

Head and Members of the CDM Executive Board  
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**Subject: Call for public input on "Issues included in the annotated agenda of the seventeenth meeting of the CDM Executive Board and its annexes"**

11 November 2012

Honorable Members of the CDM Executive Board,  
Dear Mr. Duan,

CDM Watch would like to thank the CDM Executive Board for the opportunity to comment on the annotated agenda of the 70<sup>th</sup> meeting of the CDM Executive Board. Please find our comments on the following pages.

Sincerely yours,



Anja Kollmuss

## RECOMMENDATIONS OF THE CDM POLICY DIALOGUE

**5. ► Action:** The Board may wish to consider a concept note on the recommendations of the CDM Policy Dialogue, as contained in annex 1 to these annotations, and to assess which recommendations are within the mandate of the Board and what further work should be undertaken.

CDM Watch welcomes that recommendations from the CDM Policy Dialogue are discussed by the Board. CDM Watch specifically recommends the following:

- CDM Watch believes that developing new approaches to enhance mitigation impacts (recommendation 2), such as sectoral crediting or project-based REDD, is not within the mandate of the Board. These approaches are currently negotiated in relevant negotiation fora under the UNFCCC process, such as negotiations on new market mechanisms and REDD. Discussing the same topics in different fora under the UNFCCC process has become a major challenge for the overall negotiation process. It is therefore counterproductive to discuss these topics also under the review of the modalities and procedures for the CDM.
- The ongoing work of the Board and the secretariat on standardized baselines is in several aspects contrary to the recommendation of the CDM Policy Dialogue (recommendation 5):
  - The CDM Policy recommends that standardized approaches “should account for technology- and context-specific factors.” Contrary to that, the approaches developed by the Secretariat and the Board for standardized baselines use the same generic approaches for different sectors and technologies. This has proven not to be workable.
  - Similarly, the CDM Policy Dialogue recommends that “these changes should by no means lead to weakening of the additionality test as conducted today, and in fact may lead to questioning the continued inclusion of certain technologies in specific locations where they are likely to be the norm”. However, the current approaches on standardized baselines are likely to include technologies as positive lists which are the norm.
  - The CDM Policy Dialogue also recommends to “ensure that the focus of incentives constantly shifts to the next generation of technologies, in order to drive technological change”. This is not the case for the standardized baseline procedures developed by the Board and the Secretariat. As we have pointed out in our comments for EB69, under the current approach technologies could be used to establish standardized baselines which are outdated by up to 20 years.

In conclusion, the current work programme on standardized baselines is not implementing the recommendations by the CDM Policy Dialogue and may seriously undermine the integrity of the mechanism. CDM Watch therefore believes that the work on standardized baselines should be thoroughly re-assessed in the light of the recommendations of the CDM Policy Dialogue. In addition, action by the Board should be much broader and not be limited to standardized baselines. Several methodologies and tools would significantly benefit from more standardization. In this regard, a work programme should be established to enhance standardization in the additionality tool, the combined tool and relevant baseline and monitoring methodologies.

- CDM Watch welcomes recommendations by the CDM Policy Dialogue on improving the sustainable development benefits of the CDM (recommendation 6). As recommended by the Policy Dialogue, a first step is a review of the current sustainable development benefits from CDM projects. The reporting tool should be made mandatory. A review of the modalities and procedures should consider objective criteria when projects not sufficiently supporting sustainable development or causing other damage must be rejected. For this purpose, a broader work programme should be established than envisaged in the business plan.

