



F-CDM-RtB

 <b>CDM: FORM FOR SUBMISSION OF “LETTER TO THE BOARD”</b> <b>(Version 01.1)</b> <i>(To be used only by the Project Participants and other Stakeholders for submitting Letter to the Board as per Modalities and Procedures for Direct Communication with Stakeholders)</i>	
<i>Name of the stakeholder<sup>1</sup> submitting this form (individual/organisation):</i>	Project Developer Forum [Redacted]
<i>Address and Contact details of the individual submitting this Letter:</i>	Address: 100 New Bridge Street, London, EC4V 6JA Telephone number: +65 6578 9286 E-mail Address:
<i>Title/Subject (give a short title or specify the subject of your submission)</i>	
<i>Please mention whether the Submitter of the Form is:</i>	<input type="checkbox"/> Project participant <input type="checkbox"/> Other Stakeholder, please specify
<i>Specify whether you want the Letter to be treated as confidential<sup>2</sup>:</i>	<input type="checkbox"/> To be treated as confidential <input type="checkbox"/> To be publicly available (UNFCCC CDM web site)
<b>Purpose of the Letter to the Board:</b>	
Please use the space below to describe the purpose for submitting Letter to the Board. (Please tick only one of the four types in each submission )	
<input type="checkbox"/> <b>Type I:</b> <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> <input type="checkbox"/> <b>Request Clarification</b>  <input type="checkbox"/> Standards. Please specify reference  <input type="checkbox"/> Procedures. Please specify reference  <input type="checkbox"/> Guidance. Please specify reference  <input type="checkbox"/> Forms. Please specify reference  <input type="checkbox"/> Others. Please specify reference         </div> <div style="text-align: center;"> <input type="checkbox"/> <b>Revision of Existing Rules</b> </div> </div>	
<input type="checkbox"/> <b>Type II: Request for Introduction of New Rules</b> <input type="checkbox"/> <b>Type III: Provision of Information and Suggestions on Policy Issues</b>	
Please use the space below to describe in detail the issue that needs to be clarified/revise or on which the response is requested from the Board as highlighted above. In doing this please describe the exact reference source including the version (if any).	

<sup>1</sup> Note that DNAs and DOEs shall not use this form to submit letter to the Board.

<sup>2</sup> Note that the Board may decide to make this Letter and the Response publicly available



## PROJECT DEVELOPER FORUM

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To cdm-info@unfccc.int  
From  
Date  
Subject

Dear Mr Hession,

Members of the CDM Executive Board,

Members of the Panel for CDM Policy Dialogue ,

The PD-Forum welcomes the formation of the Policy Dialogue Panel and their terms of reference to debate policy matters related to the future of the CDM. The Project Developer Forum is the single largest group of CDM project developers and our members account for a very significant proportion of all registered CDM projects and issued CERs. Many of our members have experience dating back to the first CDM projects and as such, we offer the Panel unparalleled access to depth and breadth of CDM experience.

Furthermore, whilst noting that there is always scope for improvement, we would like to take this opportunity of highlighting some of the highly significant achievements of the CDM which include, inter alia:

- Involvement of the private sector in a development mechanism which successfully delivers many high quality and environmental integrity projects with unparalleled transparency, sustainable development benefits and broad stakeholder participation
- Creative development of effective procedures which reduce the risks to investment in Non-Annex 1 countries
- Successful implementation across a wide range of sectors and countries based on a learning-by-doing approach across all institutions..

The PD-Forum has divided our input into four sections reflecting

- 1) The broader ambition for the CDM and then more specifically:
- 2) Legal issues which impact upon our perceived risks of investing into CDM projects
- 3) Governance issues which are important for the on-going management and credibility of the CDM
- 4) Technical issues which need to be addressed to enable the CDM to transition from a one project / one technology mechanism to something more far-reaching

We have tried to keep the issues at a high level in keeping with the remit of the Policy Dialogue but we would also be happy to elaborate in more detail on the topics.

