PROJECT DEVELOPER FORUM

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

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

We welcome the publication of the annotated agenda for EB69 and would like to provide input on a number of items on the annotated agenda, as outlined below.

Para 9 / Annex 2: Report to CMP

The PD Forum is happy to see the positive language used to describe the CDM. The CMP needs to be reminded that the CDM has been the most successful instrument of the Kyoto Protocol, and its achievements are far beyond initial expectations. While a new mechanism (or new market based approaches) may at some point also be successful, it will take many years for such an approach (or approaches) to be designed and implemented, and the CDM is therefore the only available mechanism until then. Indeed we believe that if private sector interest in the CDM falters before it is replaced by these new approaches, then these new mechanisms are likely to fail.

However, while the positive language is good, the report also highlights some failures, in particular Para 4 (c) (i). There has been no consultation on the critical issue of the withdrawal and suspension of LOAs. Unfortunately, the discussions on this issue highlight that such consultation is badly needed to avoid potentially very damaging decisions being proposed to the CMP.

The report also fails to adequately appraise the Parties of the current drop off in numbers of new projects seeking registration and the potential impact that this will have on the resourcing of the Secretariat, DOE capacity and DNA engagement. Para 12 suggests that is too early to comment on this issue but we believe that this is not the case. The potential consequences of the likely loss of significant registration fee revenues should be hghlighted.

Para 55 / Annex 11: Thresholds for standardised approaches

This discussion is very interesting and may help achieve the application of standardised baselines and additionality thresholds. However, both the lack of data and the complexity of the reality in the sectors are likely to lead to a situation where the proposed approach is not applicable or inconclusive. We would like to see the approach being applied by DNAs for some priority sectors as a test, prior to further discussions. Also, while the approach may work in some large economies with lots of data, there are likely problems for smaller economies and LDCs where data is less likely to be available.

Para 58 / Annex 14: First-of-its-kind and Common Practice

We are pleased to see that the discussions at the Fifth CDM Round Table have been taken into account. However, we have the following suggestions for further improvements to Annex 14:

- (Appendix 1 Para 1) "Applicable geographical area should be the entire host country or a specific geographical area within the host country. …" This inclusion is needed otherwise the word "should" does not give the option that the second part of the definition implies. The inclusion of this text achieves the aim intended, which is that if a specific area smaller than the host country is chosen, this needs to be further justified.
- (Appendix 1 Para 5.b) The limitation of FOIK to 10 years is not warranted. Similar to the EB's decision to reconsider any methodologies that limited the choice of crediting period contrary to Decision 3/CMP.1, PPs also need to be free to choose the crediting period while applying these guidelines.
- (Appendix 2 Para 1) "Applicable geographical area should be the entire host country or a specific geographical area within the host country. …" This inclusion is needed for the same reason as in Appendix 1.
- (Appendix 2 Para 6) "In the applicable geographical area and within the measure/technology ~~(sub-sector[4])~~, identify similar projects …" The inclusion of "(sub-sector)" may invalidate the differentiation between projects as per the definitions in para 4 and as intended by the Board. The clarification CLA_TOOL_0015 approves the use of a sub-set of data that only comprises the same sub-sector in cases where data is not available for the sector as a whole, because this sub-set of data leads to a more conservative result. However, this approach does no longer present an actual penetration rate of the technology. Therefore, where data is available, including from publicly available information as per footnote 5, this clarification does not *need* to be applied. We suggest the following text/footnote: "Step 2: In the applicable geographical area and within the measure/technology[1], identify similar projects …"

Para 59/ Annex 15: Concept note on three issues in the demonstration of additionality

The PD Forum welcomes the continued discussion on improving the guidelines on the demonstration of additionality and we would welcome the opportunity to provide our detailed input on these issues.