- CDM Watch also welcomes the recommendations by the CDM Policy Dialogue on strengthening co-benefits and enhancing scope of energy technology (recommendation 7). CDM Watch is concerned that a number of recent decisions by the CDM Executive Board go contrary to the objectives of the CDM Policy Dialogue. For example, allowing all types of projects to be registered under programmes of activities will not significantly change the CDM project portfolio towards “projects with high co-benefits (e.g. household-level service projects)”, as referred to by the CDM Policy Dialogue. CDM Watch therefore recommends to broaden the work programme and to systematically assess which existing requirements may need to be revisited to pursue the objectives of the CDM Policy Dialogue.
- CDM Watch also welcomes the recommendations by the CDM Policy Dialogue on rethinking existing governance arrangements (recommendation 9). In the light of the strong and clear recommendations from the Policy Dialogue, the proposed work programme is not sufficient:
  - The CDM Policy Dialogue recommends to “reorient the CDM Executive Board towards policy and strategy issues”. However, no concrete action is envisaged in the document. CDM Watch believes that several case specific decisions could be delegated further but that a robust review by independent experts is key (such as panels and working groups). CDM Watch recommends to include in the work programme a review the project cycle procedure as well as other relevant procedures with the view to assess options for further delegation of decision-making.
  - The CDM Policy Dialogue calls for a “robust” code of conduct – the current code of conduct is clearly not sufficient and robust and should therefore be significantly improved. Given the difficulties with the subject in the past and the inherent conflict of interest in developing an code of conduct for oneself, CDM Watch proposes that the CDM Executive Board and the UNFCCC secretariat task a reputable independent third-party institution, such as Transparency International, to elaborate propose a new code of conduct.
  - The CDM Policy Dialogue also called for an accountability framework. The proposal by the secretariat does not contain a concrete proposal but suggests that this is covered through existing modi operandi.

## STANDARDIZED BASELINES

**29. ► Action:** The Board may wish to consider regulatory documents and concept note relating to standardized baselines, as contained in annex 9 to these annotations.

CDM Watch welcomes that the documents have been improved following the call for public inputs and the CDM Roundtable held on 12 October this year. Nevertheless, important issues raised by various stakeholders in the call for public inputs and at the CDM Roundtable, held on 12 October, have not been addressed and could have significant negative impacts on both the environmental integrity and the practical feasibility of standardized baselines. In addition, completely new concepts were introduced after the call and the roundtable which raise new issues and questions. The documents are also partially inconsistent with existing documents on standardized baselines and would introduce inconsistencies within the project standard. For these reasons, CDM Watch **urges the Board not to adopt the proposed standards and guidelines** in its current form. The documents require a thorough and fundamental re-assessment and careful drafting.

Moreover, the Methodologies Panel raised very relevant comments to the general approach taken on standardized baselines, based its evaluations of the first submitted standardized baselines. The panel concludes that “the existing guidelines may not in every case lead to robust standardized baselines” and “recommends to thoroughly revise” them. CDM Watch believes that the assessment by the Methodologies Panel is alarming. Such corrections should not be delayed. CDM Watch recommends the Board to **put the existing “Guidelines for the establishment of sector-specific standardized**

**baselines” on hold** and to start a process to **thoroughly revise these guidelines**, in close cooperation with experts in the field, stakeholders, and the Boards panels and working groups.

In the following, the concerns with the proposed documents are explained in more detail.

#### **Revision to the PS, VVS, PCP**

- The revised document introduces a number of new concepts, including an “approved methodology using a standardized baseline” (AMSB). This raises a number of questions of practicability. For example, methodologies have different validities and grace periods than standardized baselines. An updated standardized baseline could legally only be included through a revision of the methodology. However, a methodology version with a given standardized baseline could be used until the end of the crediting period (i.e. up to 10 years). This implies that the standardized baseline would not be updated for 10 years. CDM Watch believes that the **proposed approach** of both stand-alone standardized baselines and standardized baselines integrated into methodologies **unnecessarily complicates the framework for standardized baselines**. The framework would be easier and better manageable if standardized baselines are approved as separate documents (referred to as “approved standardized baseline”). Moreover, this new proposal to integrate standardized into methodologies does not seem internally consistent with the procedures for submission of standardized baselines. It is **strongly recommended to avoid such major inconsistencies in the overall framework for standardized baselines** but to keep the framework simple.
- The revised document adjusts the “types” of standardized baselines. However, **the most simple standardized baseline, a grid emission factor, is still not covered by any of the types**. According to the framework, a standardized baseline proposing only a baseline emission factor can not be submitted but only a combination of a baseline scenario and baseline emission factor. This proposed rule contradicts the recommendations by the secretariat and the Methodologies Panel to approve a standardized baseline for the South African power grid – which only consists of an emission factor. CDM Watch believes it is important to keep the approach simple and to avoid an unnecessary restriction in the type of standardized baselines that can be submitted.
- Cross-references in the document are not internally consistent. For example, paragraphs 4 and 5 refer to the “approach in paragraph 11 above”, however paragraph 11 does not contain any particular approach.
- As highlighted in detailed comments by CDM Watch for EB69 and in our submissions to the recent calls for inputs, the proposed simple replacements of single words in the Project Standard and the Validation and Verification Standard would introduce significant inconsistencies in the overall framework of the CDM.
- The revised standards continue to suggest that “prior consideration” shall not apply to projects that use standardized baselines. This provision would seriously undermine the environmental integrity of the mechanism:
  - Firstly, “prior consideration” is a key principle under the CDM to safeguard environmental integrity. If an investor took the decision to implement a project activity without considering at all the CDM, a project is clearly not driven by the CDM but would be implemented anyways. Removing this requirement could substantially increase the number of non-additional projects in the CDM.
  - Secondly, the question of whether the CDM was considered in the decision to proceed with a project activity is independent of the question which methodological approach is used to demonstrate additionality or determine

