

Head and Members of the CDM Executive Board
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To cdm-info@unfccc.int
From martin.enderlin@pd-forum.net
Date 27August 2010
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Subject **EB 55 decisions on E+/E- policy guidance and Chinese Tariffs for Renewable Energy Projects**

CHAIRMAN

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

The Project Developer Forum (PD Forum) would like to express disappointment on the decision made in EB 55 not to consolidate guidance on the consideration of the treatment of national and sectoral policies in the demonstration and assessment of additionality; instead agreeing that the possible impact of national and sectoral policies in the demonstration and assessment of additionality shall be assessed on a case by case basis.

The PD Forum believes that this decision goes explicitly against the decisions taken in Copenhagen last year, where the Executive Board were instructed to "*consolidate, clarify and revise, as appropriate, its guidance on the treatment of national policies*" (paragraph 12) as well as "*to significantly improve transparency, consistency and impartiality in its work*" (paragraph 7).¹

This decision has implications for all CDM projects in all non-Annex 1 countries and will therefore lead to increased uncertainty in a marketplace already facing significant obstacles. Ultimately, it is likely to result in a further lack of investment in and development of potential CDM projects.

It is important to keep in mind that having some clear vision on the treatment of national and sectoral policies will be essential for CDM to remain relevant in a post-2012 world within the context of emerging Nationally Appropriate Mitigation Actions (NAMAs) and Low Carbon Development Strategies (LCDSs). The EB decision not to consolidate, clarify and further revise its guidance, and to continue on a case-by-case basis, represents (another) incremental decision to decrease rather than increase the short, medium and long-term relevance of CDM.

We therefore urge the CDM Executive Board to reconsider this decision and to provide clear, transparent and unambiguous advice to project developers and DOEs on the treatment of national and sectoral policies in the demonstration and assessment of additionality. Such guidance should complement and clarify existing guidance on E+/E- and should include guidance on the treatment of policy instruments such as direct subsidies through preferential tariffs/feed-in tariffs, tax incentives, regulatory standards and sector wide targets.

¹ <http://unfccc.int/resource/docs/2009/cmp5/eng/21a01.pdf#page=4>

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Such guidance would improve the efficiency of the CDM by enabling project developers and DOEs to submit projects with documents that more clearly meet the requirements of the Executive Board thereby saving time for both parties.

In particular, it is of great importance for all CDM stakeholders to understand:

- how exactly the treatment of national policies is to take place in the context of perverse incentives or misuse of CDM funds as per EB 22,
 - which policy instruments shall be considered in such an assessment,
 - how to determine whether identified policies are relevant in the context of principles laid out in EB 22 (e.g. by excluding policies that were clearly defined with a purpose beyond CDM or the reduction of greenhouse gases but have a direct or indirect impact on CDM projects)
- whether the evaluation of policies will follow a public debate and input from stakeholders (DNA, project developers, DOEs, NGOs, etc.);
- whether a white list of policies will be provided to project participants;
- which inputs precisely are project participants required to provide in the project documentation
- and how are DOEs precisely required to validate these inputs.

In absence of clear guidance to address all these issues, the varying interpretations of the existing guidance by the individual EB members will mean that projects will find it difficult or impossible to satisfy all these interpretations. It is not acceptable that projects are being rejected for the fact that the EB cannot internally agree on the meaning of its own guidance.

Rejections of renewable energy projects in China

On a related note, the PD Forum notes with disappointment the decision of the Board to reject 18 renewable energy projects in China due to concerns on national and sectoral policies in relation to electricity tariffs awarded to these projects. As stated in several previous submissions by the PD Forum, we strongly believe that there is no rationale or justification for such project rejections in the context of the E+/E- policy guidance from EB 22 (Annex 3).

With regards to the published list of electricity tariffs in China by the UNFCCC Secretariat, the PD Forum would like to refer to our submissions on wind and hydro tariffs, both dated 11 July 2010², which aimed to provide some background information about wind and hydro power tariffs in China and to point out misinterpretations or inconsistencies between the published list and the validated PDDs or validation reports. It was stated in the live webcast from EB 55 by a member that the EB had indeed found inconsistencies in the published lists, yet they have not been corrected.

Once more, we would like to encourage the EB and the Secretariat to critically assess the information provided in the mentioned PD Forum submissions as well as in the responses to requests for review and reviews prior to further application of the published tariff database as basis for project rejections. There is a clear need for a better understanding of the tariff setting mechanisms and realities in China prior to enforcement of the tariffs published by the EB as the benchmark for all hydro and wind projects in China.

In the case of hydropower projects in China for example, there are big differences between projects dispatched at provincial grid level or county grid level. In fact, the current practice by the EB to apply a standardized provincial level tariff, will most likely punish the projects that need CDM the most, since projects located in remote and underdeveloped areas are in most cases subject to lower tariffs defined at county level.

² See unsolicited letters to EB: "Chinese Tariffs for Hydropower Projects" by the PD Forum and "Chinese Tariffs for Wind Power Projects" jointly by Global Wind Energy Council and the PD Forum.

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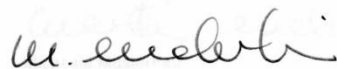
In the case of wind projects in China for example, some of the tariffs listed in the database have been awarded to projects which received ODA funding (projects that received ODA are clearly not commercial), or can clearly be shown to be demonstration projects, and cannot be considered as relevant for other projects in the same province.

Please refer to above-mentioned PD Forum submissions for more information.

In this light, the recent EB 55 decisions are extremely concerning as they represent a mandatory and retroactive application of tariffs, which are not always relevant or applicable to current projects. These decisions are being made on the basis of an interpretation of guidance on the treatment of national policies (e.g. EB 22, Annex 3), which the EB should first consolidate, clarify, revise and publish as per CMP decisions. The decisions to reject projects on the basis of fixed electricity tariffs determined by the EB without consideration of the actual project situation do not only contradict the rules on additionality to use applicable information at the time of the investment decision, they represent a re-invention of the additionality concept in combination with a retroactive enforcement of the same.

Please do feel free to contact us for further information or dialogue regarding the contents of this and previous submissions.

Yours sincerely,



Martin Enderlin
Chairman
Project Developer Forum

CC: - UNFCCC Secretariat, Director SDM, John Kilani