- II. Consideration of CER revenues in the demonstration of additionality – we would re-iterate our position presented in our comments to the annotated agenda to EB68 i.e. that the visualization of the CDM's contribution in monetary terms is but one of the many dimensions; even though the additional financial contribution to a project might appear small, the mere fact of the project being recognized by the UN, let alone the prospect of foreign currency contribution cannot be underestimated just because it is difficult to express its value in numerical terms.
- III. Forecast of fuel price, para 28b) The PD Forum believes that additionality should continue be assessed at the time of investment decision based on the best available information at the time. These suggestions for ex post monitoring would cause significant additional burdens on the Board, on DOEs and project developers, further increasing the transaction costs in the CDM, and increasing the risks associated with the mechanisms – indeed even cancelling the little certainty achieved from registration.
- Moreover a requirement on DOEs to "assess whether the actual values could have been predicted at the time of investment decision" appears impractical, subjective and difficult to verify with any degree of certainty. Indeed, no expert can accurately predict whether fuel prices will rise or fall in the future.

[4] Examples for the subsectors are wind, hydro, waste heat recovery-based power generation in cement sector, etc.
[1] Where data is not available a sub-sector may be chosen in accordance with CLA_TOOL_0015. Examples for the sub-sectors are wind, hydro, waste heat recovery-based power generation in cement sector, etc.

Para 63 (p) and para 61: ACM0019

The revision of ACM0019 allows nitric acid plant N_2O abatement projects that have used AM0028 or AM0034 for their first crediting period to use ACM0019 in subsequent crediting periods. We welcome a development towards a standardised baseline with incentives to adopt technological advances, but we have concerns that the changes proposed are too severe for existing projects. Many existing plants will find that at renewal of their crediting period that their abatement project no longer achieves emission reductions compared to the ACM0019 baseline. When losing their Carbon revenues, these plants have little option but to remove their abatement and save the costs of operation, reversing what has been a significant greenhouse gas abatement success from the CDM. We request that industry expert input is called for prior to a final decision on the setting of the baselines for existing plants. Please see our detailed input on this issue in Annex 1 of this letter.

Para 63 (q) / MP57 Annex 23: Additionality Tool

Please note that the Tool is not updated as per the latest proposed guidelines discussed above.

Para 73 / Annex 19: Significant deficiencies

The PD Forum firmly believes that the CDM is conservative in all parts and that this conservativeness exceeds any potential excess issuance that may have occurred. Furthermore, while there is no evidence of any excess issuance having occurred to date, the proposal will drive away DOEs from the CDM due to the potential liability that arises from this. Obviously any DOE that has withdrawn is outside the sphere of influence of the EB and thus will not make good any excess, and thus this proposal will not achieve its aim of 'making whole'.

This proposal will lead also to significant additional costs for PPs, as the full cost of any insurance will be passed through by DOEs to their clients. While the current restrictions on CDM projects within the EU ETS will already dramatically increase costs for new CDM projects to the point of being unaffordable[2], this proposal adds further costs and thus further discourages new projects in LDCs.

The PD Forum notes that the procedure does not make any reference to the status of prior review decisions by the EB whereas we believe that they should be part of a decision as to whether or not to conduct a review. Prior decisions arising from reviews should form a binding precedent for future EB decisions and a persuasive precedent for future review decisions.

We also note that in suspending further issuance for a registered project where an issuance request is under consideration of significant deficiencies is a penalty to the project developer and investor, who may have to wait for a substantial period of time before a further issuance can be requested even though they are not the cause of the alleged significant deficiency.

The PD Forum believes that, if adopted, the procedure should not be applied retroactively and should only consider reports that are submitted after the procedure enters into force.

Finally, the PD Forum welcomes the inclusion of provisions for an independent review committee but suggest that the power of this committee will be limited as it does not have the power to overrule the Board's decision. We further suggest that the composition of this committee is critical.

Para 74 / Annex 20: Benefits of the CDM

[2] With new projects being almost limited to LDC countries only, the per-project cost for DOEs will dramatically increase. Whereas DOEs can currently cross-subsidise the cost of validating projects in host countries with few CDM projects, particularly LDCs, with income from validating projects in countries with much greater CDM participation, this cross-subsidy will disappear.

The sweeping statement in para 9 of the summary that there is considerable room for improvement suggests that DNAs, who have approved CDM projects, have not assessed them appropriately; we believe that this is not a justified conclusion and would like to stress that it is the host country's prerogative to decide whether projects have or have not contributed to sustainable development.