baseline emissions. Under the current rules, projects using methodologies with a positive list also need to demonstrate “prior consideration” (e.g. ACM0019).

- As highlighted earlier by CDM Watch, the document further implicitly assumes that, whenever a standardized baseline is used, requirements with regard to the selection of the baseline scenario and the determination of baseline emissions are not necessary. The proposed standards and procedures basically remove or replace references to such requirements. This is very problematic for several reasons:
  - For some project types, the standardized baseline may only be used for the determination of baseline emissions but not for the baselines scenario. This situation is not covered and allowed at all.
  - Even if a standardized baseline is used for the determination of baseline emissions, some information with regard to the baseline determination may still be required. Standardized baselines are often emission factors or default values which alone do not yet provide provisions to calculate absolute baseline emissions. The standardized baseline emission factor or default value usually needs to be multiplied with an activity level. For example, where the grid emission factor is used as a standardized baseline, this section may need to include provisions to determine the baseline electricity consumption. In the case of a cement plant the standardized baseline emission factor may need to be multiplied with the cement production under the project activity to determine baseline emissions.
  - Many methodologies and project types have several baseline emission sources, such as, electricity generation and methane avoidance. In such situations, a standardized baseline could be used for only one of the emission sources but does not necessarily need to be used for both emission sources. For this reason, requirements for the determination of the baseline scenario or the baseline emissions may still be required for some emission sources.

#### **Guidelines for completing the proposed new baseline and monitoring methodology form**

CDM Watch is also concerned about the proposed “Guidelines for completing the proposed new baseline and monitoring methodology form”. They introduce inconsistencies in the framework for standardized baselines and could seriously undermine the integrity of projects using standardized baselines (e.g. by a limited assessment of applicability conditions for such projects). Several detailed comments provided by CDM Watch earlier were not taken on board.

#### **Concept note on the impact of updating standardized baselines on CDM project activities**

CDM Watch is highly concerned that the approach proposed by the secretariat will result in the use of completely outdated baselines, with severe consequences for over-crediting under the CDM. **The proposal** by the secretariat to use a fixed standardized baseline for an entire crediting period **does not take into account technological innovation, changes trends in a sector, the lead times required to establish projects, and the vintage of data in establishing baselines**. In contrast, most approved methodologies that use emission benchmarks take such effects into account, by using dynamic benchmarks or adjustment factors to account for technological development. In this regard, the proposed approach for standardized baselines is a major step backwards compared to what is implemented in approved baseline and monitoring methodologies.

The use of severely outdated standardized baselines could have severe impacts on the integrity of the mechanism and will result in considerable over-crediting. The secretariat in the concept note therefore incorrectly concludes that the proposal will assure environmental integrity. The secretariat assumes that project lead times from the investment decision to the operation of a plant can be “safely assumed to be around two years”. For most larger CDM projects, the lead times are

significantly larger, as shown by many data in PDDs. The concept note also implicitly assumes that registration may occur once the investment decision is taken. However, in practice, project proponents which need to rely on CDM funding may first await CDM registration before they proceed with the implementation of the project activity.

