leaving the market and those remaining charging higher fees, transaction costs for developing CDM projects will increase significantly. This will have a disproportionate impact on small and microscale projects thereby negating all the other work the EB has done in recent months to promote CDM in under-developed regions.
- Para 2a: We welcome the definition of what the Secretariat understands by the term 'significant deficiency' though suggest that a simpler definition would be "fraud or gross negligence". However, we would like to voice several concerns with the definition given in the draft document. Firstly, given historic precedent, it can still be interpreted by the Board that "a negative validation opinion would have been given" on the basis of very minor (immaterial) issues. Until this is addressed, the definition can be manipulated. We also strongly object to the possibility that deficiencies in the Local Stakeholder Consultation, the Host Party Approval and the Environmental Impact Analysis could lead to a significant deficiency. In our view, a significant deficiency should be based on additionality assessment and methodology application only.
- Para 2b: We believe that the definition of significant deficiency is not practical or workable. First, the threshold for the excess amount must be an integrated part of the definition and not in a sub-paragraph, e.g. rounding should never be a significant deficiency. Secondly, the footnote basically requires a verifying DOE to do a full revalidation for each verification.
- Para 8f: We urge the EB to limit this to stakeholders directly involved in a project, specifically, DOEs, Parties and the EB. Other stakeholders who wish to raise an issue should do so

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through the host or non-host DNAs or by writing to the Board in the usual manner. Otherwise this will open the door to 'spam' accusations (as recently seen in the GSP process) that will lead to increased work load for the secretariat and further delays in other processes.

- Para 35: We consider it unacceptable that the final decision lies with the Executive Board. The PD Forum suggests that a new Panel is formed to consider review cases including staff and experts from the Secretariat, the EB, DOEs, PPs and independent experts. In addition, a clear appeals process must be established to allow DOEs/PPs to make representations if significant deficiencies are established and a penalty applied.
- Para 37d: The PD Forum proposes that the EB limit its imposition of liability to DOEs on the basis that it has a contract with DOEs and it has a very high chance of successfully recovering damages. The EB does not have a strong legal basis from which to challenge PPs and if they did, there may be difficulties in enforcing a ruling. However, PPs do have a relationship with host and non-host DNAs who can raise a range of sanctions including objecting to a request for issuance, withdrawing the letter approving the participation of the PP and ultimately, in some DNAs, criminal liability for fraudulent statements. PD Forum suggests that the EB engage further with DNAs to strengthen their ability to control fraudulent behaviour amongst PPs.

Para 25 of the annotated agenda: We would like to point out that more submissions were sent to the EB prior to the publication of the annotated agenda, which should be on the agenda and we do not see in the list. In particular, we would like to draw the Board's attention to our submission on the common practice analysis guidelines (<http://www.pd-forum.net/files/e95c72a1d33c6d9f3e2a709b981493cd.pdf>) adopted at EB63 which shows that they are incompatible with the additionality tool, and our comments on the first-of-its-kind guidelines (<http://www.pd-forum.net/files/0df484bb08d726574500f3aee487c9ad.pdf>) which shows they may be too restrictive.

With best wishes,



Rachel Child
Co Vice-Chair of the PD Forum