Para 75 / Annex 21: SD Tool

While sustainable development co-benefits are important, and may become ever-more important drivers for CDM projects, the PD Forum would remind the Board that this is a sovereign issue and that private sector initiatives already exist (eg Gold Standard) that address this issue. In our view, the use of the tool will add significant cost to PPs. While the tool is intended to be voluntary, information included in a project submission to the EB, and thus also this SD Tool, needs to be validated before the DOE will submit; however, we believe that this tool will be very difficult to validate. The tool does not achieve greater co-benefits for the CDM projects that use it but merely presents more information in a more standardised form to the EB and Secretariat. We do not believe this is therefore justifiable.

Para 76 / Annex 22: Stakeholder consultations

The stakeholder consultation process developed over the last 15 years under the CDM works, and provides significantly better stakeholder inputs than were normal in the majority of CDM host countries prior to the CDM. While improvements may be possible, the concept note includes many new potential requirements, which we believe are not necessary and are also likely to dramatically increase transaction costs. We would welcome the active engagement of DNAs in this process, in particular an interaction with the DNA Forum before any further requirements are imposed. Please see our detailed comments on this issue in Annex 2 of this letter.

We also would like to raise an additional serious concern. The majority of the changes are proposed to be implemented through clarifications. We believe this is not correct. This shortcut avoids the normal, and appropriate, minimum 8 months grace period for the implementation of new requirements, and – based on our experience with previous such changes through clarifications – will almost certainly be implemented retroactively through the completeness check. This must be avoided.

Finally, we would like to draw the Board's attention to our recent submission on the urgent need to reduce the 'awaiting scheduling' timelines for registration and issuance requests.

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,

Rachel Child
Co Vice Chair, Project Developer Forum

Annex 1: Detailed comments on Para 63 (p) and para 61 of the annotated agenda

The Meth Panel has recommended to the Board to approve a revision to ACM0019. The revision of ACM0019 allows nitric acid plant N_2O abatement projects that have used AM0034 or AM0028 for their first crediting period to use ACM19 in subsequent crediting periods.

We welcome a development of AM0034 towards a standardised baseline with incentives to adopt technology advances, but have concerns that the changes proposed in ACM0019 are too severe for existing projects using AM0034 and that a more gradual progression to the ACM19 target baseline would prevent many plants removing their abatement at the end of their first crediting period, reversing what has been a significant greenhouse gas abatement story from the CDM. We request that industry expert input is called for prior to a final decision on the setting of the baselines for existing plants.

Background

The historic baseline approach in AM0028 and AM0034 has worked well and delivered one of the strongest success stories of the CDM: virtually no N_2O abatement was taking place in any nitric acid plant worldwide before the first CDM projects started doing so in 2006/2007 providing a model for most plants in the 'developed' world. Now more than 100 plants run with N_2O abatement catalysts installed. Only then was proper monitoring of N_2O emissions implemented up to the highest European monitoring standards (EN 14181) accumulating a third party audited database, which allows it now to determine benchmarks for future project operations.

In 2010, the Stockholm Environment Institute (SEI) published a paper commissioned by CDM Watch "Industrial N_2O Projects under the CDM: The Case of Nitric Acid Production". The report concluded that:

- The carbon market has been very effective in fostering abatement in an industry that had not been abating N_2O emissions previously
- No evidence of baseline manipulation was found

As a result the European Commission decided not to ban nitric acid CERs from the EU ETS.

The PDF supports improvements to methodologies that continue to maintain the environmental integrity of the CDM. Driving down emissions over time, applying new technologies and practices is welcomed. We actively supported this process over several years in the development of ACM0019.