The effects of the proposal are illustrated in the following:

A project conducts global stakeholder consultation in 2015 and gets registered in 2016. The project relies on CDM funding and the investment decision is therefore taken in 2016. The project has a lead time of 3 years for implementation and starts operation in 2019. The project uses a ten-year crediting period which lasts from 2019 to 2028. At the time of global stakeholder consultation a standardized baseline is available which was approved in 2013. The data used to establish the standardized baseline is based on plants that were operating 2011. These plants had also a lead time of 3 years and the investment decision to proceed with these plants was taken in 2008 or even the time before. In this realistic example, the crediting would be based on data with a vintage of 11 to 21 years. If any technological innovation or other trends (new fuels available) would occur in the relevant sector, these effects would not be captured at all.

A related problem is that the “Guidelines for the establishment of sector specific standardized baselines” do not determine the standardized baseline based on recent trends and ongoing technological innovation in the sector but based on the entire stock of all existing plants. Some of these existing plants may have been built decades ago. Using the complete stock of existing plants as reference to establish a baseline will in many sectors result in meaningless baselines. Most approved baseline and monitoring methodologies therefore provide for more robust approaches: they often use recently built plants as reference for benchmarks in the case of greenfield projects and they often take into account technological innovation through adjustment factors or decreasing benchmarks.

In conclusion, CDM Watch urges the Board not to proceed with the proposed approach but to re-assess the validity of standardized baselines in a more holistic way, taking into account 1) the vintage of data 2) lead times to establish projects 3) how technological innovation and changes in trends can be reflected. A promising approach to ensure environmental integrity and at the same time provide certainty for investors may be the use of dynamic rather than static standardized baselines where an annual decline in the emission factor is fixed ex-ante (e.g. as in the case of ACM0019).

Finally, CDM Watch would also like to express its concern that only some comments made by CDM Watch in its submissions to the calls for inputs were summarized in the concept note and that other comments were not mentioned. This does not enable the Board members to get a complete picture of the detailed comments we provided.

→ ***CDM Watch recommends the Board:***

- ***Not to adopt the proposed documents in their current form.***
- ***To incorporate relevant elements in the PS, VVS and PCP rather than developing separate new standards.***
- ***To continue to apply the principle of “prior consideration” to all CDM project activities, whether or not they apply standardized baselines.***
- ***To ensure consistency with the procedures for submission of standardized baselines and to approve standardized baselines as separate documents rather than integrating them in approved methodologies.***
- ***To use an approach where standardized baselines can partially substitute the baseline emission calculation and where they can but not must be used for additionality demonstration.***
- ***To re-consider the use of completely static standardized baselines that are based on outdated data but to draw on approaches used in approved methodologies that take into account technological innovation, trends in the sector, and more recently built plants (instead of the entire stock).***

- **To put the current “Guidelines for the establishment of sector-specific standardized baselines” on hold and revise them in close cooperation with experts in the field, stakeholders, and the panels and working groups of the Board.**

## **NITRIC ACID PROJECTS (AM0028, AM0034, AM0051, ACM0019)**

38. ► **Action:** The Board may wish to consider the recommendation by the Meth Panel to withdraw the approved methodologies:
- (a) AM0034 “Catalytic reduction of N<sub>2</sub>O inside the ammonia burner of nitric acid plants”;
  - (b) AM0051 “Secondary catalytic N<sub>2</sub>O destruction in nitric acid plants”.
40. ► **Action:** The Board may wish to approve the revisions/amendments to the following approved methodologies and tools:
- (a) AM0028 “N<sub>2</sub>O destruction in the tail gas of Nitric Acid or Caprolactam Production Plants”.
  - (j) ACM0019 “N<sub>2</sub>O abatement from nitric acid production”.

The Meth Panel prepared an information note, (57th meeting, annex 5) on N<sub>2</sub>O abatement from nitric acid production. Their research confirmed our previously voiced concerns that the current methodologies (AM0028, AM0034 and AM0051) provide a disincentive to use better performing primary catalysts. The use of less efficient primary catalysts can lead to inflated baselines which may result in the issuance of too many CERs for such projects.