The PD-Forum would also like to ask about arrangements for further consultation with stakeholders and



indicate our willingness to participate in further dialogues. Members of the PD-Forum attend most of the carbon-related events around the globe however we would request as much notice as possible of events where we can meet members of the panel.

### **Broader ambition for the CDM**

If the CDM continues in its current format, it is likely that it will become a process of managed decline. Markets for CERs are not materializing, buyers are reacting against pure offset projects, host countries are considering their own domestic schemes which may internalise offset opportunities and inevitably lead to the development of their own E+/E- policies as part of their own domestic efforts, and new mechanisms are under formation. Against this backdrop, even the renewal of crediting periods of existing projects seems questionable. On the other hand, there is a clear appetite for a range of new mechanisms recognizing the need for special treatment for least developed countries, sectoral activities, NAMAs and perhaps more. The UNFCCC Secretariat and the CDM EB and their panels have much of the institutional capacity to support further development of either new mechanisms and/or the expansion of the CDM and the CDM itself already contains all elements for these new mechanisms: As an example, the wind production in China has grown exponentially under the CDM, which effectively constitutes the first NAMA ever working in practice: The higher production cost has been partially covered by Chinese tax funding and the rest has been covered by the CDM. Host countries have invested time and resources into DNAs and perhaps most importantly, the accounting units of CERs are established and linked into existing ETS. In view of these points, the central question that we invite the Policy Dialogue Panel to debate is whether the CDM remain a single technology and largely site specific project mechanism or should it expand its boundaries to encompass new ideas and new approaches to the establishment of a baseline, assessment of additionality and the calculation of emission reductions?

The PD-Forum and other stakeholders have submitted proposals to expand the scope of CDM project activities under CMP6 guidance to the EB concerning standardized baselines and SBSTA's call for input on new mechanisms and we believe there are plenty of good proposals to expand the nature and scope of the CDM. We would be supportive of further debate on this topic. Many of the issues which are pertinent to this debate are also highlighted below:

### **Legal issues**

#### **a) Letters of Approval**

The Letter of Approval is a key component of the CDM process. To date, it has been clear that this letter is unconditional and as such, it gives Project Developers and investors certainty that they can receive an internationally fungible and compliance based credit into an Annex 1 registry without interference by the host country. This is a critical component in any CDM-related investment decision process.

Recently, however, the status of the LoA has come under scrutiny:

- 1) The NDRC in China has indicated that they require new LoAs to be issued to projects before they can transfer CERs after 2012;
- 2) Several cases of alleged human rights abuses and non-delivery of expected sustainable development benefits have lead both Annex 1 and Non-Annex 1 Parties to consider whether withdrawal of an LoA is a possible means of sanctioning a project and ensure that "un-wanted" CERs do not enter the market or ensuring that a project delivers on the promised contributions to sustainable development; and
- 3) In Durban, the Parties requested the EB to consider the implications of suspending or withdrawing LoAs.

These questions lead to a number of significant issues which we believe should be discussed within the Policy Dialogue:



- 1) The relationship between the registered CDM Project Activities and domestic policies: If there is a risk that a host country will cease to approve the issue of CERs and internalise emission reductions within a domestic scheme, then investors will face a range of new uncertainties including the level of a domestic carbon price, currency values and currency exchange or export restrictions. These could well act to discourage further investment.
- 2) Ways in which projects can demonstrate sustainable development benefits and how to sanction projects which fail to deliver such benefits, in a fair and transparent manner and without undermining investor confidence.
- 3) Links to the appeal process. The Appeals process (see below) is a means whereby stakeholders should be able to appeal to the EB and, although the scope is not yet defined, it might be possible to apply this process here. If not, then it might be possible to define an alternative means by which such issues could be raised.

