




F-CDM-RtB

 CDM: FORM FOR SUBMISSION OF “LETTER TO THE BOARD” (Version 01.1) <i>(To be used only by the Project Participants and other Stakeholders for submitting Letter to the Board as per Modalities and Procedures for Direct Communication with Stakeholders)</i>	
Name of the stakeholder ¹ submitting this form (individual/organisation):	Project Developer Forum
Address and Contact details of the individual submitting this Letter:	Address: 100 New Bridge Street, London, EC4V 6JA Telephone number: +65 6578 9286 E-mail Address: gareth.phillips@pd-forum.net
Title/Subject (give a short title or specify the subject of your submission)	Response to Call for input to EB65 annexes
Please mention whether the Submitter of the Form is:	<input type="checkbox"/> Project participant <input checked="" type="checkbox"/> Other Stakeholder, please specify PD-Forum
Specify whether you want the Letter to be treated as confidential ² :	<input type="checkbox"/> To be treated as confidential <input checked="" type="checkbox"/> To be publicly available (UNFCCC CDM web site)
Purpose of the Letter to the Board: Please use the space below to describe the purpose for submitting Letter to the Board. (Please tick only one of the four types in each submission)	
<input type="checkbox"/> Type I: <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> <input type="checkbox"/> Request Clarification <input type="checkbox"/> Standards. Please specify reference <input type="checkbox"/> Procedures. Please specify reference <input type="checkbox"/> Guidance. Please specify reference <input type="checkbox"/> Forms. Please specify reference <input type="checkbox"/> Others. Please specify reference </div> <div style="text-align: center;"> <input type="checkbox"/> Revision of Existing Rules </div> </div>	
<input type="checkbox"/> Type II: Request for Introduction of New Rules <input type="checkbox"/> Type III: Provision of Information and Suggestions on Policy Issues	
Please use the space below to describe in detail the issue that needs to be clarified/revised or on which the response is requested from the Board as highlighted above. In doing this please describe the exact reference source including the version (if any).	

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To cdm-info@unfccc.int
From gareth.phillips@pd-forum.net
Date 08 Nov 2011
Subject **Input on EB65 Annotated Agenda: Annex 14 - Draft CDM
Project Cycle Procedure**

Mr. Martin Hession,
Honorable Members of the CDM Executive Board,

The PD-Forum welcomes the opportunity to submit comments on the Annotated Agenda. In addition to this submission we are submitting several others on Annexes 7, 8, 9, 14 and 15.

We note that a number of Annexes were not published at the start of the consultation period. Late publication of these documents, combined with the short period for submitting comments (7 days) and the overall volume of annexes hampers serious external input. This approach, which seems to be becoming increasingly frequent, is not conducive to the transparency and openness that the EB and stakeholders seek.

Para 5 / Annex 1. The business plan was not published at the start of the two week period and PD-Forum was unable to comment in time.

Para 6. The PD Forum has submitted a separate letter on this issue, recommending the inclusion of a PD Forum representative in the dialogue.

Para 8 / Annex 2. Timelines:

- Section II. The PD Forum has submitted several letters to the EB in the recent months covered by the graph. Given the average response time to our letters we believe the graph can not be accurate – we have still not received responses to the majority of our submissions.
- Section VII. The PD Forum is happy with the recent increase in processing, but believes the significant drop in processing in September should not have happened as the backlog was still existing and delays were still exceeding agreed time limits. However, the time before the commencement of the completeness check continues to be both unreported and far exceeding the 15 day limit. Additionally since mid-September no advance scheduling of completeness checks has been done. Since the introduction of backdating the registration date to the date of the submission of the documents in April, the average backdating has been 79 days. This exceeds the aggregate time of the agreed limits for each stage by 6 days (15 days prior to commencement, 7 day completeness check, 23 days information and reporting check, and 28 days requesting registration, which is in aggregate 73 days).
- Experience from PD Forum members shows that projects with minor incompleteness issues are continuing to be removed from the pipeline completely rather than allowed to amend the incompleteness.

Para 11 / Annex 4. Management plan:

- The PD Forum is happy to see that CDM posts are now 90% filled. However, with continuing considerable backlogs and a significant surplus, we believe more staff or external consultants should be hired to eliminate the backlogs and stop them from reappearing. The implementation of the risk-based approach



of project assessment will also help to reduce backlogs.

Para 36 / Annex 5

The PD Forum notes the progress on the preparation of sampling guidance. We have several concerns which we request the Board to take into consideration:

- 1) Paragraph 8 gives precedence to statistical guidance in methodologies however in practice, PPs and DOEs have found that this is inconsistent and inappropriate. For example, in AM 97, whilst the principles of defining the sample size are discussed, the value of the parameters in the calculation of n are fixed (equation 4) resulting in a sample size of 380. The guidance in Annex 5 is superior. For this reason, we would request that the board start from the assumption that the sampling guidance takes precedence over sampling standards in methodologies. It was, after all, the inconsistent treatment of sampling in the meths that resulted in the need to prepare sampling guidelines.
- 2) We are concerned that Section V of the guidance will encourage DOEs to repeat sampling exercises at significant costs to the PPs. If this is the case, then another way of determining whether or not the PPs sample can be accepted is to simply test whether the confidence intervals of the PP's sample and the DOE's sample overlap. That said, we question the value of repeating samples. In the event that a DOE obtains a statistically different result, then what is to be done? Does the PP have to repeat their sample, and who is to say that the DOE's sample is any more representative than the PP's sample? We suggest that verification of sampling activities is restricted to a desk based exercise and that DOEs are invited to witness sampling activities whilst they are underway. Emphasis would then be placed on the suitability of the sampling design, training of sampling teams, quality control and calculations.
- 3) The possibility of grouping several CPAs into one sampling survey is only mentioned in footnote 13. This is however, a new aspect that will have a significant impact on a large number of PoAs. We therefore suggest to mention this principle, its possibilities and requirements in a separate paragraph to elaborate this in more detail.

Para 37 / Annex 6. POAs

- General comment: We welcome the consolidation of the three standards into one standard. Along with the considerable modifications made to the PoA standards, we kindly urge the EB to revise the PoA-DD and CPA-DD template as soon as possible.
- Para 7-10, 14. The standard is based on the distinction between Micro-scale, Small-Scale and Large Scale thresholds for each CPA. For PoAs with multiple micro-scale homogenous units, it does not make sense to apply this distinction by scale of the CPA: in practice, the decision of the micro/small-scale/large-scale limits in the context of CPAs with multiple homogenous units is arbitrary, often reflecting 1) a compromise between meeting the small-scale or micro-scale limits enabling application of less stringent methodological requirements, and 2) keeping the administrative burden limited. In applying the additionality approach of Annex 6, a large-scale CPA with multiple homogenous units like solar lamps will have the same strict criteria for additionality demonstration as a large-scale stand-alone CPA like a landfill gas project.
- Para 21-24. We note the conditions for updating eligibility criteria in section B2, for cases in which an immediate update is required. We would request that these conditions are only brought into force in the event that a PP wishes to include further CPAs in the PoA in that same crediting period. If there is no request to include further CPAs, then there is no need to update the eligibility criteria until the renewal of the crediting period.

