

CDM-EB72-A02-RECO

Recommendation to the SBI

Possible changes to the CDM modalities and procedures

Version 01.2



TABLE OF CONTENTS	Page
1. INTRODUCTION	4
2. PROCESS CARRIED OUT BY BOARD	4
3. CONTEXT OF REVIEW OF CDM MODALITIES AND PROCEDURES.....	5
4. RECOMMENDATIONS BY THE BOARD	6
4.1. General	6
4.1.1. Documentation	6
4.1.2. Reflection of current practice.....	7
4.2. Governance.....	7
4.2.1. Role of the host Party.....	7
4.2.2. Governance – Membership of the Board.....	7
4.3. Accreditation	8
4.3.1. Elaboration of rules	8
4.3.2. Significant deficiencies	8
4.4. Project Cycle	8
4.4.1. Host Party	8
4.4.2. Letters of Approval	9
4.4.3. Stakeholder consultation	9
4.4.4. Crediting period	9
4.4.5. Afforestation and reforestation project activities.....	9
4.4.6. Programmes of activities	10
4.4.7. Registration and issuance – direct communication with the Board.....	10
4.4.8. Registration and issuance – need for PDD when submitting new methodology	10
4.5. Methodologies.....	11
4.5.1. Methodology development	11
4.5.2. Methodology development – revising Appendix C	11
4.5.3. Methodology development - clarifications of approved methodologies.....	11

4.5.4. Additionality.....	11
4.5.5. Materiality.....	12
4.5.6. Baseline setting.....	12
4.5.7. Standardized baselines.....	12

1. Introduction

1. By its decision 5/CMP.8, the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP) reiterated that, pursuant to decision 3/CMP.1 the first review of the modalities and procedures for the clean development mechanism (CDM) (as set out in the annex to decision 3/CMP.1) (the CDM M&P) shall be carried out by the CMP at its ninth session. In this context, it requested the Subsidiary Body for Implementation (SBI) to prepare recommendations on possible changes to the CDM M&P for the consideration of the CMP at its ninth session, with a view to the CMP adopting a decision on this matter at that session.
2. By the same decision, 5/CMP.8, the CMP requested the CDM Executive Board (the Board) to submit recommendations on possible changes to the CDM M&P, drawing upon the experience gained by the Board, the secretariat and stakeholders in the implementation of the CDM, for consideration by the SBI at its thirty-eighth session.
3. This document contains the recommendations of the Board on possible changes to the CDM M&P in response to the request of the CMP.

2. Process carried out by Board

4. The Board, immediately after the eighth session of the CMP, launched a call for public inputs on possible changes to the CDM M&P based on the experience of stakeholders in implementing the CDM. This call for inputs was open from 17 December 2012 until 23 January 2013 and received 11 responses.¹ A summary compilation of the inputs was subsequently prepared to facilitate their consideration by the Board.²
5. The secretariat also reviewed its experience with the implementation of the CDM and provided the Board with a report containing key aspects of its relevant experience and recommendations on possible changes to the CDM M&P.³
6. The Board focused its seventy-first meeting (January 2013) on strategic matters and used this opportunity to develop initial ideas for its recommendations. It was able at that meeting to consider the responses received from stakeholders to the call for public inputs. After its seventy-first meeting, the Board members and alternate members reviewed all the recommendations from stakeholders, the secretariat and the Board's own initial ideas. The Board continued its consideration of possible changes at its seventy-second meeting (March 2013), including by considering the summary compilation of stakeholder inputs and the recommendations of the secretariat.

¹ See http://cdm.unfccc.int/public_inputs/2012/eb70_07/index.html.

² See annex 2 to the annotated agenda of the seventy-second meeting of the Board (CDM-EB72-AA-A02) at <http://cdm.unfccc.int/Meetings/MeetingInfo/DB/AZNJPUB6GSW20R7/view>.

³ See annex 1 to the annotated agenda of the seventy-second meeting of the Board (CDM-EB72-AA-A01) at <http://cdm.unfccc.int/Meetings/MeetingInfo/DB/AZNJPUB6GSW20R7/view>.