Looking to the future, in the light of the Durban Platform and an increased likelihood that host countries will take on their own emission reduction activities, the fate of the CDM is under question. The PD Forum invites the Policy Dialogue Panel to discuss the following points: How will host countries deal with the demand for CDM projects to provide CERs for export when they also wish to implement their own emission reduction initiatives? Can the CDM expand to incorporate sectoral initiatives implemented under bilateral agreements? How can the dual objectives of the CDM be fulfilled to ensure that CDM Project Activities contribute to the sustainable development of host countries?

b) Accounting regimes

The establishment of a second commitment period under the Kyoto Protocol confirms the continuation of the existing accounting regime including the role of CERs as an internationally fungible compliance instrument. The continuation of the accounting regime is important and gives investors confidence that the commodity in question will remain in fashion and furthermore, now has a good chance of surviving beyond the end of CP2 and into the Durban Platform. To enhance the fungibility of CERs, the PD Forum invites the Policy Dialogue Panel to discuss ways of ensuring that CERs remains attractive to both Annex 1 and Non-Annex 1 countries as instruments for offsetting excess emissions whilst at the same time, delivering sustainable development benefits to the host country.

c) Significant deficiencies

The issue of significant deficiencies has recently caused much debate with the CDM, amongst both PPs and DOEs. The issue is founded in the Marrakech Accords and proposes that DOEs make good any over-issuance of CERs. This creates a very significant liability for DOEs. The PD Forum has proposed that the concept of “making the system whole” by requiring the cancellation of an equivalent number of “good” CERs is ineffective and possibly un-necessary. The CDM is demonstrably conservative in its methodologies – a price which PPs already pay in the form of reduced issuance of CERs compared to the actual benefits of the projects. The PD Forum invites the Policy Dialogue Panel to discuss alternative ways of addressing the environmental integrity of the CDM including the impact of alternative approaches to baselines and the quantification of CERs.

## Governance

a) Appeals

The CDM EB has established an extensive infrastructure to provide Governance over the activities of Project



Participants and DOEs, however one key element remains missing – the appeals process. At the current time, the draft appeals process has been returned to SBI for another round of negotiation<sup>3</sup>. At the same time, the issue of significant deficiencies (which is effectively a means of appealing against a positive decision by the EB to register a project or issue emission reductions) was also delayed and the EB was asked to consider alternative approaches and consider the outcome from SBI on appeals. A third element can also be added – as referred to above, there are also cases where registered projects may fail to deliver on expected sustainable development benefits or be involved in allegations of human rights abuses or other illegal activities.

PD-Forum requests the Policy Dialogue to take advantage of the fact that they are not connected with the day to day operation of the CDM and consider whether all of these issues can be rolled up into one coherent appeals process which is undertaken in a transparent and fair manner and which provides opportunities for aggrieved parties to raise issues without un-necessarily penalizing project developers and investors and without undermining the investment certainty which the CDM currently provides.

Having a functioning appeals process is critical to the credibility and future success of the CDM. If the CDM is to provide compliance grade credits for capped regimes, then it must be feasible for those regimes or stakeholders in those regimes, to appeal against individual projects. Failure to provide this opportunity places all the responsibility on the CDM EB, but currently they are unable to “de-register” a project or comment upon a project’s contribution to the host country’s sustainable development. We see that the European Commission (EC) expects the EB to exclude unsuitable projects from the CDM but the EB is unable to do this after projects have been registered, correctly or not. The only option left for the EC is exclude groups of projects based on relatively subjective criteria. These kinds of undesirable events are likely to become more common in the future if there is no process to appeal against individual projects.

The PD Forum invites the Policy Dialogue Panel to discuss ways in which an appeals process could be structured such that it delivers reasonable certainty to investors without impinging upon Host Parties’ rights to define sustainable developments.

#### b) Capacity building

The CDM EB has an extensive infrastructure extending to the Secretariat, various Panels and the Designated Operational Entities (DOEs). Project Developers, though the source of revenues which ultimately support the EB and their infrastructure, are not considered part of the infrastructure. However, at CMP7, Parties requested the EB to provide further training to DNAs, DOEs and project participants. This is a great opportunity for the EB to now ensure that all stakeholders (including the Secretariat and RIT members) in the CDM are able to receive the same training on the interpretation of guidance from the CDM EB. This approach will greatly facilitate the process of project development, registration and issuance, reduce transaction costs and help to build a solid platform for the development of new mechanisms. The PD Forum invites the Policy Dialogue Panel to discuss mechanisms whereby training can be standardized across all stakeholders.

