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To cdm-info@unfccc.int
From martin.enderlin@pd-forum.net
Date 28 September 2009
Page 1/5
Subject **Barriers to Implementation of CDM Programmes of Activities**

CHAIRMAN

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Honorable Members of the CDM Executive Board,
Dear Mr. de Jonge,

I write to you today on behalf of the Project Developer Forum to share some practical suggestions for how remaining barriers to implementation of Programmes of Activities (PoAs) can be overcome. At the 47th meeting of the CDM Executive Board, the EB changed the rules governing PoAs, and we very much welcome the direction of the changes made as they will strengthen the momentum behind the adoption of programmatic CDM. However, there still remain a number of important obstacles hindering PoA development. The PD Forum therefore would like to share four areas of concerns and suggest improvements.

1. **DOE liability and definition of an erroneous CPA inclusion**

The current rules regarding DOE liabilities for traditional stand-alone CDM and PoA are inconsistent in a number of important areas. In the case of traditional CDM projects, DOEs are liable for CERs that result from the erroneous verification of emission reductions provided that "significant deficiencies" are identified. DOEs are required to transfer CERs only when the DOE is suspended and the amount of CERs transferred should be equal to the excess CERs issued. In the case of PoAs, DOEs become liable for "any error" and the full number of CERs that have been issued on the basis of an erroneous inclusion of a CPA. Details of the differences are provided in Appendix I.

This potential liability poses a significant risk for DOEs to include CPAs under a PoA. Many of the DOEs with whom PD Forum members have spoken have expressed this liability as the biggest barrier to validating PoAs. Furthermore, what constitutes an erroneous inclusion of CPA is not defined, and DOEs fear that "any error" could mean not only an intentional inclusion of a non-eligible CPA but also an error in a spreadsheet. As a result, DOEs subject each CPA to the same validation process as applied for stand-alone CDM projects. Therefore, the amendment made to the PoA rules at EB47 do not significantly lower the cost and duration for inclusion of CPAs, which render many promising types of PoAs economically unfeasible.

We would therefore suggest the following changes and clarifications to the rules:

- First, we propose to define the trigger point for challenging the inclusion of CPAs more narrowly by replacing "any error" with "significant deficiencies limited to issues of fraud, malfeasance, or incompetence of the DOE". This will (i) ensure consistency with the rules governing the stand-alone CDM and (ii) define what an erroneous inclusion is, thereby helping to remove concerns that potentially large liabilities can be triggered on formal or procedural grounds, which we

Date 28 September 2009
Page 2/5
Subject **Barriers to Implementation of CDM Programmes of Activities**

believe should be avoided.

- Second, we propose to amend paragraph 22 by replacing “after the issuance of CERs for the CPA” with “after the first issuance of CERs for the CPA”. This revised liability threshold will ensure consistency with rules for stand-alone CDM projects and allow DOEs and other market participants to quantify their contingent liabilities, which in turn will greatly reduce transaction costs. At same time, a revision of the rules along these lines will provide ample time and opportunities for the EB, DNAs and other stakeholders to challenge the inclusion of individual CPAs and maintain the environmental integrity of the pCDM.
- Third, we think that lack of clarity on the scope for inclusion of CPAs under a registered PoA¹ exacerbates liability concerns held by DOEs and thus a clearer guidance is needed on what DOEs are expected to check before including a CPA under a registered PoA. We believe that in many cases a document review is sufficient to ensure the CPA can be included and that an onsite visit or an interview should only be performed in case the DOE has identified clear indications of misconduct or fraud by the Coordinating/Managing Entity.

2. Debundling under PoAs

The debundling rules under a PoA are more restrictive than for a small-scale stand-alone CDM activity. Under the traditional CDM, two project activities are not considered as de-bundled components of a large-scale activity provided the first has been registered more than 2 years earlier. This exception does not apply to PoAs, as it has been dropped in paragraph 7 of the Guidance for Determining the Occurrence of De-bundling under a Programme of Activities (PoA). We thus propose to establish consistency between stand-alone CDM projects and PoAs by including the 2-year exemption clause in the rules governing the latter.

