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To cdm-info@unfccc.int
From gareth.phillips@pd-forum.net
Date 17 September 2011
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Subject **Response to the draft standards relating specifically to PoA matters (Annexes 4 through 6 to the agenda of EB 63)**

CHAIRMAN

Your contact:
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Honourable Members of the CDM Executive Board,
Dear Mr. Hession,

It is with some satisfaction that the Project Developer Forum acknowledges having had the opportunity to input on the draft standards and procedures presented at the Integrated Workshop in Bonn from 24th – 26th of August in Bonn. PD Forum is pleased to see that a large part of the feedback given there has been taken on board.

However, as mentioned in our main letter “relating to the annotated agenda of the 63rd meeting of the CDM Executive Board” we are of the opinion that the stakeholder process was too rushed and the needed time for serious reviews and discussions of the standards was not provided. In our assessment the standards are not yet in a form they should be approved as several requirements and formulations will not work in practice. We therefore urge the EB NOT to approve the standards described in Annexes 4,5 and 6 at its 63rd meeting but to continue the consultation process with practitioners to ensure a set of consistent standards applicable in the field.

This said, in case the EB decides to approve the current version of the standards during the 63rd meeting, we urge you prior to adopting and putting into force any of the three documents to adopt provisions for a transitional period of at least three months to account for flaws and inconsistencies that may be discovered only in the course of applying the standards in the field. During that transitional period the project proponents and validating DOEs shall be given the opportunity to fall back to the current guidance, decisions etc.

Furthermore, we would like to comment on the revised “Procedures for review of erroneous inclusion of a CPA” as approved by EB 61. In general, we highly welcome the revised version which represents a significant improvement. However, in our view the text would need an urgent clarification with regard to the consequences resulting from an erroneous inclusion after a renewal of a crediting period. We kindly ask the Board to consider clarifying/revising the procedures accordingly. Please see our suggested wording in Annex I to this letter.

In the following we would like to provide a detailed response to the draft standard documents that relate to PoA additionality by reciting the issues outlined in the breakout sessions held in the integrated workshop. The response refers simultaneously to all three standards and is split into those elements that have support by PD Forum members and those elements that are inadequately addressed or not addressed at all.

Generally supported elements

Combining Methodologies under a PoA

The Draft Standard for Application of Multiple Methodologies was welcomed at the workshop in Bonn, without substantial comments from the stakeholders. We are pleased to see that it has not undergone considerable changes.

The paragraph “Combinations of approved methodologies by the Board are contained in the General Guideline to SSC CDM methodologies”, which we considered to be confusing as it indicates that approval might be needed after all, has been removed as requested by the stakeholders.

In addition, the definition of “Cross effects” has been elaborated to include an example from the previous version.

This standard allows the application of any combination of SSC methodologies, without the prior approval of the EB. This is considered a big step towards reducing bureaucratic hurdles and increasing the flexibility of the PoA framework.

Approaches to test additionality

We are pleased to see that a differentiation between “homogeneous” and “non-homogeneous” CPAs has been made in terms of additionality demonstration. The Secretariat has added clarity on how the main avenues to determine additionality in the context of a PoA should be followed. In doing so, it adopted the recommendation formed during the break out sessions. We trust that the current wording enables both the simple homogenous PoAs striving for a streamlined checklist based approach and PoAs constituted by more complex activities, while still aiming at generalising the project cases. The two types clearly differ from the standalone project specific traditional CDM activity.

Elements deemed unsatisfactory

Distinction between different types of PoAs

While we are pleased to see that the recommendation to avoid a constraining and potentially misleading definition of policy and measure-based PoAs was taken on board, we are convinced the current distinction still does not work in practice. The response from the stakeholders clearly called for unconstrained options to either choose category-I or category-II, whichever matches with the concrete PoA set up under consideration. In the published draft, however, the wording does not appear to grant such an option by specifying where the two approaches “are to be applied”. According to our assessment, the specifications for “category-I” and “category-II” are not yet robust enough. In our view a large range of existing PoAs could be seen as both category I and II. Most PoAs are helping to implement a policy in one form or another. At the same time, many if not all of the concrete activities are triggered by CDM. Hence an unnecessary and counterproductive discussion would be triggered whether a PoA is to be handled under category I or II. The definition of category I and II needs a clear and thorough review with a view to practical cases.

Additionality Assessment for Category-II (Policy) approaches

Together with the above approaches for Category-I PoAs, the Secretariat put forward distinct approaches that relate to a policy as such (Category-II approaches). While the recommendations from the stakeholders at the Integrated Workshop in Bonn expressed concerns about the ability of DOEs to validate these approaches, there is a common understanding that those approaches need to be tested further and eventually linked with potential wording from CMP on credited

NAMAs. Footnote 3 in the Standard for demonstrating additionality acknowledges the need for further clarification.

