

4 May 2009

CDM Executive Board
UNFCCC Secretariat
Martin Luther King Strasse 8
P.O.Box 260124
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Germany

Dear Mr. de Jonge,

I write to you in response to the call for input launched at EB 46 on efficiency of the operation of the CDM and opportunities for improvement. IETA welcomes the opportunity to respond to this call for input and hopes that our comments may be of assistance.

1. IETA is reminded, first and foremost, of the numerous requests made of the Board by the CMP at CMP4 in Poznan, many of which addressed issues related directly or indirectly to improved efficiency (“Further guidance relating to the clean development mechanism”, decision 2/CMP.4). IETA highly applauds the Board’s efforts to address these calls, which have been outlined in Annex 64 to the EB46 report. IETA believes that accomplishing the many and various tasks outlined in decision 2/CMP.4 would greatly improve the efficiency of the operation of the CDM. For that reason, and in reaction to this call for input, **IETA, first and foremost, urges the Board to continue and deepen their work in response to the latest guidance from the CMP.**

Unfortunately, however, the sheer number of issues toward which the CMP directed the Board calls for significant time and effort from an organization that is already overburdened. The current governance structure, the time constraints of the Board, and the continuation of project-by-project reviews make it very difficult to undertake the widespread efficiency improvements that the CDM requires to become a world-class regulatory agency. To address this reality, IETA believes that the EB should also focus attention on the following fundamental efficiency improvements: (1) standardizing existing approaches to the demonstration of additionality and the establishment of crediting baselines; and (2) improving the management and governance of the CDM.

2. **IETA strongly believes that the integration of standardized approaches throughout the CDM, in particular to the demonstration of additionality and the determination of crediting baselines, would greatly enhance the efficiency of the CDM.** A move towards the greater use of benchmarks and default values and the initiation of the use of standardized, multi-project baselines, deemed value lists, and positive technology lists would raise efficiency levels of project participants, DOEs, the CDM EB and its support



structure. The establishment of templates for the supporting documents required for registration, issuance, and methodology development would also prove to be a helpful act of standardization. Ensuring additionality and the determination of conservative crediting baselines would be a simpler, more straightforward process, and would entail fewer transaction costs for all entities involved if these types of approaches were integrated throughout the CDM.

As a more concrete example, the approval of the market and industry technology benchmark approach under AM0070 is a step in the right direction. It establishes the additionality of the project, aids in baseline scenario selection, and is used for baseline emissions calculations. However, even with AM0070, a significant data challenge remains; ten years of historical data is required to determine the benchmark, yet such data is usually impossible to obtain in a developing country context. Providing new, more practical approaches to additionality are required to improve the efficiency of the CDM. In particular, IETA proposes that the CDM EB turn toward a simple performance threshold approach, where the performance threshold (which could be a technology-specific threshold or best practice standard) represents “better than business-as-usual.” If the project meets the threshold, then it exceeds what would happen under the business-as-usual scenario, generates additional GHG reductions, and is thus deemed additional.

IETA hopes to work with the EB and the Parties to more fully develop these new approaches as the year goes on.

3. **IETA also believes that the CDM’s governance structure and the management system within it are crucial to the overall efficiency and legitimacy of the CDM and should be substantially “upgraded” in response to the success of the mechanism to date and the lessons that have been learned through its operation.** Below, IETA provides a number of suggestions in this regard.
 - a. To guide the many changes that are necessary, **IETA proposes that the EB hire an independent consultant specializing in regulatory agencies to review the existing capacity and procedural efficiency of the EB, the Secretariat, the Methodology and Accreditation Panels, and the Small-Scale and Aforestation/Reforestation Working Groups.** The consultant should recommend where additional expertise and capacity is required and should guide the EB towards the design and implementation of appropriate management systems.

These management systems should:

 - be based on a tiered management structure within each ‘body’ of the CDM;
 - include clear, fixed procedures and timelines for every aspect of the CDM process, including communication;
 - include training programs for staff, differentiated by the body and position



within which they work;

- include internal review systems for each body, with performance-based indicators and automatic triggers for new staff hirings based on, for example, increased project levels or an influx of new project types requiring different expertise.

The recommendations should take into consideration the current and expected inflow of different project types and should be based on learning from the past experience of the CDM and the best practice of other regulatory institutions.

- b. In addition to this review, IETA believes that the CDM EB should be transitioned into a supervisory body dedicated to the CDM on a full-time basis.** Given the high number of policy issues that need to be addressed by the Board, IETA believes that maintaining their part-time status will only continue to impede the efficiency of the CDM. Enduring concerns about the ability of EB members to combine a permanent role as Government representative with occasional independence when serving on the Board only bolsters the view that EB members should not continue to function on a part-time basis. IETA proposes that the EB continue to meet as a group on a periodic basis, as now, while maintaining full-time offices in their home countries where their entire work time would be devoted to CDM-related tasks. In line with this, IETA believes that EB members should be required to take leaves of absence from their other positions until after their tenure on the EB has finished.
- c. IETA also believes that the core function of the full-time CDM EB should be to address policy issues, including broad issues, such as improving efficiency, as well as technical issues, such as the development and rationalization of guidance, tools, and standardized procedures.** Given the volume of projects coming through the CDM, it is not practical or efficient for the EB to be making decisions on a project-by-project basis, when so many other issues with broad applicability call for their attention. IETA believes that the desire for strong project oversight, and the concerns for environmental integrity, that have led to high levels of requests for review and reviews can be addressed by making changes to the CDM in other areas. Apart from improving efficiency by allowing the Board to devote its time to more high-level issues, such changes would also improve efficiency in their own right.
- d. First among the changes that would both help ensure stronger project oversight and improve efficiency involves the Secretariat. IETA believes that the responsibilities of the Secretariat should be expanded and that the Secretariat should be reorganized into technical, policy, and administrative ‘wings’, with clear delineations between each.** Right now, the Secretariat exists as the one body within the CDM’s governance structure that is employed full-time and involved in all aspects of the regulation of CDM projects. In addition, the Secretariat already contains significant technical capacity upon which it would be simple to build. In order to ensure that that CDM, in all its facets, is *consistent*, the Secretariat should be responsible for the majority of