Paras 38-40 / Annexes 7-9. As these Annexes have not been published at the same time as the annotated agenda we are preparing our comments under a separate workstream. Please see separate submissions.

Para 41 / Annex 10. Guidelines for the completion of the PDD.

- Para 8 should be (a) and (b)
- Para 17 Tables included in the template and their columns may not be modified or deleted, but rows may be added, as needed. Tables which are not part of the template can not be treated in the same manner. For example, the table in B.6.4 of the PDD is not part of the (old) PDD template.
- B.5 states "Illustrate in a transparent manner all data used to assess the additionality of the project activity (variables, parameters, data sources, etc.)". This implies that the data must be included in the PDD. However, the additionality tool sub-step 2c states: "Present the investment analysis in a transparent



manner and provide all the relevant assumptions, preferably in the CDM-PDD, or in separate annexes to the CDM-PDD, so that a reader can reproduce the analysis and obtain the same results.” As it is now a requirement to submit a full calculations spreadsheet for the investment analysis with the request for registration, the detailed data for the investment analysis is better presented in the calculation sheet than in the PDD. Therefore the description in B.5. should also allow that the data is presented in separate annexes.

- Section F can generally not be completed at GSP stage. We recommend therefor that this is removed from the PDD template.
- Appendix 1. Some organisations have either fax or email, not necessarily both.

Para 42 / Annex 11. The Glossary of terms does not include indications of what has changed from the previous version which makes reviewing more difficult.

- Renewable biomass is defined differently that that indicated in the relevant methodologies and/or the documents relating to the recent call for stakeholder input.

Para 44 / Annex 13. The PD Forum is happy to see that thresholds are being proposed on an interim basis so that implementation can start in the spirit of learning by doing in the CDM, as well as the further development and improvement on these thresholds in consultation with panels, experts and DNAs.

We note the reliance upon DNAs in countries with fewer than 10 registered CDM projects and we question whether these DNA’s can realistically fulfil this expectation without further support.

We also observe that the scope of the standardized baselines has continued to focus on additionality only and has not yet made significant progress on new ways of establishing the baseline and calculating emission reductions. We maintain that the existing monitoring methodologies are not well suited to scaling up of CDM through standardized baselines and we urge the EB to consider means of improving monitoring methodologies and procedures for the calculation of emission reductions under standardized baselines.

Paras 53 / Annex 14. As this Annex has not been published at the same time as the annotated agenda we are preparing our comments under a separate workstream. Please see separate submission.

Para 56 / Annex 15. Separate submission on significant deficiencies.

Para 59. PD Forum members are only aware of one study looking in to technology transfer, which however lacked credibility and analysis prior to asking for inputs from the project developers. Therefore this study is unlikely to have received much input. We are not aware of any other serious request for input from the project developers, who are the principle knowledge base, in these areas.

Para 60 / Annex 17.

- The PD Forum notes the progress made on sustainable development co-benefits and negative impacts of the CDM. We have several comments to make, firstly relating to the structure of the Annex and secondly to the content:
 - Structure:
 - 1) The first comment refers to the method of analyzing the responses to calls for input and once again, we note that emphasis has been placed on the number of submissions expressing particular views. The Annex starts with the phrase “Most (6 out of 12)...” The PD Forum does not agree that 50% can ever be expressed as a majority and as stated in our response to the summary of the call for inputs on first of a kind and common practice, a call for input is not a voting exercise but a means of gathering information which should then be considered by the secretariat as part of an informed analysis.
 - 2) The annex refers several times to the UNFCCC study “Benefits of the CDM 2011”. However, this study has not been published (to our knowledge). The PD Forum would like to see publication of the study for transparency.



- Content: The conclusion of this annex is heading towards significantly strengthened stakeholder consultation and sustainable development reporting requirements. This concerns us several reasons
 - 1) It will inevitably increase transaction costs. Although the EB is, correctly, not concerned about international carbon prices and focuses on regulating supply, the EB should be concerned about steps which increase the cost of supply and add transaction barriers, particularly at a time when prices are so low
 - 2) Increasing the on-line stakeholder consultation period to 60 days will directly add an additional 30 days to the registration timeline, since DOEs cannot start validation until the GSP has been completed. In our experience, the 30 day time line has never shown to be a problem for stakeholders and DOEs have, again in our experience, never adhered rigidly to the 30 day period. In cases where they have received comments outside the commenting period, they have always taken them into consideration. We are not aware of cases where DOEs have rejected valid stakeholder comments irrespective of the time that they were submitted.
 - 3) Requiring a two stage stakeholder consultation process places much greater demands on PPs and also stakeholders. There is a very real risk that doubling the stakeholder interactions and at the same time intensifying them, will simply lead to fatigue amongst stakeholders and compromise the quality of any feedback that we receive.
 - 4) Placing additional reporting requirements on individual projects overlooks the ultimate objective of the Framework Convention which makes it clear that by reducing GHG emissions, projects are contributing to sustainable development:

"The ultimate objective of this Convention and any related legal instruments that the Conference of the Parties may adopt is to achieve, in accordance with the relevant provisions of the Convention, stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner."
 - 5) Finally, the similarity between the proposals and the existing requirements of the Gold Standard are such that if adopted, they would erode the difference between the CDM and the Gold Standard. The Gold Standard has played a very important role in the development of the carbon markets and as one of the leading voluntary initiatives, with the ability to develop new kinds of methodologies and address a growing niche in the markets. Removing their unique selling point would risk losing diversity in the marketplace and push the CDM more towards a monopoly on offsets.

Para 63 / Annex 18. In order to achieve the objective of saving time and streamlining the process, the "guidelines on baseline determination for a measure" should probably be an Information Note rather than formal Guidelines. An Information Note aids understanding, whereas Guidelines introduce new and additional rules. In the event that guidelines (or information note) are approved, we propose that they are implemented in a manner which is sympathetic to the current pipeline of projects seeking registration by the end of 2012.



Para 64 / Annex 19. The PD-Forum notes and welcomes the progress on the development of capacity building and training resources as described in Annex 19. We note that you have recognised the collaboration between the Secretariat and the Project Developers Forum which amounted to several Secretariat staff attending the courses organised by the PD-Forum. We also note that the Secretariat attended a two day co-ordination and training meeting between the PD-Forum and the DIA. The PD-Forum is planning to repeat this meeting in February 2012 and we hope the Secretariat will be able to join us once again.