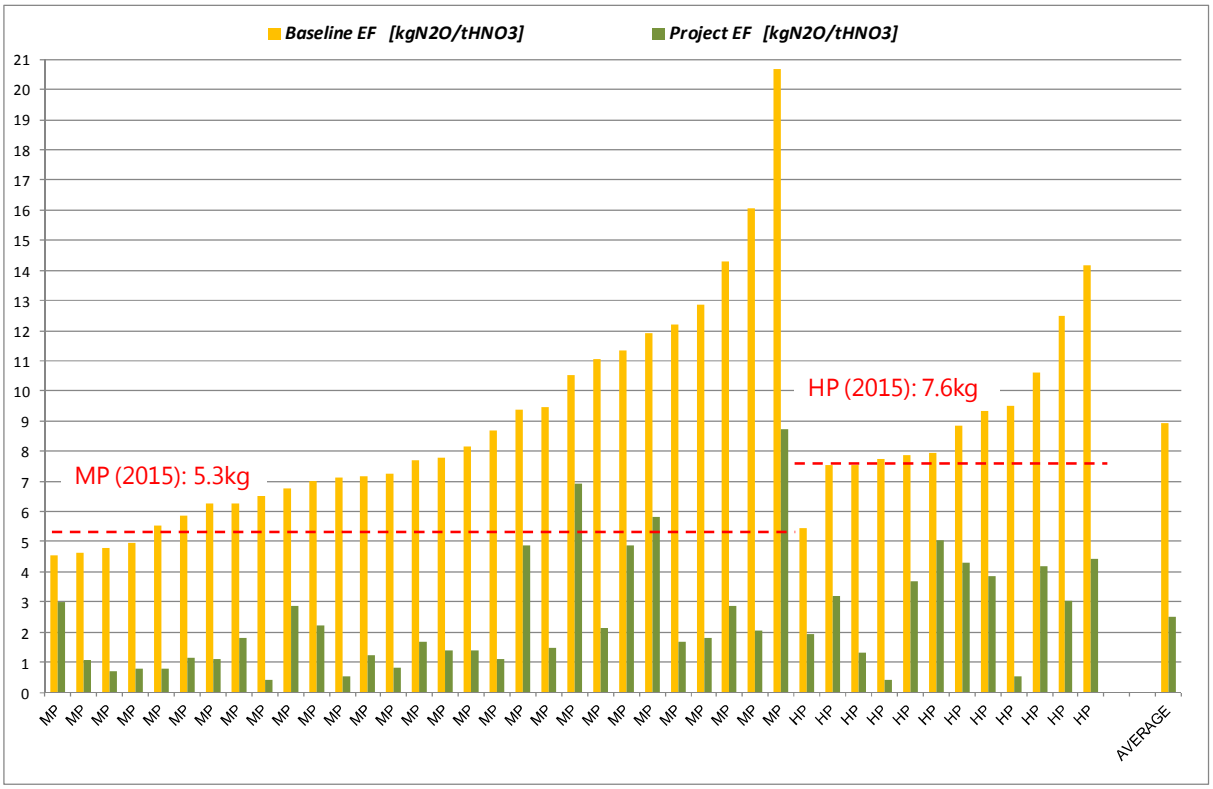
However, the change that may now take place for many projects at the end of their first crediting period may result in them removing the N_2O abatement and returning to significantly higher greenhouse gas emissions.

The revision to ACM0019 recognises existing plants (those operating prior to 2005) have less efficient process and as such applies a standardised baseline factor that is less stringent than that applied to new plants under ACM0019. However, the change is sudden and will render many projects no longer viable.

Nitric acid plants are very diverse in design, age, operation mode and performance. Numerous factors play a role in determining the production efficiency, which in turn impacts on the level of N_2O emissions.

The graph below applies the proposed benchmarks in the year 2015 (5.3kg for medium and 7.6kg for high pressure plants) to the emission factors of currently registered AM0034 projects. Those few plants with baselines below the benchmark would have to continue to apply the historic baselines while those plants with baselines above the benchmark would receive significantly fewer CERs than the actual amount of physical emissions reduced.

More important is the distance between the benchmark and the actual project emissions factor in each project. If the project emissions cannot be brought down to significantly below a future benchmark, those plants will end their N_2O abatement projects.



We request that industry expert input is called for prior to a final decision on the setting of the baselines for existing plants. Enhancement of AM0034 via ACM0019 is not opposed in anyway, so long as the highly additional projects are able to make technology changes over a reasonable time and that the abatement is not immediately removed at the end of the first crediting period.

Annex 2: Detailed comments on Para 76 of the annotated agenda / Annex 22: Stakeholder consultations

The stakeholder consultation process developed over the last decade under the CDM works. The process provides significantly better stakeholder inputs than were normal in the majority of CDM host countries prior to the CDM. While improvements may be possible, the concept note includes many new potential requirements, which we believe are not improving the process but are likely to dramatically increase transaction costs. As a project mechanism, we believe it is better to define at the project and country level what the requirements are. As such, the DNA should establish whether the local stakeholder consultations (LSC) were carried out in accordance with the country level requirements. The DOE can validate whether the consultations were correct for the project type. We do not believe that either centralising the requirements at the global level is appropriate, or that such requirements should be the same for all project types.