7. All inputs – including those from Board members and alternate members, the secretariat and stakeholders – are contained in an annex to the report of the Board’s seventy-second meeting.⁴ These inputs cover a broad range of issues.
8. The recommendations contained in this document relate to changes that the Board considers important to the future development of the CDM and its use by Parties and stakeholders of the CDM. The recommendations do not address all of the inputs initially gathered during the preparation of this document, for the following reasons:
 - (a) In some instances, the Board considers that the existing CDM M&P are adequate and do not require further changes or additions;
 - (b) In some instances, the Board supports the ideas in the inputs but considers that these may be adequately addressed by the Board and its support structure without necessitating changes to the CDM M&P;
 - (c) In some instances, the Board was not able to agree on specific changes to the CDM M&P.

3. Context of review of CDM modalities and procedures

9. There are four other sets of modalities and procedures for the CDM (see below). The relationship between any changes to the CDM M&P and these other modalities and procedures is an important issue. In addition, these other modalities and procedures also contain their own review provisions that should be noted in the context of the CDM M&P revision.
10. The full set of the CDM modalities and procedures comprises:
 - (a) *Modalities and procedures for the CDM*, as set out in decision 3/CMP.1. These comprise the main modalities and procedures for the mechanism. The first review of these CDM M&P is to be carried out no later than one year after the end of the commitment period;⁵
 - (b) *Simplified modalities and procedures for small-scale CDM project activities*, as set out in decision 4/CMP.1, annex II. This decision replaces specific paragraphs in the main CDM M&P, with the remaining provisions of the CDM M&P (including for the review)⁶ still applying to small-scale projects;
 - (c) *Modalities and procedures for afforestation and reforestation project activities under the CDM in the first commitment period*, as set out in decision 5/CMP.1. Although the review of these M&P was to be carried out no later than one year before the end of the first commitment period (paragraph 4 of the decision), this review has not yet taken place. It should be noted that, in accordance with decision 2/CMP.7 (paragraph 18), the M&P for afforestation and reforestation apply mutatis mutandis to the second commitment period, and the definitions remain unchanged;

⁴ See CDM-EB72-A01.

⁵ Paragraph 4, decision 3/CMP.1 (cover decision)

⁶ Paragraph 11, decision 4/CMP.1, annex II

- (d) *Simplified modalities and procedures for small-scale afforestation and reforestation project activities under the CDM in the first commitment period*, as set out in decision 6/CMP.1. The Board was invited by the decision to review these M&P at any time and make recommendations to the CMP (paragraph 3 of the decision). Here also, it should be noted that, in accordance with decision 2/CMP.7 (paragraph 18 of the annex), small-scale afforestation and reforestation M&P apply mutatis mutandis to the second commitment period;
 - (e) *Carbon dioxide capture and storage (CCS) in geological formations as CDM project activities*, as set out in decision 10/CMP.7. As the first review of these M&P is to be carried out by no later than five years after the adoption of the decision, the review is not yet due.
11. The Board notes that the CDM M&P (and other M&P) should now also be aligned to reflect the amendment to the Kyoto Protocol pursuant to decision 1/CMP.8, including with regard to the global warming potential for the second commitment period and the inclusion of nitrogen trifluoride (NF₃) for the second commitment period onwards.
12. Given the interrelated nature of the different M&P and their related review provisions, as outlined above, the Board considers that it will be important for the SBI to consider that:
- (a) Changes made in the main CDM M&P contained in decision 3/CMP.1 will have implications and interactions with the other M&Ps;
 - (b) With the exception of the CCS M&P, for which the first review is to commence later, equivalent reviews of other M&P are also now due.

4. Recommendations by the Board

4.1. General

4.1.1. Documentation

13. **Background:** As noted above, there are four sets of CDM M&P.⁷ Later guidance from the CMP has also repealed/amended some parts of these rules. The multiple sets of rules cause confusion for stakeholders. Consolidation would be a complex exercise; but the Board considers it would increase transparency and user-friendliness.
14. **Recommendation:** The Board recommends that the CMP consolidate the four sets of CDM M&P for the different project types, and to the extent possible, all decisions of the CMP relating to the CDM that created rules, into one document.

⁷ Excluding decisions 10/CMP.7, 3/CMP.1; 4/CMP.1 Annex II; 5/CMP.1; 6/CMP.1

4.1.2. Reflection of current practice

15. **Background:** The implementation of the CDM M&P over the years has, in some cases, developed beyond the CDM M&P as a result of later requests from the CMP. Further, there are some parts of the CDM M&P that have not been implemented as the provisions relate to situations that have not arisen. As examples:
- (a) The specific timeframes for review and approval of new methodologies by the Board in paragraph 38 do not allow the Board sufficient flexibility or time;
 - (b) The current practice of dealing with post-registration changes is not covered in the CDM M&P and should be inserted;
 - (c) Paragraph 10 of Appendix D requires the CDM Registry Administrator to make certain information publicly available, the disclosure of which creates a security risk for the CDM registry;
 - (d) Paragraph 17 requires all decisions to be made available in all six United Nations languages and this has never been implemented due to cost reasons.
16. **Recommendation:** The Board recommends that the CDM M&P be revised to reflect current practice.