We have frequently highlighted the need for more training and we believe that the proposals in Annex 19 will go quite some way towards fulfilling these needs. We would like to propose that the EB take the training program one step further and, reflecting the approach taken in some ISO standards, offer accredited training courses for practitioners – which would include Secretariat staff, consultants, DOEs and PPs. Rather than placing all of the burden on the Secretariat, an accredited training program would accredit third parties to run courses on the CDM, on the basis of their independence and competence to remain up to date with changes in CDM rules, guidelines and procedures. The Secretariat would then instruct the training organisations on the correct interpretation of new rules etc and it would be the responsibility of the trainers to then disseminate that information to practitioners in an accurate manner. Then, and only then, will all practitioners have the same interpretation of guidelines and procedures.

Rather than burdening the Secretariat, this would be a revenue generating mechanism, whereby the accredited entities pay a fee to the Secretariat to receive the regular updates. Practitioners achieve personal qualifications which are portable and which are maintained through professional development records.

This approach would be much more efficient than the current approach whereby “training” is provided via the accreditation teams and the issues they raise on surveillance and spot check visits.

Development of an accredited training program is one of the PD-Forum’s topics for CMP7.

Kind regards,

Gareth Phillips
Chair, Project Developer Forum

Please use the space below to any mention any suggestions or information that you want to provide to the Board. In doing this please describe the exact reference source including the version (if any).

[replace this bracket with text, the field will expand automatically with size of text]

If necessary, list attached files containing relevant information (if any)

- [replace this bracket with text, the field will expand automatically with size of text]

Section below to be filled in by UNFCCC secretariat


Date when the form was received at UNFCCC secretariat



Version	Date	Nature of revision
01.1	09 August 2011	Editorial revision.
01	04 August 2011	Initial publication date.
Decision Class: Regulatory Document Type: Form Business Function: Governance		



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To cdm-info@unfccc.int
From gareth.phillips@pd-forum.net
Date 08 Nov 2011
Subject **Input on EB65 Annotated Agenda: Annex 7 VVS**

Mr. Martin Hession,
Honorable Members of the CDM Executive Board,

The PD-Forum is very disappointed to note failure of the Secretariat to understand and adopt the key points which we raised in our previous submission the EB 63 on the VVS. It seems that there has been a partial attempt to recognise our point which has led to some changes in text, but the willingness to carry this on throughout the VVS has evaporated somewhere between Section 7 and Section 9.

The fundamental issue which we have highlighted, and which is the cause of constant problems in the verification of emission reductions, is that there is no such thing as a “registered monitoring plan” or “approved monitoring plan”, yet section 9 of the VVS continually refers to these documents. What exists is a “description of the monitoring plan” which is included in a registered PDD, but it is vital to understand that this is a description of the plan, showing how we will apply the approved monitoring methodology. It is NOT a monitoring plan. It lacks sufficient detail to act as a monitoring plan, especially since it is written usually before the project is implemented. Despite pointing this out very clearly in our comments on the last draft, the current version has started to change the text (for example in paragraph 133 of the revised version, three changes are highlighted) but by the time we get to Section 9, the recognition of this fact has been lost. Throughout Section 9 the text fails to acknowledge that the Monitoring Plan is contained in the Monitoring Report. The text continues to refer to the registered or approved monitoring plan, presumably meaning the description of the monitoring plan in the registered PDD.

PD-Forum believes that this mis-understanding is the root of many problems which arise with verification and it will continue to be a major cause of bottlenecks and inefficient practices until it is resolved. The description of the monitoring plan in the registered PDD must be consistent with the approved methodology, at a relatively high level. The monitoring plan is then detailed in the monitoring report. The monitoring plan must be consistent with the approved monitoring methodology at a much greater level of detail. It should be consistent with the PDD, although it is noted that some methods provide options and there may be scope to choose between these and still be in compliance with the monitoring methodology. Guidance might be appropriate here.

Thus PPs have some flexibility to change the monitoring plan in successive monitoring reports as long as it remains consistent with the approved monitoring methodology. Requiring all monitoring reports to be consistent with an *ex ante* description of the monitoring plan, written before the project was constructed, forces PPs and DOEs to treat minor changes in the monitoring plan as requests for revisions and deviations. All of this is completely unnecessary because the language in the PDD is very clear: “Section B7 Application of the monitoring methodology and description of monitoring plan”. The monitoring plan is then presented in the Monitoring Report.

Drawing on the comments made in our last submission, we consider that the following points are still outstanding:



<p>10 (b) “should” is used for a recommended, but not mandatory, means for meeting a requirement.</p> <p><i>Comment: The current text is at odds with the text in the Project Standard (PS) and should be brought into line. We suggested that the PS version should read as follows: “should” is used for a recommended, but not mandatory, means for meeting a requirement. This may need to be qualified further for the DOEs by stating that other practical options may be used which offer the same level of accuracy, reliability of data, etc.</i></p>
<p>34. The DOE shall acknowledge receipt of and take in to account all bone fide comments on the PDD of the proposed project activity submitted by authenticated stakeholders in accordance with the Project cycle procedure.</p> <p><i>Comment: The VVS should recognize the requirement in paragraph [18] of PCP to check the authenticity of the stakeholders who submit comments on the PDD</i></p>
<p>36. If comments are not sufficiently substantiated or if they indicate that the proposed project activity does not comply with the CDM requirements, then the DOE shall have the option to request further clarification from the entity providing the comment. However, the DOE is not required to enter into dialogue with Parties, stakeholders, NGOs, or unauthentic individuals/organizations that comment on the CDM requirements. If no additional information or substantiation is provided in response to a request for clarification, the DOE shall proceed to assess the comments as originally provided.</p> <p><i>Comment: With the recent influx of bogus comments from sources not even related to the project activity in question but intended to consume DOE time and clog up the process, DOEs should be given the latitude to ignore such comments and focus on those that are relevant.</i></p>
<p>37. The DOE shall report the details of the actions taken, if any, to take due account of the comments received during the validation process.</p> <p><i>Comment: See above comment on para 37.</i></p>
<p>54. The DOE shall validate the corporate identity of the project participants and focal points and the personal identity, including specimen signatures and employment status, of their authorized signatories as per paragraph 53 above through:</p> <p>(a) Directly checking evidence for corporate, personal identity and other relevant documentation, or</p> <p><i>Comment: Any one of the options should be sufficient to verify credentials so “or” is needed.</i></p>
<p>98. The DOE shall verify the justification given in the PDD for the choice of data and parameters used in the equations. If data and parameters will not be monitored throughout the crediting period of the proposed CDM project activity but have already been determined and will remain fixed throughout the crediting period, the DOE shall assess that all data sources and assumptions are appropriate and calculations are correct, applicable to the proposed CDM project activity and will result in an accurate, and failing that, conservative estimate of emission reductions. If data and parameters will be monitored or estimated on implementation and hence become available only after validation of the project activity, the DOE shall confirm that the estimates provided in the PDD for these data and parameters are reasonable.</p> <p><i>Comment: Bring into line with the principles in the PS</i></p>



