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From gareth.phillips@pd-forum.net
Date 23 September 2013
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Subject **Call for input on "Issues included in the annotated agenda of the seventy fifth meeting of the CDM Executive Board and its annexes"**

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Honorable Members of the CDM Executive Board,

The Project Developer Forum (PD Forum) welcomes the publication of the annotated agenda for EB75 and the progress that it reflects. We would like to provide input on the following items as outlined below:

Annex 11 – Revision of regulatory documents due to introduction of or change in provisions related to PoAs – Issue 1 “Batched issuance request for the CPAs of a PoA”

The PD Forum appreciates the actions and the attention given to the inputs provided by the PD Forum and other stakeholders during the past round tables and through written communications. The proposed amendments would allow a maximum of two requests for issuance for a monitoring period, which will resolve the issue that is holding verifications: different stages of CPA maturity.

Unfortunately, the proposed amendment to the CDM Validation and Verification Standard – paragraph 208 – would bring back the status quo as it indicates: *“The publication of monitoring reports shall be consecutive in terms of monitoring period, i.e. a monitoring report of the subsequent monitoring period can only be published after a single monitoring report or two monitoring reports covering all the CPAs in the PoA have been published.”* Hence, the PD Forum requests for this sentence to be removed.

Annex 16 - Draft package of documents on application of E- policy in investment analysis for additionality demonstration and selection of baseline scenario

The PD Forum welcomes the attention and discussions dedicated to this important topic and the conceptual progress which has been made by defining different options and concerns as presented by Annex 16 to the annotated agenda. We especially welcome the EB decision that any rule and procedure to be created will be of voluntary nature, but that the Project Developer should still report about the existence of national support policies, even though they might opt to fully include their financial benefit in the investment analysis as if it were part of the project’s baseline. Such transparency is important to understand the fundamental principles and monitor results and the future evolution of national policies. We furthermore welcome the decision that the treatment of E- policies shall be consistent for additionality and baseline as any other approach would question a fundamental concept of the CDM.

Now in relation to the options which were presented in Section 3.3., we have the following comments and recommendations:

1. We appreciate the intention not to penalize countries which have implemented E- policies in the past by setting 1 January 2014 as a uniform date for all countries, as contained in

Option 2 and Option 4. To improve that concept it might be wise to define this date as the date that the new guideline effectively comes into force.

2. We further appreciate that the draft guidelines have established definitions for "Effective" and "Implementation" which differentiate between a policy that has just been legally established and a policy which has been implemented and regulated to a level which represents an effective comparative advantage to project activities. As this distinction is fundamental to account for the sometimes long delay between the date a Policy enters into force ("Effective") and the date it is fully regulated, operational and effective ("Implementation") we urge the EB to favour Option 4 for further discussions. In addition, and to avoid a definition which may lead to unnecessary discussions we would suggest to amend the definition of "implementation" with the underlined section as follows:

"Implementation": means that for the E- policy all necessary implementing regulations have entered into force in the Host Party and necessary processes have been established so that the comparative advantage of the E- policy is practically available to project participants, as demonstrated by the project start date of the first registered CDM project which had benefited by the policy.

By adding this criteria for qualification and verification we understand that the risk of inconclusive discussion about the definition of "*all necessary implementing regulations*" and "*necessary processes have been established*" is avoided. In addition, the effectiveness of a policy scheme is best proven and clearly recognized by possible investors on the basis of an effective investment decision (project start date). Moreover all data about such projects are available to the UNFCCC and thus to the validating DOE.

3. The PD Forum recognizes the concern that the current wording of Option 4 (as well as 2) could penalize "*early mover projects*" as described in paragraph 19 (c) and that the proposed guidelines have established a complex arrangement of rules to minimize the distortive impacts that this would have on "*short-term or one time subsidies*" or on "*long-term subsidies*". Nevertheless we believe that this dilemma can be solved by a simple redefinition of Option 4 and we suggest to amend it with the underlined section as follows:

Option 4: The seven year benefit period starts on the policy implementation date ~~or~~ but in any case no earlier than 1 January 2014, whichever is later. If policies have been implemented before this date, the seven year benefit period shall start on 1 January 2014.

By amending the definition as suggested we understand that the concerns described in paragraph 19 (c) are solved and that "early mover projects" will not be penalized, regardless of the nature of their E- policies.