#### c) Constitution of the EB

If the CDM is to be ‘scaled up’ to cover greater numbers of projects and project types, the PD Forum invites the Policy Dialogue Panel to consider the benefits of making the EB a full-time body. Similarly, panels such as the Small Scale Working Group and Methodology Panel which currently meet approximately 6 times each year, could be made a full-time function. In this way, decisions can be made without the inevitable delay of several months that occurs currently.

<sup>3</sup> Brief background: Appeals was referred to SBI in Cancun with a mandate to propose a process whereby negative decisions (ie rejections of requests for registration or issuance or rejections of new methodologies or revisions could be appealed). At the 34<sup>th</sup> meeting of the SBs in Bonn in June 2011 it was proposed that the scope be extended to cover positive decisions and that any stakeholder could raise an appeal. The Parties are in deadlock with the EU requesting permission to undertake a study on the impact of expanding the scope of the appeal process and China flatly refusing.

**Technical issues**

## a) Environmental integrity

Environmental integrity lies at the heart of any discussion about the CDM. Central to the establishment of environmental integrity are the concepts of additionality, establishing and quantifying the baseline and establishing and quantifying project emissions. To date, these actions have been achieved by use of the additionality tool and approved methodologies. CMP6 provided for the further development of standardized baselines which gave the EB a mandate to explore new ways of establishing additionality, baselines and quantifying emission reductions. In the PD Forum's opinion, work to date has not gone far enough and has failed to question many of the initial assumptions which were made at the outset of the CDM. For example,

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- The additionality tool, though much improved, encourages project developers to develop certain types of projects. New approaches to additionality could encourage new types of project activities.
- NAMAs and crediting baselines create opportunities for host countries to set internal targets for selected sectors, thereby ensuring that projects contain an element of "own contribution" and move away from pure offsetting where all the emission reductions are used to offset emissions in Annex 1 countries, to a situation where only a portion are used. Such an objective can be met in several different ways, including for example the bottom-up establishment of crediting baselines or top down discounting of CERs.

Whilst recognizing that the mandate of the Panel does not extend to discuss technical matters in detail, the PD Forum invites the Policy Dialogue Panel to discuss some of the fundamental technical assumptions which underly the CDM and explicitly invite the EB to explore completely new approaches to the subject in order to create a balanced and knowledgeable platform for the expansion of the CDM into different types of new mechanisms in the future.

## b) Uncertainty

The CDM methodologies treat uncertainty in a piecemeal fashion, specifying accuracy requirements for individual meters without consideration of their contribution to the overall quantification of emission reductions. Other schemes, notably the EU ETS, have a much more mature approach based on the uncertainty analysis of the entire monitoring system. The PD Forum invites the Policy Dialogue Panel to discuss the benefits of applying a similar approach to CDM project activities

## c) Scalability

CDM project activities are typically single technologies implemented on single sites; the additionality tool and monitoring methodologies make it difficult to design a CDM project activity which deploys multiple technical interventions across multiple sites, and yet this is what is required to provide the scaled-up CDM which many people seek. The PD Forum invites the Policy Dialogue Panel to discuss how different approaches to additionality and baseline and monitoring methodologies could help the CDM scale up and create a logical stepping stone to sectoral activities.

Yours sincerely

Gareth Phillips  
Chairman, Project Developer Forum.



Please use the space below to any mention any suggestions or information that you want to provide to the Board. In doing this please describe the exact reference source including the version (if any).	
[replace this bracket with text, the field will expand automatically with size of text]	
If necessary, list attached files containing relevant information (if any)	<ul style="list-style-type: none"> <li>[replace this bracket with text, the field will expand automatically with size of text]</li> </ul>
<b>Section below to be filled in by UNFCCC secretariat</b>	
Date when the form was received at UNFCCC secretariat	

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**History of document**

Version	Date	Nature of revision
01.1	09 August 2011	Editorial revision.
01	04 August 2011	Initial publication date.
<b>Decision Class:</b> Regulatory <b>Document Type:</b> Form <b>Business Function:</b> Governance		