108 (a) "... and/or notes and emails related to the consideration..."
108 (b) "...term sheets, ERPA's and other documentation, including emails, related to ..."
<i>Comment: make it explicit that emails are an acceptable form of documentation.</i>
126 (a) "...The DOE shall determine whether the existence of barriers is substantiated by independent sources of data such as relevant national legislation, surveys of local conditions and national or international statistics, or its sectoral or local expertise."
<i>Comment: If the DOE can reject barriers on the basis of its own sectoral or local expertise then it should also be able to approve them.</i>
132 (b)(i)The monitoring arrangements described in the description of the monitoring plan are feasible within the project design;
<i>Comment: Bring into line with the PS</i>
133 (b) Describe the steps undertaken to assess whether the monitoring arrangements in the monitoring plan description are feasible within the project design;
<i>Comment: Bring into line with the PS</i>
193. The DOE shall confirm that the start date of any CPA is not prior to the commencement of the validation of the PoA, which is the date the CDM-POA-DD is first published for global stakeholder consultation. For the purposes of this requirement, local stakeholder consultation is not an indication of the start of the process.
<i>Comment: To clarify that local SHC can be undertaken before submission of documents. Add following the requirement or as a footnote.</i>
212 (a) The registered PDD including any approved revisions or changes to the registered PDD
<i>Comment: the registered PDD contains the description of the MP, so no need to specify it, otherwise it must refer to the description of the MP</i>
216. The DOE shall only certify emission reductions that are based upon verifiable evidence
<i>Comment: This paragraph relates to paragraphs [214] and [215] in the Project Standard which requires that DOEs make adjustments to, and certify ERs on the basis of unverifiable data (such as the assumption that a project source is operating at 100% capacity). We have proposed deleting paragraphs [214] and [215] in the PS and replacing them with an alternative approach. Please see our comments on the PS as well. The expectation that every CER can be verified is not realistic. 217 b) vii) acknowledges the existence of procedures to correct any errors or omissions in the reported monitoring parameters. We recommend that this clause is deleted.</i>
217(a)(ii) A review of the monitoring plan provided in the Monitoring Report and monitoring methodology, including applicable tools, paying particular attention to the frequency of measurements, the quality of metering equipment including calibration requirements, and the quality assurance and quality control procedures;
217(b)(iii) Interviews with relevant personnel to confirm that the operational and data collection procedures are implemented in accordance with the monitoring plan in [section D] of the monitoring report;
217(b)(v) A check of the monitoring equipment including calibration performance and observations of monitoring practices against the requirements of the PDD, the monitoring plan provided in the Monitoring Report, and the selected methodology and corresponding tool(s), where applicable;



<i>Comment: to make it explicitly clear that the full (vs. description) Monitoring Plan is contained in section D of the relevant Monitoring Report.</i>
217(b)(vii) An identification of quality control and quality assurance procedures in place to prevent or identify and correct any errors or omissions in the reported monitoring parameters
<i>Comment: How are DOEs expected to decide whether or not any such procedures are acceptable?</i>
225 (a) Determine whether the project activity has been implemented and operated as per the registered PDD or any approved revised PDD, and that all physical features of the project, relevant to the technology, scale and type, demonstration of additionality, application of the selected methodology and the calculation of GHG emission reductions or net GHG removals, are in place;
<i>Comment: "all physical features" – this is back to 2 cm increase in the size of the flange. Para [29d] in the PS describes the requirements for the technology and we should be consistent</i>
225 (c) Determine whether actual monitoring systems and procedures comply with the monitoring systems and procedures described in the monitoring plan or any revised approved monitoring plan , and the approved methodology including applicable tool(s);
<i>Comment: there is no such thing as an approved monitoring plan. Delete "or any revised monitoring plan"</i>
226 (a) Determine whether the project activity has been implemented and operated as per the registered PDD or any approved revised PDD, and that all physical features (technology, project equipment, and monitoring and metering equipment) of the project are in place
<i>Comment: if the description of the Monitoring Plan in the PDD complies with the monitoring methodology and the Monitoring Plan in section D of the Monitoring Report complies with the monitoring methodology, then it follows that the Monitoring Plan will comply with the registered PDD or any revision thereof.</i>
227. The DOE shall, by means of an on-site visit, assess that all physical features of the proposed CDM project activity proposed in the registered PDD are in place and that the project participants has operated the proposed CDM project activity as per the registered PDD. If an on-site visit is not conducted, the DOE shall justify the rationale of the decision.
<i>Comment: same as 234 (a)</i>
229. The DOE shall verify that the monitoring plan in the Monitoring Report of the project activity is in accordance with the applied methodology including applicable tool(s).
<i>Comment:</i>
230. The DOE shall confirm that the implementation of the Monitoring Plan in the Monitoring Report is in accordance with the provisions of the monitoring methodology, and that any deviations or changes are in accordance with the provisions of section 12.8.4 of the project standard.
<i>Comment: This paragraph falls under the heading "Compliance of the MP with the MM including applicable tool(s)" and should be limited to discussions on the MP, not other areas of the registered PDD.</i>
231. For monitoring aspects that are not specified in the methodology, particularly in the case of small-scale methodologies (e.g. additional monitoring parameters, monitoring frequency and calibration frequency), the DOE should bring to the attention of the Board issues which may significantly



enhance the level of accuracy and completeness of the monitoring plan

Comment: This wording has led DOEs to request revisions of the monitoring plan that had no significant impact on accuracy or completeness of the monitoring plan.

232. delete “or an approved revised PDD”

Comment: not needed.

Section 9.4.3 , paras 233 to 236

Comment: there is no such thing as a registered monitoring plan. This complete section should be deleted. The DOE only needs to verify that the monitoring plan submitted in the monitoring report complies with the methodology and this has already been done under 9.4.2 above.

243. The DOE shall report whether the calibration is conducted at the frequency as specified by the methodology or the monitoring plan in the monitoring report.