4.2. Governance

4.2.1. Role of the host Party

17. **Background:** Sometimes, stakeholders seek resolution by the Board of issues that only the host Party can resolve. This is because the role of the host Party and its designated national authority (DNA) in overseeing the project activity in its country during the CDM period of the project activity is not as fully elaborated in the CDM M&P as compared to the role of the Board. Notwithstanding that the host Party regulates the project through its own national laws and regulations, the CDM system would benefit from more clarity as to the role of the host Party in respect of the CDM aspects of the project activity during the CDM project cycle.
18. **Recommendation:** The Board recommends expansion of Section F or the creation of a new section to the CDM M&P, to clearly express and elaborate the host Party's responsibility to oversee the CDM aspects of the project activities and PoAs they host in accordance with the CDM M&P. This should cover the whole project/programme life cycle.

4.2.2. Governance – Membership of the Board

19. **Background:** Stakeholders have raised issues relating to the nomination, membership, term and decision-making of the Board. The Board considers that these aspects of governance are closely interlinked. Any amendment to one aspect would necessarily impact all others.
20. **Recommendation:** The Board recommends that, if the SBI considers possible changes to the CDM M&P relating to the nomination, membership, term and decision-making of the Board, the implications for other matters, such as quorum, voting and triggering requests for review should be considered, as a package.

4.3. Accreditation

4.3.1. Elaboration of rules

21. **Background:** The accreditation rules, that apply to DOEs under the CDM and the standards that the DOEs must meet, are set out in Section D of the Annex and Appendix D. Experience has shown that these rules are overly prescriptive in parts leaving little flexibility to accommodate evolving needs of the accreditation process, and may be preventing the CDM system from aligning towards best practice that may be identified from other international accreditation systems.
22. **Recommendation:** The CDM M&P rules on accreditation should be simplified by deleting Appendix A and expanding Section D to include the principles that the Board must apply to elaborate and enforce standards for DOEs. These principles should include; consistency; impartiality; transparency and confidentiality; rigour; competence; openness and accessibility.

4.3.2. Significant deficiencies

23. **Background:** Paragraphs 22 and 24 of the CDM M&P relate to, inter alia, liability of designated operational entities (DOEs) where certified emissions reductions (CERs) have been issued as a result of significant deficiencies in validation or verification by the DOE. Despite considerable work by the Board over a number of years, and consideration of the issue by the CMP on two occasions,⁸ paragraphs 22 and 24 remain unimplemented. Revision of the CDM M&P now provides the Parties with an opportunity to return to first principles with this very difficult matter.
24. **Recommendation:** The Board considers that the principles of DOE liability for significant deficiencies need to be elaborated differently to the principles inherent in paragraphs 22 and 24 and recommends that the SBI should elaborate a different set of key principles to recommend to the CMP.

4.4. Project Cycle

4.4.1. Host Party

25. **Background:** The CDM M&P do not foresee that single project activities may have more than one host Party. There are examples of potential single project activities, such as a hydroelectric project on a river that forms a national border, that are genuinely cross-border but may be prevented from being registered under the CDM.⁹
26. **Recommendation:** It would be worthwhile to determine the feasibility of allowing single project activities to be hosted in more than one Party. The assessment of such a change to the CDM (and CDM M&P) would need to include at least the following: allocation of responsibility (under the Kyoto Protocol regime) for project participants; allocation of emissions reductions/CERs as between host Parties and the international transaction log (ITL) and CDM registry implications.

⁸ Paragraphs 26 and 27, decision 3/CMP.6; and paragraphs 12 and 14, decision 8/CMP.7

⁹ By contrast, PoAs may have more than host Party because a PoA may have CPAs located in different host Parties.

