PROJECT
DEVELOPER
FORUM

Members of the CDM Executive Board
UNFCCC Secretariat
Martin-Luther-King-Strasse 8
D 53153 Bonn
Germany

Project Developer Forum Ltd.
100 New Bridge Street
UK London EC4V 6JA

Europe: +44 20 7121 6100
Asia: +65 6578 9286
office@pd-forum.net
www.pd-forum.net

CHAIRPERSON:
Gareth Phillips
gareth.phillips@pd-forum.net

CO VICE CHAIRPERSONS:
Sven Kolmetz
sven.kolmetz@pd-forum.net
Rachel Child
Rachel.child@pd-forum.net

To	cdm-info@unfccc.int
From	gareth.phillips@pd-forum.net
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Subject	**Call for input on "Issues included in the annotated agenda of the seventy fourth meeting of the CDM Executive Board and its annexes"**

Honorable Members of the CDM Executive Board,

The Project Developer Forum (PD Forum) welcomes the publication of the annotated agenda for EB74 and the progress that it reflects. We would like to provide input on the following items as outlined below:

Annex 6: Revision of regulatory documents due to introduction of or changes to provisions related to PoAs

The PD Forum wants to thank for the actions taken based on the feedback provided by stakeholders during the 8th Round Table, but we would like to raise two points of concern and request the Board's support:

a) **Issue 13: "***It is proposed that a maximum of two issuance requests for a monitoring period be allowed."* We understand the delay in adopting this change but would like to request the Executive Board to ask the Secretariat for its utmost effort to make this possible in the shortest term possible.

b) **Appendix 3.** Amendments to the "Clean development mechanism"
3. Change to Section 8. Issuance of certified emission reductions
Further request for issuance shall not be submitted within 90 days of the previous request for issuance.
To mitigate the delays already suffered, the PD Forum would like to request the Board once again to allow for the first two requests for issuance, if not lifting of the 90-days provision to reduce it to at least 45 days.

Both requests would increase investors and buyers' confidence in POAs, as these changes would reduce the delivery risk due to delays.

Annex 8: Guidance on the application of E- policies

The Project Developer Forum (PD Forum) welcomes the recognition that was given at EB 73 to our letter from 8 May 2013 on *"Discussion on the treatment of host country national mitigation policies (E- policies) under the CDM"* as well as some important elements of the discussion that have been raised during the relevant public part of the EB meeting on this subject.

Furthermore we welcome the swift resolution of the reviews and the ultimate registration of Projects 7780, 8531 and 8285 as this safeguards the consistency of the EB's rulings and reconfirms the validity of the principles of EB 22 Annex 3, which are paramount for safeguarding the important role that the CDM has to support developing countries in their efforts for climate change mitigation.

In complement to this, we have noted from the meeting report to EB 73 that: *"The Board agreed to **pursue an approach** by which, for the first seven years from the effective implementation date of the relevant E- policy, the benefit of that E- policy does not need to be considered by project participants in the additionality demonstration through investment analysis."* Furthermore the Board requested the UNFCCC secretariat to prepare guidelines on this approach and to assess the necessary revisions to the applicable additionality tools.

After revision of the Draft *"Guideline on application of E- policy for additionality demonstration through investment analysis and proposed revision to Combined tool and Additionality tool",* Version 01.0 which has been put forward by the UNFCCC secretariat as Annex CDM-EB74-AA-A08 with the request for adaptation, we wish to express our grave concern with the content and possible effects of this document which we refer to as the *"Draft Guidelines"*. It is our view that the content and spirit of the *Draft Guidelines* does not comply with the principles of EB 22 / Annex 3 and the guidance which was given by the decision 2/CMP 5 in its "*Further guidance relating to the clean development mechanism"*[1].

When analyzing the approach pursued by the EB, i.e. to evaluate a limitation of effectiveness of the E- regulation for the financial additionality assessment to 7 years starting from the effective implementation date of the policy and the rationale of the proposed *Draft Guidelines* to limit the effects of E- policies to a maximum of a *"Seven-year benefit period"* in the cash flow of a financial additionality analysis we identify two conflicting concepts which we would like to comment on as follows:

1) Limiting the validity of the E- regulation for a defined period of time after the Effective Implementation Date of a GHG mitigation support policy:

Before entering the discussion we would like to reiterate that the definition of a project baseline and the definition of additionality of a project by demonstrating that it does not represent the baseline itself[2] is a solid and fundamental concept and we urge the EB not to pursue rulings which treat baseline and additionality discussion in separate ways as this would undermine an important element of the CDM and add further confusion and complexity to the discussion.

