

**CDM-PA6340-INFO01**

---

# Final ruling note on request for registration for “Fuqing MSW Incineration Project”

Version 01.0



**United Nations**  
Framework Convention on  
Climate Change

1. The CDM-Executive Board decided to reject the above proposed project activity on 23 November 2012, in accordance with "Procedures for review of requests for registration", version 1.2, EB 55, Annex 40, paragraphs 20, and 28 (the procedures). In accordance with paragraph 27 of the procedures, the rulings shall contain an explanation of the reasons and rationale for the final decision, which are as follows:
  - (a) The DOE (KECO) failed to validate the start date of the project activity in line with version 1.2 of the Validation and Verification Manual (VVM), paragraph 99.
  - (b) Paragraph 99 of the VVM states that "The DOE shall confirm that the start date of the project activity, reported in the PDD, is in accordance with the "Glossary of CDM terms". In turn, version 6 of the Glossary of CDM terms states that the start date is "the earliest date at which either the implementation or construction or real action of a CDM project activity or PoA begins".
  - (c) The DOE has failed to validate why the signature of the Build Operate and Transfer agreement between the Project Participant and the Fuqing City Management Bureau (22/05/2009) was not considered as the project start date, considering that a BOT agreement would typically constitute an indication of PP's commitment to take action on the project, thus classifying to be used as the start date as per the CDM glossary of terms. The DOE states to have validated that the signature of a BOT agreement is "just one step in the project preparation procedure" (DOE's response to Request for Review, p. 3), a requirement for the approval of the FSR, and cannot be enforced without approval of the FSR by the National Development and Reform Commission (NDRC) of China (DOE's response to Request for Review, p. 3). However, the precise nature of the commitments and obligations subscribed by the PP as part of the BOT agreement, such as e.g. commitments related with construction implementation, assignment of expenditure obligations, timeframe for implementing operation of the plant, apportioning of potential CDM revenues, inclusion of penalty clauses for not complying with the contract, etc., has not been adequately assessed and validated by the DOE. Thus, it remains unclear why this agreement is not considered as the date of "implementation or construction or real action". Moreover, if the BOT signature date (May 2009) was set as the start date, the notification to the DNA and UNFCCC (respectively, November and December 2010) would fail to comply with the six months period mandated by the guidelines on the demonstration and assessment of prior consideration (EB62 Annex 13).
  
2. Please note, however, that, with appropriate revisions, this project activity may be resubmitted for validation and registration provided it meets the requirements for validation and registration, in accordance with paragraph 42 of the CDM Modalities and Procedures (Decision 3/CMP.1).

-----

### Document information

---

<i>Version</i>	<i>Date</i>	<i>Description</i>
01.0	17 December 2012	Project 6340 Related to EB 55, Annex 40, Paragraphs 20, 27 & 28

---

Decision Class: Ruling  
Document Type: Ruling note  
Business Function: Registration  
Keywords: rejected project activity

---