4.4.2. Letters of Approval

27. **Background:** Letters of approval are a prerequisite for registration, and the Board considers that they should continue to be a requirement (including from Annex I Parties). However, they are mentioned only indirectly in the CDM M&P (see paragraphs 33, 40(a)). In addition, it remains unclear what the effect of a Party withdrawing a letter of approval would/should be, despite efforts of the Board last year to respond to the mandate from the CMP at its seventh session to consider the issue.¹⁰
28. **Recommendation:** The Board recommends including in the CDM M&P, Annex, Section F (or another new section), paragraphs:
- (a) Defining a host Party approval;
 - (b) Outlining the required minimum content of the letter of approval;
 - (c) Elaborating the requirements and process for a Party's withdrawal of a letter of approval; this should include a requirement of prior notification to project participants of the criteria and conditions of any withdrawal.

4.4.3. Stakeholder consultation

29. **Background:** Paragraph 37 (chapeau and (b)) requires the DOE to review the project design document (PDD) and supporting documentation and is limited to confirming that: (a) comments by local stakeholders have been invited; and (b) the project participants have provided to the DOE a summary of the comments received and a report on how due account of those comments was taken.
30. **Recommendation:** The Board recommends strengthening the requirement in paragraph 37 (chapeau and (b)) to require the DOE to validate that the local stakeholder consultation was carried out in accordance with host Party laws and regulations, and to evaluate how the content of the comments was duly taken into account.

4.4.4. Crediting period

31. **Background:** Crediting period length is currently set out in paragraph 49. Project participants currently choose from either (a) a maximum of seven years renewable twice and (b) a maximum of 10 years with no renewal. Although expressed as "maximum" values, project participants do not select lower values in practice. The current crediting period options may not provide sufficient flexibility to reflect the range of project activity and PoA size and types that are now being received.
32. **Recommendation:** The Board recommends reviewing the crediting period provisions, taking into account, inter alia, the certainty of investment and the additionality of emission reductions.

4.4.5. Afforestation and reforestation project activities

33. **Background:** Since the adoption of 5/CMP.1, the experience in implementing afforestation and reforestation (A/R) CDM project activities indicates that more cost-

¹⁰ Paragraph 29, decision 8/CMP.7

effective approaches may be needed for estimation of baseline stocks and removals and that remote sensing for monitoring could provide such an approach.

34. **Recommendation:** The Board recommends considering the implications of allowing more cost effective approaches in paragraphs 25 and 26 of decision 5/CMP.1.
35. **Background:** Paragraph 32 of decision 5/CMP.1 requires verification every five years during the crediting period. More flexibility in timing of verifications would be beneficial as this provision has been found to be restrictive. However, there may be implications for long term CER accounting if the verification periods are amended.
36. **Recommendation:** The Board recommends reviewing paragraph 32 of decision 5/CMP.1 to consider whether timing of verification of projects over the crediting period could be more flexible.

4.4.6. Programmes of activities

37. **Background:** A programme of activities (PoA) is a type of CDM activity for which the definition, standards and procedures have been based on mandates from the CMP,¹¹ developed by the Board, after the adoption of the CDM M&P. As a result, PoAs are not specifically referenced in the CDM M&P. The Board takes the view that PoAs provide considerable potential for utilization of the CDM in the future and notes that PoAs are becoming increasingly popular, in particular in least developing countries.
38. **Recommendation:** The Board recommends that general and specific principles, but not detailed rules, be set out for PoAs in the CDM M&P.

4.4.7. Registration and issuance – direct communication with the Board

39. **Background:** The principle of direct communication between the Board and its support structure, and stakeholders is an important part of the CDM regulatory framework. Currently, direct communication is governed by a procedure adopted by the Board.¹²
40. **Recommendation:** The Board recommends introducing into the CDM M&P the principle of direct communication between stakeholders and the Board and its support structure.

4.4.8. Registration and issuance – need for PDD when submitting new methodology

41. **Background:** Paragraph 38 of the CDM M&P requires that when proposing a new baseline and monitoring methodology, the DOE is also required to submit a description of a project activity or PoA that would apply the proposed new methodology and identify the project participants. This requirement may unduly delay or hinder the development of new methodologies and is impractical for DOEs when contracting for services.
42. **Recommendation:** The Board recommends removing the parts of paragraph 38 that contain the requirement to submit a description of a proposed project activity or PoA and identify project participants.

¹¹ See paragraph 16, decision 1/CMP.2; paragraph 3, 2/CMP.3

¹² “Modalities and procedures for direct communication with stakeholders” adopted pursuant to a request from the CMP in decision 3/CMP.6, paragraph 22.