In conjunction with this approach we would like to highlight possible implications from the wording in paragraph 5 that narrows the scope of eligible policies to those with a goal to reduce GHG emissions. From our experience, there are many mandatory policies that are not primarily aimed at reducing GHG emissions, but do in fact promote actions which reduce emissions, for example the zero discharge regulation in India. Such policies would be denied access to carbon finance via PoAs and we believe this is not the intention of the EB.

Understanding of establishing the additionality for Category-I approaches

In the “Standard for demonstration of additionality” there is a lack of clarity about the notion of how to “establish additionality at the PoA level” in the context of paragraph 7.

7b) states “The additionality of the CPA shall be established by demonstrating that the CPA would not be implemented in the absence of the CDM”. To avoid confusion, 7a) should similarly state “Additionality (of the CPA) should be established by demonstrating that the PoA would not be implemented in the absence of the CDM”.

On the other hand 7a) states “under this approach, additionality shall be established at the PoA level”. In 7b) it is not clearly stated whether additionality should be established on PoA level or CPA level or both.

We recommend to delete the sentence “under this approach, additionality shall be established at the PoA level” in 7a) above. The standard as a whole indicates that the additionality demonstration should be elaborated in the PoA DD; the difference between the approaches relates to the way eligibility criteria shall be set up for establishing additionality. In either way, the check pertains to the CPA under consideration. Talking about a demonstration on PoA level and CPA level therefore seems confusing.

Thresholds of small / micro scale to CPAs with multiple units

The application of micro scale limits in the context of homogenous CPAs with multiple units in practice fails to provide satisfactory results. The decision as to where to set the boundary of a CPA and how many individual units shall be contained in a CPA is completely arbitrary. Often the CPA boundaries reflect a balance between (i) meeting the small scale or micro scale limits and (ii) keeping the administrative burden limited. While this arbitrary element is the result of the evolution of regulations under the CDM, we doubt whether there is a rationale for the application of above limits to the CPA and not to individual units, as the aggregate effect of all CPAs is not dependent on the maximum scale of the individual CPAs. Only the number of CPAs to be managed and the related administrative burden is affected.

While it is understood that the respective provisions to address the above deficiency has to be addressed in the micro scale additionality guidelines, we doubt that paragraph 12. (j) in the standard on eligibility criteria addresses this issue appropriately, as it requires “that the independent subsystems within each of the CPA and CPA in aggregate meets the small-scale or micro-scale limits.”

Streamlined procedures for standardised micro and small scale activities

In conjunction with the Standardised Additionality Check the recommendations from the stakeholders called for a streamlined process that allows simultaneous verification and eligibility check for CPA inclusions. Such an approach would allow for a swift and rolling implementation.

We regret that this recommendation did not find its way into the current wording and encourage the EB to reconsider.

Shifting liabilities to CMEs to match their responsibilities

The enhanced importance and much more central role that the CMEs gain in the current draft is generally welcomed as this reflects the idea that a part of the core duties that traditionally pertain to the DOEs shall be shifted to the CMEs. However, such a shift has to go along with a commensurate apportioning of liabilities if the DOEs indeed are to be relieved from double-checking the CME's work.

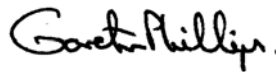
As of today we do not have the current wording of the Standard on Significant Deficiencies in order to see if the provisions are established in a way that formally allow the DOEs to attribute part of potential liabilities to the CMEs.

Editorial errors

Paragraph 10 a) in the standard for demonstration of additionality appears to have an error: "The PoA is additional if it is environmentally effective but faces one of the barriers described under (b) to (d)", while it should state "(ii) to (iv)".

Please do not hesitate to contact us for further information and/or discussions.

Kind regards,

A handwritten signature in black ink that reads "Gareth Phillips". The signature is written in a cursive, slightly slanted style.

Gareth Phillips
Chair of the PD Forum

Annex 1

Proposed wording to clarify the “Procedures for review of erroneous inclusion of a CPA”

In order to clarify the procedure with regard to the consequences resulting from an erroneous inclusion after a renewal of the crediting period, we suggest the addition of a clarifying footnote to paragraph (15).

*“15. Where, for any of the CPAs excluded pursuant to paragraphs 9 (a) or 13 above, the Board determines that the including DOE failed to adequately assess, in accordance with the relevant validation requirements, their compliance with the eligibility criteria, the DOE shall acquire and transfer, within 30 days of the exclusion of the CPAs, an amount of reduced tonnes of carbon dioxide equivalent to the amount of CERs issued for the CPAs as a result of the CPAs having been included (**proposed new footnote**), to a cancellation account maintained in the CDM registry by the Board.”*

Proposed new footnote: “In case of an exclusion after a renewable of the crediting period, the amount of CERs issued in the new crediting period shall be transferred to a cancellation account.”