Comment:

245. The DOE shall determine whether:

- (a) A complete set of data for the specified monitoring period is available. If only partial data are available because activity levels or non-activity parameters have not been monitored in accordance with the registered monitoring plan, the DOE shall check that missing data have been interpolated in a conservative manner, and corroborate the estimates with alternative sources of information. If the aggregated value of all of the missing data in the monitoring report divided by the aggregated value of the project emissions, baseline emissions and leakage emissions in the monitoring report in question, exceeds the thresholds defined in the Project Standard, the DOE shall either raise a CAR for the project participants to make a more conservative assumption in finalizing the verification report, or raise a request for deviation prior to submitting the request for issuance, if appropriate;

Comment: This text would bring this section into line with the proposed text in the Project Standard. failing this approach, we request that a definition of “most conservative assumption theoretically possible” be included in the guidance or training as some DOEs, in order to take no risk and be overly conservative, may interpret the most conservative assumption as ‘0’ or 100%. For example, consider the following scenario. During a short period within the monitoring period the continuous flow meter readings for gas towards the engine are missing (malfunctioning,). However operational records clearly indicate that the engine has been running and producing electricity during the period of the equipment malfunction. The missing data on the volume of gas, can in this case be (back) calculated on the basis of engine running hours and load. A correlation between running hours and gas consumed could be based upon historical data set (or data set after restoring event) to support the validity of replacement data. PPs feel that taking this action would be the “most conservative assumption theoretically possible” since proof is provided that engine had been running. However, DOEs may feel the most conservative approach would be to simply resort to assigning zero (0) gas for the period.

Section 9.5.4 onwards, replace references to registered monitoring plan with monitoring plan in the monitoring report.

Kind regards,

Gareth Phillips
Chair, Project Developer Forum




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Address and Contact details of the individual submitting this Letter:	Address: 100 New Bridge Street, London, EC4V 6JA Telephone number: +65 6578 9286 E-mail Address: gareth.phillips@pd-forum.net
Title/Subject (give a short title or specify the subject of your submission)	Input on project standard (EB65, Annex 8)
Please mention whether the Submitter of the Form is:	<input type="checkbox"/> Project participant <input checked="" type="checkbox"/> Other Stakeholder, please specify PD-Forum
Specify whether you want the Letter to be treated as confidential ² :	<input type="checkbox"/> To be treated as confidential <input checked="" type="checkbox"/> To be publicly available (UNFCCC CDM web site)
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To cdm-info@unfccc.int
From gareth.phillips@pd-forum.net
Date 08 Nov 2011
Subject **Input on EB65 Annotated Agenda: Annex 8 - PS**

Mr. Martin Hession,
Honorable Members of the CDM Executive Board,

The PD-Forum is quite disappointed that only a few of our comments have been taken up by the Secretariat. Hence, we would like to highlight some issues in the draft document that should be addressed before approval to improve the usability of the document. Please see our comments for each paragraph as follows:

General: Please add references and/ or weblinks for the sources of all documents mentioned in the PS (For example, in paragraph 80, provide a reference for “General principles for bundling” (EB21, Annex 21)).

Paragraph 9

It should be clarified that until the documents in appendix B are revised in accordance with this Standard that the Standard takes precedence over these.

Paragraph 13

Terms and definitions are not exactly the same in VVS – we would like to suggest making in VVS reference to PS terms in VVS (like in PCP). To avoid misinterpretations by DOEs we further would like to suggest defining

- b) “should” is used for a recommended **but not mandatory** means for meeting a requirement. **Other means which offer the same level of accuracy or intended result are allowed.**
- c) “may” is used for what is allowed, but is **not mandatory nor** required

Paragraph 19

We are missing the concept of confidentiality here. We would like to suggest here or later in the document to add that confidential information may be blacked out or is omitted as long as it is not related to additionality.

Paragraph 26

- (a) **Footnote 4:** Please explicitly add “**emails**” as allowed evidences as this is sometimes the only available evidence and was accepted in EB62 annex13.

Paragraph 36

Methodologies may refer to documents which will be superseded by the PS. It should be clarified here that compliance with such superseded documents is not required.

Paragraph 37

The version of the PS valid at the time of submission of the CDM project activity should also be specified.

**Paragraph 44**

Replace “shall” with “may” as we do not think that E+/E- shall be discussed in each project.

Paragraph 45

Replace “shall” with “may” as above.

Paragraph 56

As the detailed monitoring plan is mostly not available during the validation stage and to avoid lengthy and time consuming prior approval as far as possible we would like to replace “The monitoring plan shall also include the following” by “The description of the monitoring plan shall also include the following” to be consistent with the sentence before and make clear that the monitoring plan in the PDD is a framework for the real monitoring plan applied at the beginning of the monitoring.

For the avoidance of doubt we would like to suggest changing the sub-paragraphs as following:

- (a) Description of the operational...
- (b) Description of the provisions....
- (c) Description of the responsibilities...
- (d) Description of the quality assurance...
- (e) Description of the uncertainty levels
- (f) Description of the calibration frequency...

(e) Replace “Uncertainty levels, methods and the associated accuracy level of measuring instruments to be used for various parameters and variables; and” with “Minimum uncertainty levels, methods and the associated minimum accuracy level of measuring instruments to be used for various parameters and variables; and” as discussed during the workshop in Bonn.

(f) We would like to suggest adding “industry best practices” as last fall back option.

Paragraph 72

(e) Adding the date of submission after all PP’s have signed the MoC is technically difficult as no handwritten data are allowed in the MoC. Hence, we would like to suggest allowing the date of submission to be handwritten.

Paragraph 75

Replace “should” with “shall” as we do not think that this is only a recommendation.

Paragraph 77

Replace “together with supporting documentation” with “together with available supporting documentation”.

Paragraph 80

The description of small-scale project activities should correspond to those in paragraph 6(c) of Decision 17/CP.7

Paragraph 83

We would like to suggest changing to “...the GHG emissions that can be claimed during this particular year shall be capped at the level which is equivalent to the relevant small scale threshold”. We are afraid that otherwise the projections of the GHG emissions may be inflated to avoid losses during verification, a wrong and unnecessary incentive that should be avoided.

Paragraph 192a)

We suggest deleting the part in brackets as the frequency of monitoring should be in accordance with that described in the monitoring plan and PDD. The time interval is irrelevant.

Paragraph 199

Replace “should” with “shall”.



Appendix A.2 – 3

We would like to suggest deleting these paragraphs as paragraph 200 is sufficient to deal with these situations. An automatism of setting the baseline emissions to zero and the project emissions to 100% resp 110% in case of electricity consumption can cause overkill for projects that have high safety capacities installed (e.g. flares). Or - alternatively - we would like to suggest rewording these paragraphs in line with paragraph 200. Our concern is that setting baseline emissions to zero and project emissions assuming maximum capacity could lead to negative emission reduction where there have been legitimate emission reductions that have not been monitored properly as oppose to projects that clearly have negative emissions reduction. The PDF recommend that parameters which have not been temporarily monitored should be treated on a case by case basis, applying the most conservative assumption.