3. Use of multiple methodologies

We welcome the decision by EB47 to allow for the use of multiple methodologies in PoAs. This will be particularly important for PoAs covering waste handling, biomass and other applications requiring a combination of small-scale methodologies and that tend to have high socio-economic benefits. Yet, combining methodologies for PoAs is currently cumbersome as DOEs are required to issue such a request “when validating a PoA” (for reference to existing rules, see Appendix I).

We would therefore suggest the following changes and clarifications to the rules:

- First, we propose to change this requirement to “when considering a PoA” to make the process consistent with requests for the revision of methodologies for regular CDM projects.
- Second, given that there are natural methodology combinations such as SSC renewable energy and methane reduction methodologies,² we ask the EB to consider a “positive list” of methodology combinations that could be applied to PoAs immediately. These combinations could be derived by looking at the list of PDDs submitted for validation and registration to see which combinations have been repeatedly used. Periodical updates of this list will reduce risks for PoA developers and substantially reduce workload of the EB, its working groups, and DOEs on PoAs that propose to use multiple methodologies.

¹ As per paragraph 20 of the Procedures for registration of a Programme of activities as a single CDM project activity and issuance of Certified Emission Reductions for a Programme of Activities

² Many projects applying multiple methodologies are registered. Combinations of meths include AMS-I.D and AMS-III.H (projects #2658, 2664, 2661); AMS-I.C and AMS-III.H (projects #2333, 1483) and AMS-I.C, II.C, and II.E for a registered programmatic-like project (#0079) titled “Kuyasa low-cost urban housing energy upgrade project, Khayelitsha (Cape Town; South Africa)”..

Date 28 September 2009
Page 3/5
Subject **Barriers to Implementation of CDM Programmes of Activities**

- Third, we propose that once methodologies are combined and approved to be used for a PoA, this specific combination of methodologies shall be automatically added to this “positive list” of methodology combinations.

4. CPA start dates

The new PoA rules (EB47) now allow project developers to include CPAs that have commenced physical actions towards implementing the CPA at the time validation of the PoA. This change in the rules has lowered the barrier to implementation of certain types of CPAs, such as mini-hydroelectric power plants and waste treatment facilities, which can start constructing the physical assets during validation and then start reducing emission reductions once the PoA is registered.

However, the barriers to implementation continue to exist for other project types common to PoAs such as efficient lighting, solar water heaters, and efficient cook stoves. Since these project types require installation rather than construction of equipments, they start generating emission reductions immediately after the implementation. Given that the crediting period starts once the PoA is registered, project developers of these types of PoAs are unlikely to physically implement CPAs until PoA registration and are hence significantly discouraged from developing these types of PoAs. This is especially the case for energy efficiency projects (e.g., lighting, stoves, etc.) where unit lifetime is limited and the time lag between validation and registration would result in a significant discount on emissions reductions from the projects. Therefore, the changes in the rules regarding the starting date of CPA from the EB 47 have not much improved the prospects for PoA developers who wish to implement projects involving small-size units that have no or short construction times.

One option we are currently considering is to allow the crediting period of CPAs composed of subsystems/measures whose maximum output capacity is less than 1%³ of the small-scale threshold to start at the delivery of the final validation report. We believe that this would greatly support CPAs comprising small applications or systems without weakening the environmental integrity of the CDM. We propose to discuss this issue in detail in a meeting or a workshop among select PD Forum members and EB members.

5. Applicability of PoA to all small-scale methodologies

Despite the clarification from the EB 35⁴ that the approved methodologies can be applied for both traditional and programmatic CDM, we have come across those who perceive that AMS-I.E and II.G relating to non-renewable biomass in thermal applications cannot be applied to CPA as they do not mention specific conditions for their application to CPAs under a PoA.

We thus propose the EB to explicitly state that approved methodologies without specific conditions for application to PoAs can still be applied to programmatic CDM. Furthermore, we ask the EB to direct the Small-Scale Working Group to complete the review all small scale methodologies and insert specific conditions to be applied for CPAs under a PoA, if deemed necessary.