For ACM0019, the Meth Panel recommends introducing the following default emission factors starting with the values of 4.4, 5.9 and 8.2 kgN<sub>2</sub>O/tHNO<sub>3</sub> for low, medium and high pressure ammonia burners and decreasing every year by 0.2 to take into account the technological development in the sector. The suggested factors would remove the perverse incentives and also reduce project transaction costs because a baseline campaign is no longer necessary when the type of primary gauze catalyst is changed.

→ **The Board should follow the recommendations of the Meth Panel, to revise the approved methodology AM0028 to limit its applicability to caprolactam plants, to withdraw approved methodologies AM0034 and AM0051 and to revise the methodology ACM0019 to introduce default emission factors for existing plants.**

## **SUSTAINABLE DEVELOPMENT**

62. ► **Action:** The Board may wish to approve the draft tool sustainable development co-benefits of CDM project activities and PoAs at <[https://www.research.net/s/SD\\_tool\\_vers7](https://www.research.net/s/SD_tool_vers7)>, as referred to in annex 20 to these annotations.

In past submissions, CDM Watch has highlighted the need for monitoring, reporting, and verification of compliance with CDM rules and procedures, in particular, as they relate to the contribution of CDM projects to sustainable development. Experience has shown that the lack of monitoring, reporting, and verification of claimed sustainability benefits has led to the registration of CDM projects that have no contribution to sustainable development and sometimes even negative impacts. Monitoring, reporting, and verification of the environmental, social, and economic impacts of CDM activities at the international level is essential to protect the rights and interests of project-affected peoples and communities, as well as to uphold the CDM’s stated purpose of achieving sustainable development. We welcome the proposed SD tool, which facilitates reporting, as a step in the right direction. However, the absence of monitoring and verification, the voluntary nature of the tool, and the fact that only project participants and coordinating/managing entities (CMEs) are able to use the tool undermine the legitimacy of the SD tool and limit its utility as a reporting tool. Furthermore, the SD tool does not request sufficient level of detail to enable effective evaluation of whether a project participant or CME complied with

It is especially troubling that the Board at its last meeting removed all “do no harm” safeguard principles or whether stakeholders had opportunities for meaningful engagement in the consultation process.

- → **In line with the recommendations of the CDM Policy Dialogue, CDM Watch recommends that the reporting tool is significantly strengthened and made mandatory. A review of the modalities and procedures should consider objective criteria when projects not sufficiently supporting sustainable development or causing other damage must be rejected. For this purpose, a broader work programme should be established than envisaged in the business plan.**

## IMPROVING LOCAL AND GLOBAL STAKEHOLDER CONSULTATIONS

67. ► **Action:** The Board may wish to continue considering improvement of the local and global stakeholder consultation processes, as contained in annex 22 to the annotated agenda of the sixty-ninth meeting of the Board.

CDM Watch has long been raising the issue that CDM stakeholder consultations are too often carried out insufficiently. We are therefore welcoming the efforts of the Board to improve and clarify the rules and guidance for both the local and the global stakeholder consultation.

Robust stakeholder consultation standards are required under existing international obligations e.g. Rio Declaration, Agenda 21. The UNFCCC provides that Parties must promote and facilitate »public participation in addressing climate change and its effects and developing adequate responses«. In addition, the right to consultation with indigenous and tribal peoples and local communities before adopting measures that may affect them is well-established under international law (UNDRIP, ILO Convention 169).

Emphasizing higher costs that may occur for PPs is ill advised. Enhanced consultation processes include tangible benefits for all CDM stakeholders. Such improvements help, for example, to standardize, streamline and improve the CDM process and thus can create greater efficiencies.

### LOCAL STAKEHOLDER CONSULTATION

We strongly support the suggestions in the concept note on improving LSC elaborated in table 1. Some of them need to be further clarified and defined, e.g. how PPs have to substantiate the choice of stakeholders. It is important that stakeholders are given an option to voice their concerns if they consider that their comments were not taken into account. We therefore welcome the suggested “grievance mechanism.”