Appendix A.1 - 1

Replace “ ... do not have to request prior approval” with “shall not request prior approval” in case the DOEs, seeking to be conservative, interpret this differently.

Kind regards,

Gareth Phillips
Chair, Project Developer Forum

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F-CDM-RtB

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<i>Address and Contact details of the individual submitting this Letter:</i>	Address: 100 New Bridge Street, London, EC4V 6JA Telephone number: +65 6578 9286 E-mail Address: gareth.phillips@pd-forum.net
<i>Title/Subject (give a short title or specify the subject of your submission)</i>	Input on EB65 Annotated Agenda, Annex 9 - Proposed Implementation Plan for the CDM PS, VVS and PCP
<i>Please mention whether the Submitter of the Form is:</i>	<input type="checkbox"/> Project participant <input checked="" type="checkbox"/> Other Stakeholder, please specify PD-Forum
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www.pd-forum.net

CHAIRMAN: Gareth Phillips
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e: office@pd-forum.net

To cdm-info@unfccc.int
From gareth.phillips@pd-forum.net
Date 08 Nov 2011
Subject **Input on EB65 Annotated Agenda: Annex 9 - Proposed Implementation Plan for the CDM PS, VVS and PCP**

Mr. Martin Hession,
Honorable Members of the CDM Executive Board,

The Project Developer Forum (PD Forum) welcomes the effort to prepare the PS, VVS and PCP standards and would like these **standards to be made effective immediately upon adoption**. It is essential for project proponents to be able to **use either existing regulations (procedures and forms) or new standards for the normal grace period of eight months** for much-needed flexibility and to avoid any undue disruptive impact on their work. These fundamental points are included in our recommendation on Annex 9 below.

Annex 9: Proposed Implementation Plan for the CDM PS, VVS and PCP

Para 4: Of significant concern is the use of the term “may” versus “shall” or “will” when referring to transitional measures. Furthermore, clarification needs to be made here that the new standards need to be made effective immediately (as in on adoption) and both old and new regulations need to run in parallel until the end of the normal grace period.

Para 6 states only two work streams but three work streams, (a), (b), and (c) are listed. Also, the second work stream, point (b) absolutely necessary and a priority as running existing and new regulations immediately in parallel on adoption of the standards is required as the arrangement for transition.

Para 9a recognizes that there are new provisions in the documents. Therefore, the normal grace period of eight months where current procedures and forms can be used in parallel with the new standards and forms is required as mentioned in PD Forum recommendations in para 4 above.

Para 11: PD Forum recommends that the new standards be effective as of their adoption and be used in parallel with existing standards until the end of the normal grace period for new procedures of eight months. An effective date of 1 May 2012 is too late in the year to allow the various new provisions to impact timelines on what is expected to be a massive influx of requests for registrations and issuances.

Please do contact us for further clarification if need be.

Kind regards,

Gareth Phillips

Chair, Project Developer Forum

Version 01/ 02 August 2011




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Title/Subject (give a short title or specify the subject of your submission)	Input on EB65 Annotated Agenda, Annex 14 – Draft CDM Project Cycle Procedure
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To cdm-info@unfccc.int
From gareth.phillips@pd-forum.net
Date 08 Nov 2011
Subject **Input on EB65 Annotated Agenda: Annex 14 - Draft CDM
Project Cycle Procedure**

Mr. Martin Hession,
Honorable Members of the CDM Executive Board,

The Project Developer Forum (PD Forum) provided input on the draft CDM Project Cycle Procedure for consideration at EB63. Although some of this input has been reflected in the new procedures released in Annex 14 alongside the annotated agenda some important elements were not. Here we run through a check of the elements raised prior to EB63 by the PD Forum that have not been addressed.

Annex 14: Draft CDM Project Cycle Procedure

Paragraph 8: The proposed limit to the prior consideration was revised from 6 months to 180 days. Although that represents a very small difference, for any project the prior consideration of which has already been done (but registration has not been requested), we suggest that the rules at the time of the prior notification to the EB (6 months) should apply and not the shorter period (180 days).

Paragraphs 40, 61, 139 and 187: Decision 3/CMP.6 in its paragraph 60 urges the CDM Executive Board to limit the awaiting time before commencement of completeness checks to a maximum of 15 days. This limit however is not mentioned in the PCP. The PD Forum suggest that this limit be included in the PCP.

Paragraph 104 and paragraph 232: The PD Forum suggest that the following text be inserted as new paragraphs after both paragraph 104 and paragraph 232:

“The DOE or the project participants may request the secretariat, by email through a dedicated email address ([xxxx@unfccc.int]), to make a telephone call to them to provide clarifications on the reasons for the rejection if they are not sufficiently clear to them. Only one such request, regardless of the requesting party, shall be allowed per review of the request for [registration] [issuance]. In this case, the DOE or the project participants shall provide contact detail of the person to be called with preferred time slots. The secretariat shall fix a call appointment within three (3) days from the receipt of the request. The secretariat shall record the call.”



Paragraph 165: Small typo in insertion – should be “signed”.

Paragraphs 188 and 191: Replace “(2) days” with “(2) working days” to allow for receipt on a Friday.

Paragraphs 226-230: It is often the case that the publication of the final ruling after a rejection of a request for issuance can take more than two months after the project participant is informed of the rejection. That results in further delays in case project participants wish to resubmit the request for issuance. The PD Forum would thus like to suggest that the final ruling relating to the rejection of a request for issuance should be prepared by the secretariat together with the assessment report that led to the rejection, so that the CDM Executive Board can approve both the decision and the final ruling simultaneously. That could be implemented e.g. through the following revisions: paragraphs 228, 229 and 230 to be deleted and paragraphs 226 and 227 to be amended as below:

“226. If a Board’s final decision made in accordance with paragraph 218 or 222 above is to reject the request for issuance, the secretariat shall publish the final ruling and update the information on the UNFCCC CDM website accordingly on the first working day subsequent to the finalization of the decision. Furthermore, within 21 days of the finalization of the decision, the secretariat shall provide the Chair of the Board with an information note containing a proposed ruling incorporating the final decision.”

“227. The proposed final ruling shall contain an explanation of the reasons and rationale for the final decision, including, but not limited to:”

Paragraph 232: The PD Forum approves of the original draft version of paragraph 232 as contained in the draft discussed during the workshop in Bonn. In the original draft version the re-submission of rejected requests for issuance was not subject to prior approval by the CDM Executive Board, the DOE would decide if a re-submission complies with the requirements. Furthermore there was no limit to the number of re-submissions. Therefore, the PD Forum would like to suggest to revise the paragraph as follows:

“232. If the request for issuance is rejected in accordance with paragraph 218 or 222 above, the DOE may re-submit the request for issuance with revised documentation if the reasons for the rejection can be addressed by means of a revised verification report, based on a revised monitoring report as appropriate. In this case, the DOE shall submit a request for re-submission of the request for issuance, justifying that the re-submission falls under such case. The Board shall consider such request at its subsequent meeting following receipt of the request and decide whether to allow the re-submission on a case-by-case basis. The Board may provide further guidance, as appropriate. In cases where the re-submitted request for issuance is also rejected by the Board, further re-submission of a request for issuance for the same monitoring period shall not be allowed.”

