

CDM Executive Board  
Attn. Mr. Rajesh Kumar Sethi  
UNFCCC Secretariat  
Martin Luther King Strasse 8  
P.O.Box 260124  
D-53153, Bonn  
Germany

Subject: Submission to public call for input on draft standardized format of  
the CDM Modalities of Communication

Date: 3 September 2008

Dear Mr. Sethi,

OneCarbon welcomes the Board's decision to open a call for public input on the standardized format of the Modalities of Communication (MoC) and would like to use this opportunity to submit a number of comments, which we believe will further improve the current draft of the MoC.

Although the main purpose of the MoC is the establishment of the communication between the CDM Executive Board/UNFCCC Secretariat and project participants, this document also bears great commercial value as certain risks can be reduced with this document.

Focal point rights can protect the buyer against wilful default, hence it is a crucial tool to limit risk for companies investing in and buying CERs from a project.

Below we elaborate on nine key points, which OneCarbon considers to be crucial in respect of a standardised MoC:

1. The MoC clarifies the communication between the CDM EB/UNFCCC Secretariat and project participants on issues, which do not directly involve the host country of the project. Hence, the host country should not be included in this form. Instead, a DNA should establish its own communication procedure with the project participants, which could be set out, for example in the Letter of Approval.
2. The possibility to have joint Focal Points should be maintained as this provides a degree of flexibility for project participants. If this option can be maintained, an additional choice should however be included in the MoC to

clarify whether the signature of one Focal Point is sufficient or the signatures of both Focal Points are required, e.g. adding a third column to section 2 of the draft form, next to the option 'Joint' asking whether one signature or two signatures are required.

3. It is vital to maintain the option of having different (Joint) Focal Points for each form of communication (as outlines in paragraph 4a)-c) of the draft). Since project participants have different roles in the implementation of a project, different project participants will be involved in the different forms of communication during the various stages of a project.
4. Additionally, we suggest including an option of 'right for information' which would indicate, which project participant would like to be informed, i.e. be kept in copy of any kind of communication that takes place between the Board/UNFCCC Secretariat and the Focal Points. As an example, a request for review was issued in respect of one of our projects, which was communicated to the DOE and the Focal Point. The Focal Point failed to inform us in due time and if the DOE would not have done so we would have experienced considerable delays. Therefore, we believe that a general right of information would be a good way to ensure the smooth running of a project and would also ensure some form of control regarding the "performance" of the Focal Point. In addition, during negotiations the Focal Point allocation is often strongly debated and if a right of communication could be guaranteed irrespective of Focal Point allocation, a much more practical role allocation regarding the Focal Point communication can be achieved in many cases.
5. We have no objections regarding the introduction of the concept of Power of Attorney (POA) since in many cases, we believe, it could facilitate the communication process since non-experienced project participants could use specialised CDM agents to fulfil their functions. The introduction of POAs would however need some clarification regarding what would be required when the Secretariat undertakes a due diligence on "authorised signatories", i.e. would it require a certified or notarised copy of the POA or the board minutes of the project participant authorising the POA?
6. In the definition of terms it states that in the case of a change of Focal Point all project participants have to agree to the change. We would like to seek clarification whether this means that the current Focal Point (assuming s/he is a project participant) has to agree to give up this role,

as well? If this would be required, in our opinion a Focal Point would therefore be in a position to always veto his/her removal which could lead to situations detrimental to the other project participants.

7. Focal Points can have the sole right of communicating withdrawal and addition of new project participants in order to facilitate the process of changing project participants. We would like to get clarification whether a withdrawing project participant has to sign a statement that the withdrawal is voluntary and that this statement is passed on to the Board/ UNFCCC Secretariat via the Focal Point. Should this not be the case, we would like to request such change since this would give an indication as to whether a project participants has been removed against his/her will and thus also allow to control the actions of the Focal Point, preventing abuse of power.
8. We would like to seek confirmation from the Board that a Focal Point does not necessarily have to be a project participant. It is our understanding that this is common practice at the moment. Should this not be the case, again we would suggest for this to be integrated since, as with the POA, it would allow experienced service providers to add value to a project during the various project stages.
9. Finally, we would like to clarify whether there will be a grace period for projects coming up for registration that already have signed MoC, which are not according to the standardized format.

OneCarbon acknowledges that the communication between the Board and the project participants should be kept as simple as possible. However, some of the above mentioned options and suggestions have been practiced already and proven to be workable. Hence, we strongly feel that these options should be incorporated into the standardised format of the MoC as it facilitates commercial processes and risk mitigation.

Yours sincerely,



Matthias Scharte  
COO, One Carbon