### GLOBAL STAKEHOLDER CONSULTATIONS

**We strongly support:**

- The suggestion in para 32 to elaborate on existing requirement to provide guidance to DOEs on treatment of the comments received.
- Extending the commenting period for submission of global stakeholder comments to 45 or 60 days (Option 2 or 3).
- Expanding the types of documents that are required to be published for GSC including, inter alia, the report of the feedback round of LSC, summary of the EIA report, complete information on how additionality was demonstrated.
- Requiring that the PDD be submitted in the prevailing local language in addition to English (Option 1)
- Improving the GSC web pages, including, inter alia, better definition of the time zone where the commenting period ends, adding sign up option so people are notified when the GSC starts for projects of a certain type or region.
- Allowing comments to be submitted in local languages used in the location of the project.



- Providing clarity to DOEs on which comments to take on board and which not and ensuring that DOEs consider all comments and provide reasoning in their consideration.

Although we support the notion that only comments that are pertinent to the project under validation should be submitted, **we strongly oppose:**

- the suggestion that a warning be included on the webpage where the PDD is uploaded to inform stakeholders who submit defamatory or vexatious comments that legal actions could be initiated against them by the DOE or the PPs.
- a registration requirements for comment submitters, which would include mandatory fields for full name and contact details. Although we support more transparency, requiring that comment submitters reveal their identity is problematic. Especially in countries where people have to fear repercussions for speaking up.

### **CONCERNS WITH REGARD TO THE LENGTH OF TIME BETWEEN THE CONDUCT OF CONSULTATIONS AND REGISTRATION OF THE CDM PROJECT**

We welcome the suggestion to address this issue. We recommend the following:

- ➔ **If significant changes are made to the project design after the stakeholder consultations have been conducted or if the project seeks registration more than two years after the stakeholder consultations have been conducted, both the LSC and the GSC should be repeated. The DOE should receive guidance on how to examine if a project design change is to be considered “significant.”**

### **STAKEHOLDER CONCERNS RAISED AFTER THE GSC OR REGISTRATION OF THE CDM PROJECT**

We welcome the introduction of a process for stakeholders to raise concerns after a project has been registered. A well designed and implemented accountability process would decrease risks for all stakeholders including PPs. Introducing such means of accountability is critical to the success of stakeholder consultations and should absolutely be included in the final concept note.

We prefer a procedure as outlined in option 1 over option 2. As pointed out in para 42, option 1 allows the DOE “to make a professional judgement in its role as operational arm of the Board. Where the issue is related to CDM requirements, it would also provide an opportunity to the PPs to take corrective actions and restore the compliance with the CDM requirements.”

We welcome the suggestions in para 40 on opening a commenting period at the stage of publication of the monitoring report prior to issuance requests. The note states in para 41: *The Board may also wish to consider whether to introduce a procedure where it informs the relevant DNA(s) that it will withhold the issuance of CERs for a limited period of time (X days) pending the DNA(s) response(s). If no response(s) is/are received within that time frame the Board would proceed with the issuance of the CERs.*

We do not think that such a procedure is sufficient:

- ➔ **If the DOE verifies comments from stakeholders on any negative impacts that may have been triggered by the implementation of the CDM project activity, then the Board should have to possibility to decide to withhold the issuance of CERs until such issues are resolved. A delay in issuance as suggested in the above paragraph would not be sufficient. This is especially important if the raised issues are particularly severe, for example, allegations of human right abuses.**

### **CONCLUSIONS ON SC**

It is essential to develop clear rules on how to conduct local consultations and establish clear guidelines to enable an independent entity to effectively assess the consultations. Many of the improvements can be accomplished within the existing mandate, as an elaboration or interpretation of the existing rules.

- **The Board should act swiftly and decisively to implement the proposed changes.**
- **The Board should clarify what the repercussions for a PP are when he is not in compliance with SC requirements. Clarifying and elaborating on the SC requirements must therefore include how non-conformity is identified and resolved. In case the PP remains non-compliant, projects should not receive a positive validation and should not be registered. If valid concerns are raised after project registration (e.g. human rights abuses) such projects should be suspended and not be issued any further CER.**