The PD Forum would like to thank the Secretariat for updating the project cycle procedure using some of our previous input. However, we would be grateful for the remaining input, highlighted above, to also be taken up.

Kind regards,

Gareth Phillips

Chair of the PD Forum

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<i>Title/Subject (give a short title or specify the subject of your submission)</i>	Input on draft procedure for addressing significant deficiencies (EB65 Annex 15)
<i>Please mention whether the Submitter of the Form is:</i>	<input type="checkbox"/> Project participant <input checked="" type="checkbox"/> Other Stakeholder, please specify PD-Forum
<i>Specify whether you want the Letter to be treated as confidential²):</i>	<input type="checkbox"/> To be treated as confidential <input checked="" type="checkbox"/> To be publicly available (UNFCCC CDM web site)
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To cdm-info@unfccc.int
From gareth.phillips@pd-forum.net
Date 08 Nov 2011
Subject **Input on draft procedure for addressing significant deficiencies (EB64, Annex 3)**

CHAIRMAN: Gareth Phillips
t: +65 65789286
e: office@pd-forum.net

Mr. Martin Hession,
Honorable Members of the CDM Executive Board,

The PD-Forum wishes to congratulate the EB on the progress made on the draft procedures for addressing significant deficiencies. We are pleased to note that a number of our concerns have been taken into consideration. However, we still have concerns regarding the overall objective of the text and its relation to the Marrakech Accords plus we have specific comments on the draft text.

Overall Objective

The PD-Forum reiterates that the concept of making the system whole, as implied in paragraph 22 of the Marrakech Accords, is no longer a practical suggestion. At the time of writing the Marrakech Accords it may have been a reasonable suggestion, however, all of the experience that we have now gained from developing and implementing the CDM shows that it is not possible to correct for every over-issuance in an efficient, fair or accurate manner. For this reason we recommend that the EB returns the issue of addressing significant deficiencies to the CMP for further guidance, taking into consideration the following facts:

- The CDM is demonstrably conservative in its issuance of CERs, so much so, that the impact of individual deficiencies is highly unlikely to alter the environmental integrity of the CDM as a whole
- There is already an extensive accreditation and spot checking process which must be relied upon to ensure that DOEs do not act with gross negligence or in a fraudulent manner
- There already exist extensive stakeholder consultation procedures whereby stakeholders can raise their concerns about the registration and issuance of projects
- As part of these procedures, the Secretariat and the EB have already assessed DOE's recommendations against the criteria of fraud, malfeasance or incompetence
- Investors have invested in CDM projects on the basis of registration via these procedures. Introducing a new procedure which is back-dated amounts to retrospective action, which was specifically ruled against in Decision 2 CMP 4 (and reiterated in Decision 3 CMP 6)
- The introduction of another decision making procedure to an already over-complex approval process simply increases complexity and transaction costs for all parties involved and can only act to further discourage investors from engaging with the CDM



- There are currently negotiations taking place on the topic of appeals. Since this procedure is closely linked to the appeals procedures, it cannot proceed before or indeed in the absence of agreement on the appeals process.

Returning this issue to the CMP for further guidance is our preferred course of action.

Specific comments on the draft procedure:

Paragraph 1

The inclusion of the phrase “or intended to be issued” in para 1b) in the scope of a significant deficiency seems unreasonable. A significant deficiency cannot have arisen if there is only an intention of over-issuance. It is the act of over-issuance which creates the deficiency. In the event that an intention to over-issue was discovered, there would be no compensatory mechanism since no excess CERs could be replaced.

In order to keep the process of validation and verification in balance and discourage DOEs from simply taking a conservative stance as a precautionary measure, two new sub-paragraphs must be added to paragraph 1 as follows:

1 c) A negative validation opinion where, if the breach had not occurred, a positive validation opinion would have been given

1 d) Less CERs have been ~~or intended to be~~ issued to the registered CDM project activity than would have been issued if the breach had not occurred.

Alternatively, the question of negative decisions may be addressed via an appeals process, but since this is not yet agreed, we believe that it is not possible to finalize the scope of the significant deficiencies procedure.

The procedure lacks an entry threshold; a claim of significant deficiency on the basis of a single CER, even if it is subsequently accepted that this over-issuance was not the result of professional negligence or fraud, could cause reputational damage to a DOE and significantly delay cash flows for a registered project, not to mention absorb significant time and resources for a negligible environmental benefit (recognising the built-in conservativeness of the CDM methodologies). DOEs require some assurance that they will be able to operate efficiently in a system that requires them to make thorough checks prior to issuing a certification statement. A minor error, omission or misstatement that in no way represents any act of fraud or professional negligence should not become a potential liability. As such, assurance service providers should be able to provide assurance with a caveat that should there be any errors, omissions or misstatements (i.e. undetected errors, omissions or misstatements), they are below a level at which a procedure such as this is triggered.

The very use of the term “significant” in significant deficiencies suggests that there should be some judgment about what should and should not be considered. The terms for this judgment should be transparently defined. The PD-Forum has made various submissions on materiality and SBSTA is currently debating the topic, with proposed thresholds.

Paragraph 3

Whilst we are pleased that the scope of the procedure is restricted to professional negligence and fraud on behalf of the DOEs, both of these terms should be defined.

In particular, it would be very challenging to objectively identify an act of professional negligence in the absence of a clear definition. Other legal systems rely on definitions (e.g. the German civil code) and prudent operator standards to that effect. We would thus suggest that the experience of other legal systems be used to clarify the issue.

Paragraph 4

We note the selection of a cut-off date which is a positive signal however it is not clear how the procedure would address verification reports which propagate an error dating back to a validation report or PDD pre-dating the cut-off date. Furthermore, to avoid the issue of retrospective application of rules, we now (in a change to our previous submission) propose that the cut-off date be the date of adoption of this procedure. The reasons for



this are that:

- As time passes, following the audit trail becomes increasingly more difficult and the likelihood for a fair and complete review decreases, whereas the extent of the liability increases. Also, it becomes increasingly more difficult to accurately assess risks.
- As a consequence, it will be very challenging to establish proper insurance coverage - this will be true for all parties involved buying insurance protection.
- The contracts between DOEs and PPs have not foreseen the extent of potential liability and have tended to focus on the need for technical expertise and the technical complexity of the services. New provisions are now required which take into consideration the magnitude of the project. Therefore the identification of survival issues and extended liability will be impossible. Many of the DOE standard forms have a right to terminate in their discretion. This new process as it is currently proposed could cause the DOEs to terminate their contracts harming the entire CDM system.