4. In relation to Option A and Option B we commend the secretariat for proposing Option B as it represents an adequate way of treating different kinds of E- policies and technologies in an adequate manner. This approach has several benefits which we would like to highlight:
 - a. Any distortive effect between "*short-term or one time subsidies*" or on "*long-term subsidies*" is avoided and the "*prerogative of the host country to decide on the design and implementation of policies to promote or give competitive advantage to low greenhouse gas emitting fuels or technologies*" as defined by Decision 2/CMP 5, paragraph 10 is respected. This is important as a policy which would favour "*short-term or one time subsidies*" over "*long-term subsidies*" would penalize poor countries which need to attract investors with long term incentive to protect their governmental budgets.

- b. Option B avoids that projects with low investment requirement and rapid payback period are favoured over investments which are capital intensive and require long period of investment amortisation. Conversely Option A would mean that Host Countries are left alone with important but difficult capital intensive projects while low hanging fruits with quick payback would have an increased advantage under the CDM.
- c. In addition to the arguments above we understand that Option B is a straightforward way to avoid any perverse incentive for countries to abandon or change, substitute or adapt their policies and thus is an adequate solution to satisfy the provision of Decision 2/CMP5, paragraph 11.

If combining the amended Option 4 with Option B we understand that an efficient and straightforward guidance for the treatment of additionality and the setting of baselines is defined to foster ambition and investment for GHG mitigation in the critical seven years until the end of 2020. In effect, the period between now and 2020 is critical for two complementary reasons: As highlighted by the International Energy Agency (World Energy Outlook, 2011) early GHG mitigation is crucial to minimize future cost for all parties and to avoid that the door to limit climate change to a maximum of 2 degrees is closed by locking in future GHG emissions by continued expansion of fossil fuelled energy infrastructure in developing countries. Any early action and national mitigation policy by developing countries therefore has to be recognized, supported and enhanced.

In addition to this, the coming years will be important to further construct and develop the conceptual elements and building blocks of the future climate regime, with the overall objective to promote the establishment of a globally comparable and consistent carbon pricing mechanisms. With this objective in mind we understand that the synergy between the CDM and national support and climate policies is important due to the following arguments and evolutions:

1. Developing countries such as South Africa, China, South Korea have established internal carbon market and tax regimes which allow the direct or indirect use of CERs to meet national, regional or sectoral emission reduction targets and other countries are evaluating this approach. As long as CERs, issued under the rules of the UNFCCC are used this will assure global comparability and consistency and allow indirect linking of markets, but if the CDM is not compatible with the national support policies this positive evolution will be interrupted.
2. There are experiences where countries have established national support policies to promote GHG mitigation projects while the government decided to keep part of the Certified Emission Reductions. This concept is further supported by the desires of CER buying nations to promote mitigation in the host countries, as expressed in their submissions to SBSTA on the review of the CDM modalities and procedures. The PD Forum has also advanced the concept of a Host Country Mitigation Share of Proceeds, which is directly linked amongst other things, to the presence of E- policies and we recommend this concept as another option to promote and quantify tangible emission reductions in developing countries.
3. The CDM today is the only UN recognized standard for baseline setting and MRV and its system with numerous DOEs and host DNAs is a fundamental complement to offer the necessary project based MRV to the evolving NAMAs and the embedded sectoral mechanisms. This synergy has to be fostered in order to facilitate and catalyse the evolution and integration of these tools.
4. The sophisticated rationale of the CDM will help to understand and evaluate the effectiveness of national policies and though the host countries are respected in their sovereign right to develop the policies best suited to their reality, the resulting

transparency and consistent MRV will allow exchange and competition of concepts.

5. By integrating the CDM into national policies these countries are given an important tool to reduce and monitor domestic mitigation as well as to complement and enhance their national mechanisms, procedures and competences. Based on the institutional learning it will only be another step to complement the CDM with regional and sectoral Cap and Trade schemes and the ultimate solution would be to combine the CDM with a national emission Cap, a scenario which will allow generating CERs which are backed by Assigned Amount Units as it is the case of JI.
6. Last but not least we want to emphasize again that the complementarity of the CDM with multilateral financing of development banks, as well as the future Green Climate Fund is another important element, especially for less and least developing countries. To account for this fact we again propose that rules and procedures equivalent to the E- regulation are adopted for such multilateral support policies.