technical support activities throughout the CDM, including the assessment of individual projects as outlined by a new review procedure (explained shortly). As a way to facilitate the transfer of additional responsibilities to the Secretariat, IETA proposes that each of the Secretariat's 'wings' have its own standardized training procedures and employ staff based on the expertise required for the tasks being undertaken within that wing. The independent consultant hired to review the CDM should support this upgrade in the ways outlined in point (a).

- e. In conjunction with the expansion and reorganization of the Secretariat, **IETA believes that the EB should abolish the Registration and Issuance team (RIT)**. As explained above, in order to ensure the consistency of all evaluations and decisions, and thereby enhance the efficiency of the CDM, any reviews requested or required by the sampling method proposed herein should be undertaken by the new 'technical' wing of the Secretariat. The RIT does not serve on a permanent basis, which makes it very difficult to achieve the level of consistency that the CDM requires. The RIT also does not have clear rules and procedures for its assessments, including any set procedures for determining the materiality of the issues its members identify. In other words, members are asked to note all issues that they can identify, without any reference to whether or not those issues are significant. Such an unguided and unpredictable process is clearly an inefficient use of expert opinion and leads to inconsistency in evaluations.
- f. In conjunction with the efficiency improvements achieved through the abolition of the RIT and the transfer of its responsibilities to the technical wing of the Secretariat, **IETA also believes that efficiency would be greatly improved if all project-by-project reviews upon submission were stopped and, instead, projects were chosen for review according to a sampling method** based on, for example, a process of random selection of projects submitted for registration and issuance. The implementation of a sampling method to replace the RIT's project-by-project review would save time and funds for the EB and its support structures as well as for the DOEs and project developers. IETA would welcome the opportunity to assist the CDM EB and its support structure in the development of the sampling method.

Requests for review made by EB members for specific projects would still be possible after the implementation of this process, as per the Marrakech Accords. IETA suggests that such requests for review be limited to only "material issues," however, which would require that the EB define what constitutes a "material" issue and integrate the concept of "materiality" into its relevant guidance. IETA, and particularly its DOE member companies, would gladly assist the EB with this process.

- g. To further aid efficiency improvements, **IETA believes that stronger efforts should be made by the EB to develop project developers' knowledge base and capacity**, because an efficient CDM process begins with a good-quality PDD and project developers that are fully up-to-date with all guidance, tools



and expectations of the EB. Accredited project developer training seminars (for example, on methodology application and additionality assessment) should be developed and continuously updated by the training departments of DOEs or other third parties, in conjunction with the EB. In parallel, the CDM's governing bodies should hold regular information-sharing workshops in which members of the EB, Secretariat, panels and working groups exchange information and lessons-learned with project developers. Finally, the EB should create a forum for project developers, which should be similar to the already existing DOE Forum. Taking these steps will improve the avenues through which information is conveyed to project developers, and project developers will be able to share their experiences and lessons learned with the governing bodies of the CDM. Having *accredited* courses for project developers will ensure that course materials are accurate and remain up-to-date, and will prove project developer competence through examination. Precedents exist in ISO standards for the development of such accredited training courses, which are typically accredited by organizations such as the International Register of Certified Auditors in the UK.

- h. Last but not least, **IETA believes that the EB should recommend that the Parties establish an appeal mechanism for the CDM to ensure that all affected third Parties have a clear recourse to perceived injustices in the system.** Currently, aggrieved parties have no direct recourse. They often spend considerable time and energy trying to achieve the reversal of a decision by writing emails and unsolicited letters, which generally receive unsatisfactory answers. This is clearly an inefficient process. Contrastingly, an efficient system would be one that provides a clear route to redress for participants. Such an avenue would save time and effort and, if the original decision were to be overturned, could also save good projects from unsubstantiated rejection and abandonment (clearly a systemic inefficiency).

IETA believes that the mandate of the CDM appeal mechanism should be clearly defined in a COP/MOP decision taken at CMP 5. In order to ensure that it is a satisfactory alternative to litigation in the national courts, its mandate should make clear that the mechanism is (1) an independent and impartial authority, (2) a decision-making authority, and (3) accessible to all affected third Parties. The appeal mechanism should be completely independent from the EB and its supporting bodies. Those individuals who serve on it should be experts in the variety of fields associated with the CDM.

IETA believes that the appeal mechanism's investigations should be triggered upon receipt of a complaint and an initial review of the facts to show that the claim resides within its mandate. Its terms of reference should be set out in the COP/MOP decision establishing it and should be clear as to what the mechanism can and can not decide and which parties are able to submit a complaint. These terms of reference should include powers of investigation, including the ability to call hearings, view all relevant documentation, conduct interviews, and require the submission of evidence. The aggrieved parties



whose rights are established in relation to the appeal mechanism should be given the opportunity to be heard and make written submissions.

In closing, IETA greatly appreciates the opportunity to share these views with you. Please do not hesitate to contact me if you have any further questions as to these proposals.

Sincerely,

Henry Derwent
President, IETA