In addition, we propose that the Procedure should include a statute of limitations on validation at, for example 2 years or four issuances, whichever happens sooner, and a look back at the past 4 verifications or two years, whichever is shorter.

On this point we would again re-iterate the fact that if implemented, this draft procedure will act against the expansion of the CDM into under-represented regions and mitigate against the development of DOEs and CDM infrastructure in such regions. The reason for this is that challenges to verifying third party data are significantly higher in under-developed countries and under-developed sectors of the economy. Verifying the grid emission factor in China is relatively easy compared to verifying one in an LDC. DOEs from Annex 1 countries who are established in the market will have the necessary insurance cover or financial strength to cover these kinds of risks. Start-up DOEs will not, and they may find it impossible to obtain such cover.

Paragraph 5

Although we note the inclusion of a fee for “another stakeholder” wishing to initiate a review, we think this is not appropriate. PD-Forum considers that only those entities directly involved in a project should be able to initiate a review and other stakeholders should raise their issues through the normal consultation procedures or via the host or non-host DNA.

Paragraphs 6 and 7

The draft procedure allows a variety of stakeholders to bring claims of potential significant deficiencies, and therefore initiate an assessment of the case, without properly taking into account the “presumption of innocence” and “burden of proof” principles. Both of these principles should be included in the Procedure for the following reasons: - A review will be very costly and even without a negative outcome would create negative press given the early stage of a release to the public;

- The 1000 USD fee is not enough of a deterrent for superfluous reviews, in light of the burden it puts on a DOE and a registered project;

- The current procedure, could result in abusive behavior in a competitive industry where DOEs struggle. Without placing more of the burden on the party initiating the review, the burden is on the DOE right at the outset;

- By adding a burden of proof on the requestor, this helps with the issue of deciding what a “significant deficiency” is.

We believe thus that the procedure should firmly establish the presumption of innocence of the DOE and project participants and shift the burden of proof to the party who brings about the claim, right at the “identification of potential significant deficiencies” (section III.A) and before the “preliminary investigation” (section III.B).

In that regard, it would be helpful to introduce a standard for the “identification of potential significant deficiencies”. Such a standard should be based on a clear benchmark which ensures that:

- The claim is enough to permit the secretariat to be able to conduct its preliminary investigation (as per section III.B);

- The claim contains a specific allegation about the potential significant deficiency, and not just an arbitrary statement that a review should be made;

- The claim should not be just based on a hunch or interest in a review for the sake of having one;



Although the establishment of such a standard may be challenging, there is a plethora of administrative laws or civil procedure rules in many different countries that could be used to that effect.

Paragraph 9

We note the inclusion of a preliminary investigation but this section stops short of providing the Secretariat with the authority to reject submissions outright. This is an important element in the process so that inappropriate submissions do not progress past the earliest stages and waste significant amounts of time.

Paragraph 13

We note the emphasis on the rules and their interpretation which was current at the time; this is a very important consideration. We suggest that other project registration and issuances, which took place at the same time or before the decision in question, will be a good source of evidence as to how rules that were in existence at the time were interpreted. Again, we reiterate that there is a plethora of administrative laws or civil procedure rules based on the development of jurisprudence in many different countries that could be used to that effect.

Section IV Review of potential significant deficiencies

We are concerned about the extensive timeline which this section includes, with multiple points at which the process can be held up awaiting the meeting of panels or the EB. This is exacerbated by the suspension of issuance from projects for which the validation report is the object of enquiry (Paragraph 18d). Rather than simply suspend all issuance, which will definitely have a very significant impact upon the performance of the project in question, it would be better to leave the issue of whether verification can continue to the risk assessment procedures of individual DOEs. It may be that the issue in question relates to a very specific issue and there is no reason why this should stop further issuance going forward. Automatic suspension also implies that the project is guilty until proven innocent, whereas it is preferable to protect the rights of parties and presume innocence until such time as guilt is proven. Furthermore, as the scope of the procedure confirms, this is an issue relating to DOE performance. It is not reasonable that PPs are penalized because their DOE may have acted with gross negligence or fraud.

Paragraph 32

Surrender of CERs: Once again, we would like to highlight the inequity and ineffectiveness of this approach:

Fining DOEs on the basis of the number of excess CERs is inequitable because a mistake or fraud can occur on a big or small project and can go on for a short or long time without any further fault of the DOE or without any reasonable expectation that they can detect it. Thus, the magnitude of a penalty defined exclusively on the basis of the number of excess CERs may have no bearing on the nature of the actual error, but instead be defined arbitrarily by the size of the project on which it occurred or the time when it happened.

As described above, trying to make the system whole by requiring DOEs to replace the over-issued CERs is ineffective for a number of reasons: it is impossible to make the system whole because we can never measure GHG emissions so accurately; in the process of registering a project we make many assumptions, the majority of which are bounded by conservativeness; we cannot, and we would not want to undo the sustainable development benefits which the project has incurred even on the basis of revenues from excess CERs.

Paragraph 35 indicates that the option of last resort for a DOE is simply to not surrender CERs and receive a suspension. This reflects the fact that the potential outcome of this procedure will be to force DOEs out of the market. This will not achieve the stated objective of replacing the incorrectly issued CERs. Instead it will serve to highlight another failure of the CDM, and will be widely reported as such. At the same time, it will introduce considerable disruption into the market place. These are outcomes that nobody wishes to see.

For these reasons we recommend that if penalties are to be applied, they are of a financial nature capped at, for example USD1 million, scaled against a range of factors including, but not limited to:

- The magnitude of the over-issuance
- The extent of the deficiency, for example, an individual acting alone, opportunistically or systematically, or a systematic failure throughout the organisation's controls



- The means by which the deficiency has been discovered and defended
- The costs associated with the review
- Historical performance with respect to significant deficiencies.

We note the absence of an appeals process. Bearing in mind the extent of the potential liabilities, we believe that the procedure must include an appeals process.

In conclusion, whilst we understand the desire to address significant deficiencies in the validation and issuance process, the PD-Forum considers that this is not a workable approach. We request the EB to return the issue of significant deficiencies to the CMP for further guidance, taking the views of stakeholders into account.

Kind regards,

Gareth Phillips
Chair, Project Developer Forum

Please use the space below to any mention any suggestions or information that you want to provide to the Board. In doing this please describe the exact reference source including the version (if any).

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If necessary, list attached files containing relevant information (if any)

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Section below to be filled in by UNFCCC secretariat

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