

Holstebro, Denmark  
August 15, 2011

The Chair and Members of the CDM Executive Board  
c/o the UNFCCC Secretariat  
Martin-Luther-King-Strasse 8  
D-53153 Bonn  
Germany

**Subject: Call for input on First-of-its-Kind and common practice**

Dear Sir/Madam,

We appreciate the CDM-EB placing the topic of First-of-its-Kind and common practice on the agenda and issuing the call of inputs. Our experience indicates that both project developers and DOEs have had difficulties, and some confusion, in defining what is First-of-its-Kind and common practice as well as the interpretation of guidance of the EB. We hope that the input from this Call will help EB in restructuring or defining the First-of-its-Kind and common practice analysis in an easier and more usable form. Please do review our input regarding the topics/questions in the following.

**I. First-of-its-kind**

Q (a) How would you normally define "prevailing practice" and what influences the consideration of whether such prevailing practice constitutes a barrier?

A normal definition of "prevailing practice" in the context of CDM could be - those activities which are predominate and widespread at the time of decision making, and within a similar context of, a CDM project activity.

It can be argued that the above definition of prevailing practice would not in and of itself define a barrier, but would define those types of activities which are predominate and widespread. Thus, by the process of exclusion (of those types) one would define the activities which are not prevailing practice. The question then arises what is the threshold for what is not prevailing practice. Is the threshold the minority (<50%) or the marginal (<10%). Alternatively, the above definition of prevailing practice could show that 100% of activities within a similar context do not apply the same activity/technology as the CDM project activity.

Q (b) In light of the previous answer, in your understanding, is a "first of its kind" project always facing barriers due to prevailing practice?

The above argument (a) points to the case where prevailing practice may not define a specific barrier, but instead the minority, the marginal, or there is no similar activity to the CDM project activity. Thus, a "first of its kind" (FOIK) project may not always be facing a definable barrier due to prevailing practice, but could define a project activity as the minority, the marginal, or non-existent (when not taking into account the CDM project activity).

Given the current structure of the Additionality Tool (EB39-Annex10), and without a defined barrier, then one would technically not be able to apply Sub-step 3b, but the CDM project activity can still be a "first of its kind" activity in a country/region.

Q (c) Consequently, is there a need for a FOIK concept in the additionality and combined tools or can the normal - or further improved - investment analysis or barrier analysis test sufficiently or even better capture the additionality of a project?

There IS a need for a FOIK concept in the additionality and combined tools. The normal - or further improved - investment analysis or barrier analysis test may NOT be able to capture the additionality in certain cases of FOIK projects. Thus, the CDM rules would be limiting the inclusion of new technologies and activities into developing countries.

In the case of investment analysis, new technologies reducing GHG emissions introduced into a market (country/region) may have such a high CAPEX costs (and usually do) compared to revenues that the returns are marginal. In these cases, without and with CDM revenues, the value of the project activity's financial indicator (IRR, NPV, or unit cost of service) may not exceed that of a benchmark or other alternatives providing the same outputs or services. This can specifically happen when prices (fx. electricity) are fixed low across an industry in a country/region, or where deregulated prices are sufficiently low (the grid has cheaper power production).

In the case of barrier analysis current CDM rules are not well defined for all cases, and this makes it difficult for DOEs to follow the CDM rules in unique cases of FOIK (e.g. in defining/evidence and applying other barriers).

Q (d) Is it sufficiently clear what constitutes a technology that is FOIK or is additional guidance required (e.g. geographical limitations, methodologies, industry and technology, other differentiating factors...)? How would one define this guidance?

Given the answers in (a) through (c), it is recommended that instead of further improving the investment and barrier analysis, that the EB focus on defining what constitutes a FOIK project activity and a related test. Then the FOIK-Test can be set as a first step in the Additionality Tool. In this context additional guidance is required of the EB and a changing of the Additionality Tool...etc. Suggestions for defining and structuring this guidance and FOIK-Test are as follows:

It is important to define the context which is similar to the CDM project activity, to narrow down if the CDM project activity is a FOIK. The narrowing down can be done by the following steps:

- i. Geographical Limitations should not be defined by borders specifically, but by the governance (e.g. policy and regulations) which impact the Industry / Sector. This starts with the national policy and regulations of a sovereign state (the political borders of a country), and may be regional (regional borders) within a sovereign state should the region transparently implement policy and regulations which are different from the national government. Geographical limitations should not include multiple sovereign states, but may include multiple regions within a sovereign state.
- ii. Industry / Sector should be defined by the types of outputs and services which the CDM project activity is providing or contributing to, and taking into account policies and regulations within the Geographical Limitations. An Industry/ Sector for example maybe defined as Independent Power Producers (IPPs) supplying power to the national grid, or Government Owned Power Producers supplying to the same grid should the policies and regulations be different.
- iii. Technology use in the Industry / Sector should be defined as what is the prevailing practice in the sector for installed technology or activity delivering the same outputs and services as the CDM project activity. Taking into account the technological difference in magnitude of scale. A prevailing practice Technology for example may be the existence of biomass based thermal plants delivering heat (<5 MW) to the sugar industry, or IPP power plants operating with Residential Fuel Oil (RFO) as the primary fuel. These could be quantified as the overall inclusion in the Industry / Sector, based on the number of installations of the total, but not based on capacity.
- iv. The Uniqueness of the Activity / Technology should be proven in so far that the Activity / Technology of the CDM project activity is sufficiently different from the activities or technologies defined in step (iii) within the boundaries of steps (i) and (ii). Guidance from Common Practice could further define this step. Examples could be the first use of a new type of fuel, one of a marginal amount

of activities which use a different or specialized equipment, or a case where it can be transparently proven that prevailing regulations are negatively impacting or creating higher risks to the project activity.

- v. First of Its Kind Activity would then need to prove that (1) it is within the Geographical Limitations, (2) within the defined Industry / Sector, and (3) not the prevailing practice of Technology use in the Industry / Sector, and is (4) unique. The threshold for defining that the CDM project activity is not prevailing practice could be set so that the activity/technology is below 10%<sup>1</sup> inclusion rate based on the number of installations in the boundaries of steps (i) and (ii). This may include such cases where the CDM project activity is the only such activities or use of technology.

With steps (i) through (v) satisfied then the project would be FOIK and additional.

Q (e) Should there be technologies that are automatically deemed FOIK or technologies that are deemed never to be FOIK?

As long as a threshold is set then there should be no technologies or activities which are automatically FOIK or those excluded from FOIK. The only exception to this would be those inclusions or limitations which are defined within each specific methodology and its applicability criteria, however adequate justification shall be given for such.

Q (f) Since FOIK is meant to reflect a barrier due to a very limited and quite unique application of a (new) technology, would it then be necessary to demonstrate how CDM helps to overcome this barrier?

There should be no need to demonstrate how CDM helps to overcome a barrier for a FOIK project, as it may not be definable (please see answers to questions (a) and (b)). FOIK should support the inclusion of new environmental friendly and sustainable technologies and activities into developing countries.

Q (g) Should CDM projects (registered or under validation) continue to be excluded from the FOIK test in the long term? What would be a reasonable term?

CDM projects with a 10yr crediting period should not be excluded from FOIK as long as the FOIK can be proven (e.g. FOIK-Test). CDM projects with renewable crediting periods (3x 7yrs) should have to prove FOIK (e.g. FOIK-Test) under validation/registration of the first crediting period and for each renewal.

## **II. Common Practice (CP)**

Q (a) Is there a need for a CP concept in the additionality and combined tools or can the normal - or further improved - investment and barrier analysis tests sufficiently capture the additionality of a project?

The CP concept is needed and is relatively sufficient, and the exclusion of FOIK project activities from the CP should continue.

Q (b) Should this concept be introduced early on in the assessment of additionality or should it continue to be implemented as a final stage of the assessment acting as a credibility check?

Given the logical chain of arguments needed to prove additionality in a PDD then it is suggested to keep the CP as the final (credibility) step, other there maybe unnecessary duplication of argumentation in a PDD.

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<sup>1</sup> Shown as an example in EB50-Annex13, paragraph 6. Guideline 3.



Q (c) Do you agree with the current approach to determine the CP of an activity?

Yes

Q (d) Is there a need to better define what constitutes a "similar activity" and the criteria used to identify essential distinctions (e.g. geographical scope, methodology, industry, technology, size, local circumstances, others criteria including the current criteria in the existing guidance)

Please refer to I.Q (d)

Q (e) Is there any other alternative approach to determine the CP of an activity?

The current application is relatively sufficient

Q (f) Should CDM projects (registered or under validation) continue to be excluded from the CP test in the long term? What would be a reasonable term?

Please refer to I.Q (g)

Q (g) Should there be a list of activities that are exempt from the CP test?

Please refer to I.Q (g)

Sincerely

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