The LSC are governed by national law. We agree that the DOE should assess if the national regulations have been followed. However, we believe the Board should refrain from additional prescriptions to avoid conflicts with national requirements; such conflicts would preclude compliance with either the national requirements or those of the CDM. We would welcome the active engagement of DNAs in this process, in particular an interaction with the DNA Forum before any further requirements are imposed.

We would like to comment on the specific recommendation made to the Board in Annex 22 of the annotated agenda as follows:

Para 47 (a) (i): With increasing numbers of projects in LDCs and under-represented sectors, the length of time between the initial consultations and the registration under the CDM is likely to increase. To make additional demand for repeated consultations will be counterproductive, increase costs and disadvantage LDCs and small scale projects, and exhaust local stakeholder interest.

Para 47 (a) (ii): A grievance procedure for stakeholders during the LSC is an issue for the DNA. Also, it needs to be kept in mind that while stakeholders need to be consulted, not every concern raised can necessarily be acted upon. The DNA is probably the best institution to deal with any potential issues in this regard.

Para 47 (b) (i): We do not believe an extended commenting time in the global stakeholder consultation (GSC) is necessary. However, if stakeholders request additional time to formulate their comments, we believe DOEs should be allowed to extend the period for comments. If new procedures are adopted, we would like to ask for clarity that the validation period starts immediately upon publication of the documents for GSC and does not wait until the end of the commenting period.

Para 47 (b) (ii) & (iii): While the LSC is the place where we expect comments in the local language, and GSC is where we expect comments in English, project developers are able to deal with comments in the language of the area where the project is located. However, we do not agree that any documents should need to be translated into local languages for the GSC: the global process is for global stakeholders and the language is English; local stakeholders have the chance to address their issues in the LSC in local language. The use of other languages is likely to cause difficulties when validating the process or in the oversight by the Board, at the same time incurring disproportionate costs related to translations.

Para 47 (c): Any comment from stakeholders after registration needs to be addressed to the DNA. The project has been validated and scrutinized prior to registration. If there are issues coming up after registration these issues have to be dealt via the DNA, and solved via the DNA. If specific CDM issues are identified by stakeholders then the DNA has the possibility to trigger a review during the next verification. Introducing a further round of stakeholder comments after registration adds additional risks for project developers which are likely to be unwarranted. Most issues would not be related to CDM, but to issues outside CDM and they should be resolved outside the CDM in the national regulatory environment. Moreover, the different layers should be accepted: there is one layer for the CDM rules

that have to be considered by the authorities of the UN. But there is another layer of national sovereign legislation that must be solely considered by the national authorities of the host country, and the first contact in these cases must be the DNA. Therefore, also with regards to para 41 only Option 2 (para 41 (b)) sub-paragraph (ii) is acceptable for the PD Forum.

Para 47 (d): The meaning of “significant change” would need to be defined. If a new project approval or EIA approval, or their equivalents, rather than an adjustment, is required under national legislation, then a repeat LSC is warranted. For some changes, the GSC has to be repeated. However, some of these changes are only significant with regards to detailed CDM rules and would be considered insignificant for the LSC and thus a repeat consultation would not be warranted.

The main problem PD Forum members have identified with the GSC (mentioned in para 7 (b)) is not actually dealt with in the recommendations of this concept note at all: spam comments. Hundreds of spam comments are submitted during GSC, and DOEs should be entrusted to deal with these comments without additional bureaucracy. Spam should be immediately deleted without having to provide whole chapters of discussion. Spam is currently wasting large amounts of time of DOEs and PPs. Spammers should be put on a blacklist to allow DOE’s for an easy assessment. It is not sufficiently clear what options the DOE currently have with regards to spam, and this needs to be spelled out in the procedures; in particular the local validators waste large amounts of time on addressing such comments.

We also would like to raise an additional serious concern. The majority of the changes are proposed to be implemented through clarifications. We believe this is not correct. This shortcut avoids the normal, and appropriate, minimum 8 months grace period for the implementation of new requirements, and – based on our experience with previous such changes through clarifications – will almost certainly be implemented retroactively through the completeness check. This must absolutely be avoided in order for the system to be fair and transparent.