In conclusion we would like to make reference again to our extensive input provided by our letter from 8th May 2013, as well as by our input on the annotated agenda to EB 74 from 16 July 2013.

Annex 17 - Process for dealing with letters from DNAs that withdraw approval/authorization

The PD Forum's position remains that Host Parties should not be able to use the withdrawal of a letter of approval as a means to stop projects from generating emissions reductions during the current crediting period. Project Participants have applied for and received unconditional Letters of Approval with the intention of generating CERs to supplement the financial income from investments in low carbon technology. Unconditional LoAs have been issued to PPs and PPs and investors have proceeded with the implementation of project activities accordingly.

In the event that a host party wishes to stop a project from claiming CERs, they should rely on their own legislative and regulatory procedures in order to bring about a transparent and justified cessation to the project activities. DOEs are required to verify that the project is compliant with host country regulations prior to requesting issuance. Such requirements provide more than adequate means by which Host Parties can delay or stop existing registered projects from requesting issuance. Failing this, Host Parties may unilaterally raise a request for review at the point of issuance, giving both Parties and PPs a transparent means of justifying their action.

In the example given in Annex 17 relating to project reference number 2052, it is explained that the PP had already voluntarily withdrawn from the project. If this is the case, no further request for issuance will be made in any event and there is no need to develop and implement such a procedure.

Recognizing that the granting of a host country LoA is solely the responsibility of the Host Country, and that Host Countries are entitled to and indeed encouraged to establish procedures for the granting of such letters, the PD Forum strongly believes that the any steps to cancel or withdraw an LoA should also follow a clearly defined process and that any communication to the EB should be required to demonstrate that certain minimum standards have been fulfilled, for example, decisions follow a defined process, are based on a transparent, factual assessment with stakeholder consultation and a right of appeal.

With regards to the draft procedure:

- 1) The choice of the default date for implementing the instruction is un-necessarily harsh on PPs. In the event that the Board proceeds to adopt the procedure, in the absence of other instructions from the DNA, we request that the project is allowed to continue to request the issuance of CERs up to the end of the current crediting period. Under the draft procedure, Parties are invited to specify a date but as it currently stands, the draft procedure will

- make it significantly simpler for Parties to simply decline to specify a date in the knowledge that the Board will act on their behalf with immediate effect.
- 2) The draft procedure does not consider the impact of the withdrawal of the Letter of Approval on the registered status of the project activity. Displaying the withdrawal letter on the website does not make it clear whether the project is registered or not. This creates a new, and previously undefined step in the project cycle and it may well have significant and unforeseen financial implications for project developers and investors. For example, where the successful registration of a project activity has triggered investments by third parties, does the loss of the Letter of Approval and the otherwise undefined status of the project activity allow the investor to withdraw their financial support?
 - 3) The procedure does not make it clear whether and how PPs may reapply for a Letter of Approval or whether or how a Host Party can submit a new LoA.

These and other issues related to the withdrawal of a Host Party letter of approval were raised in the PD Forum's previous submissions to the EB on this topic.

Finally, as noted in paragraph 3 of the cover note to Annex 17, "Parties may wish to address the issue of a Party withdrawing or suspending a letter of approval for a project activity or a programme of activities as part of the review of the modalities and procedures". We would propose that given the fact that the Parties will discuss the review of the Modalities and Procedures in two month's time, the Board should delay any decisions on this topic.

We urge the Executive Board to reject the Secretariat's recommendation and await further guidance from the Parties.

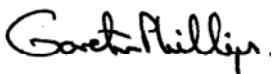
Annex 19- Implementation of voluntary cancellation of CERs in the CDM registry

The PD Forum supports the proposed amendments and encourages the Board to take further steps to facilitate the use of CERs for voluntary cancellation purposes.

Specifically, we would request the Board to allow non-PP entities to open holding accounts in the CDM Registry which can receive any CERs from within the CDM registry and then either transfer them out of the CDM registry to any entity or cancel CERs in the voluntary cancellation account.

We thank you for the opportunity to provide our comments on the annotated agenda and annexes and would be very happy to discuss them with you further,

Kind regards,



Gareth Phillips
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