4.5. Methodologies

4.5.1. Methodology development

43. **Background:** Paragraph 38 of the CDM M&P requires the submission of a new methodology through a DOE. This no longer reflects practice as the Board has been mandated by the CMP to develop new methodologies, clarifications and revisions to existing methodologies “top-down” (i.e. from its own initiative)¹³ and the Board does allow various stakeholders to submit new methodologies or seek clarifications/revision to a methodology without submitting through a DOE.
44. **Recommendations:** The Board recommends amending paragraph 38 of the CDM M&P (or include 38 *bis*) to insert the Board’s own-initiative role in developing, revising and clarifying methodologies and to allow direct submission of new methodologies and revisions to approved methodologies by any stakeholder. The requirement to submit through a DOE should be deleted. If clarifications are added to the CDM M&P (see recommendation on clarifications to methodologies below), the CDM M&P should also allow direct submission of clarification requests by any stakeholders.

4.5.2. Methodology development – revising Appendix C

45. **Background:** The principles for the methodologies are set out in paragraphs 43 to 52 and the rules by which the Board establishes guidelines on baseline and monitoring methodologies are contained in Appendix C. The tools and procedures adopted by the Board in relation to methodologies are now far more developed than the basic rules provided in Appendix C, which have become largely redundant.
46. **Recommendation:** The Board recommends that Appendix C should be streamlined to leave key principles only and then those principles should be included in the main body of the CDM M&P with other methodology-related principles (in Section G or by creating a methodology section).

4.5.3. Methodology development - clarifications of approved methodologies

47. **Background:** The current CDM M&P contain provisions for revision of approved methodologies at paragraph 39, which (and the principle is reinforced in later CMP decisions) disallows application of a revision to a methodology to a project activity within its crediting period. This provides predictability for the CDM. The Board’s clarifications to methodologies have immediate effect. There are no specific CMP rules on clarifications to methodologies. The absence of reference to them in the CDM M&P means that there is a risk that some clarifications may undermine paragraph 39.
48. **Recommendation:** The Board recommends that the concept of clarifications of approved methodologies should be included in the CDM M&P.

4.5.4. Additionality

49. **Background:** Section G of the CDM M&P currently makes all project activities go through the same validation process. Certain types of project activities could be

¹³ See paragraph 22, decision 8/CMP.7

exempted from some of the steps of the validation process because they can be deemed automatically additional.

50. **Recommendation:** The Board recommends including a provision in section G to include the current practice of the Board of establishing a list of project activity types/scale deemed automatically additional and specify in the CDM M&P that such projects may be subject to a simplified validation in respect of the additionality of the project activity.

4.5.5. Materiality

51. **Background:** The CMP adopted a materiality standard at its seventh session.¹⁴ The standard has a direct link with the CDM M&P and it should be incorporated into the CDM M&P.
52. **Recommendation:** The Board, therefore, recommends that decision 9/CMP.7 be incorporated into the CDM M&P.

4.5.6. Baseline setting

53. **Background:** Experience shows that the threshold in the CDM M&P, Annex, paragraph 48(c) is not strictly followed in methodologies. A broader range of approaches has been used in approved methodologies.
54. **Recommendation:** The Board recommends revising paragraph 48 to make the list of approaches to baseline methodologies set out in (a) to (c) of that paragraph into a non-exhaustive list.

4.5.7. Standardized baselines

55. **Background:** The CDM M&P does not include the principle relating to standardized baselines, as standardized baselines have been developed since the adoption of CDM M&P pursuant to CMP requests. Project activities using standardized baselines have common features that are different from project activities not using these baselines. Inclusion of the key principles on standardized baselines in the CDM M&P would improve the transparency and support project proponents seeking to use standardized baselines.
56. **Recommendation:** The Board recommends inserting paragraphs 44 to 52 of 3/CMP.6, into the CDM M&P in order to address the special features of projects using standardized baselines in accordance with paragraph 25 of 2/CMP.5 and paragraphs 44 to 52 of 3/CMP.6.

¹⁴ Decision 9/CMP.7

Document information

<i>Version</i>	<i>Date</i>	<i>Description</i>
01.2	25 March 2013	Editorial amendment to remove “draft” watermark.
01.1	15 March 2013	Editorial amendments to correct heading "4.4.4. Crediting period" and to add paragraph numbering.
01.0	8 March 2013	EB 72, Annex 2 Initial publication.

Decision Class: Regulatory

Document Type: Recommendation (to the SBI)

Business Function: Governance

Keywords: modalities & procedures, EB, SBI