We kindly request the EB to consider the aforementioned barriers to implementing PoAs and the proposed clarifications and amendments during the upcoming EB50 meeting. Please let us know if you require any additional information from the PD Forum. We look forward to your kind consideration and support.

³ This 1% suggestion came from Paragraph 9 of Guidelines on assessment of de-bundling for SSC project activities exempts CPA of PoA from performing de-bundling check if each of the independent subsystem/measures included in the CPA of a PoA is no greater than 1% of the small scale methodology.

⁴ Para 15, EB 35 Meeting Report

Date 28 September 2009
Page 4/5
Subject **Barriers to Implementation of CDM Programmes of Activities**

Kind regards,

A handwritten signature in black ink, appearing to read 'M. Enderlin', written in a cursive style.

Martin Enderlin
Chairman

Date 28 September 2009
Page 5/5
Subject **Barriers to Implementation of CDM Programmes of Activities**

Appendix I. Comparison of existing rules for traditional CDM and Programme of Activities

	Traditional CDM	PoAs
Reasons for Review	DOEs' transfer of CERs can only happen when a DOE's accreditation is suspended or withdrawn and where significant deficiencies are identified in the relevant validation, verification or certification report for which the DOE was responsible. A review shall be limited to issues of fraud, malfeasance or incompetence of the designated operational entities.	DOEs' transfer of CERs can happen when an erroneous inclusion of a CPA is identified during a review, which can be initiated if a DNA of a Party involved in the PoA or a Board member identifies any error .
<i>Reference</i>	<i>Para 22, 65 17/CP.7 Marrakesh accords</i>	<i>Para 2, 11(b) Procedures for review of erroneous inclusion of a CPA</i>
Window for Review Request	The issuance shall be considered final 15 days after the date of receipt of the request for issuance , unless a Party involved in the project activity or at least three members of the executive board request a review of the proposed issuance of CERs.	The error can be identified within one year after the inclusion of CPA into a registered PoA or renewal of the crediting period of the CPA, or six (6) months after the issuance of CERs for that CPA, whichever is the later (i.e., during the whole crediting period).
<i>Reference</i>	<i>Para 65 17/CP.7 Marrakesh accords</i>	<i>Para 2 Procedures for review of erroneous inclusion of a CPA</i>
Penalty	An amount of reduced tonnes of carbon dioxide equivalent equal to the excess CERs issued has to be "given back" by the DOE.	An amount of reduced tonnes of carbon dioxide equivalent to the amount of CERs issued to the PoA as a result of the CPA having been included has to be "given back" by the DOE. The CPA that has been excluded cannot be re-included again in that or any other PoA, or qualify as a CDM project activity.
<i>Reference</i>	<i>Para 22 17/CP.7 Marrakesh accords</i>	<i>Para 11(b) Procedures for review of erroneous inclusion of a CPA</i>
Debundling	A proposed SSC project activity is deemed to be a de-bundled component of a large scale activity if there is another CDM: (a) With the same project participants (b) In the same project category and technology/measure; and (c) Registered within the previous 2 years ; and (d) within 1km of the project boundary.	A proposed SSC CPA is deemed to be a de-bundled component of a large scale activity if there is an activity: (a) With the same project participants who manage a large scale PoA of the same technology/measure; and (b) within 1km of the project boundary
<i>Reference</i>	<i>Para 2 Guidelines on assessment of de-bundling for SSC project activities</i>	<i>Para 7 Guidelines on assessment of de-bundling for SSC project activities</i>
Combining methodologies	The revision of methodologies can be requested at any time during the project cycle, including before starting validation.	When validating a PoA which seeks to apply a combination of methodologies, the DOE shall submit a request for approval of the application of multiple methodologies in accordance with this procedure prior to the submission of a request for registration.
<i>Reference</i>	<i>Procedures for the Revision of an Approved Baseline or Monitoring Methodology by the Executive Board</i>	<i>Para 2 Procedures for the Approval of the Application of Multiple Methodologies to a Programme of Activities</i>