On the other hand, we wish to remind that financial additionality and the respective tools and guidelines were established as an attempt to demonstrate that a project is not the baseline itself and they are therefore just a tool and not the ultimate parameter for additionality. The shortcomings of the financial additionality approach to demonstrate additionality have been discussed in length by the CDM Policy Panel[3] and the CMP has requested repeatedly[4] to complement this approach with other alternatives[5].

In this context, the current discussion about the nature, importance and effects of the existing and emerging host country mitigation policies and the important synergies with the CDM allow to cast a

[1] Report of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol on its fifth session, held at Copenhagen from 7 December to 19 December 2009. Decision 2/CMP.5: Further guidance relating to the clean development mechanism. Available at: http://cdm.unfccc.int/Reference/catalogue/document?doc_id=000001865&para_id=para-000191227#para-000191227.

[2] According to the principals defined by EB 8, Annex 1, any new methodology shall provide the explanation *"of how […] it is demonstrated that a project is additional and therefore not the baseline scenario".*

[3] The CDM Policy Panel's conclusion 5.1, recommends "moving away from more subjective and unverifiable financial additionality tests"

[4] Please refer to decision 3/CMP.6 paragraph 40 and decision 8/CMP.7, paragraph 17.

[5] The PD Forum recognizes the existence of the Barrier Tool, but in practice it has proven to be difficult to apply as it requires the DOE to apply a high level of professional judgment.

new view and understanding on the mechanisms which yield material, permanent, additional, measurable and verifiable emission reductions in comparison to the baseline which would inevitably materialize without these policies and we recommend not to lose this opportunity by focusing on a tool which is by definition not capable to capture the barriers[6] which have been and are blocking meaningful GHG mitigation.

Therefore, the general idea behind the proposal to limit the validity of the E- regulation for policies which promote emission reducing technologies or projects for the discussion of financial additionality to a defined time span effectively implies that these policies will be considered part of a country's baseline. EB 73 now has decided to pursue an approach where this shall occur after 7 years from the implementation of such policies, which implies that the validity of many of the early policy schemes which had been implemented before COP 15 are about to expire and that policies which have been implemented shortly after will expire long before 2020. In our view this is especially critical as it usually takes some time until such policies are being picked up and show the desired effect. In general, such policies also have a gradual phase-in period and start with a small volume or target to gather experience and only after some time the full extent of the policy is observed[7]. Therefore we request that the Board provide clearer guidance as to the definition of "effective" considering the diversity of ways in which policies are implemented in practice.

In consequence, we would like to express that a regulation to limit CDM's support to developing country mitigation policies to a maximum of 7 years represents a perverse incentive to abandon such policies after the expiry of their CDM eligibility, to limit the validity of such policies from the start, or to substitute functioning policies with others, just to avoid that CDM eligibility is lost. Alternatively, in the event that the E- policy has not become the baseline, it will act to discourage further investment and stop the development of any long term transformational change. It may drive investors to countries where such policies are still being supported and therefore penalize early moving countries. Such a proposal is also to be seen as a retroactive change for countries which have established GHG mitigation promoting policies in the past on the basis of the good faith in the principles of EB 22 Annex 3. In conclusion, such measures represent the perverse incentive which is to be avoided to respect the principles of EB 22 Annex 3 and CMP 5.

More significantly than the perverse incentive to limit or abandon GHG mitigation policies, in our view, is the lost opportunity to effectively promote such policies and to complement them with sound MRV principles which assure global comparability of results and which help all parties to benchmark their efforts and raise mitigation ambition. The complementarity of domestic and international policies and of different mechanisms such as the CDM, the GCF and the CCTN are a fundamental element of the Framework of Various Approaches and if the EB now decides to limit the convergence of such mechanisms this represents a severe setback from the evolution that we have been seeing. Such limitation would also weaken the important role of the CDM as an offset element of the national emission trading schemes which we observe in China, South Korea and South Africa. The fact that offsets play a critical role to comply with national GHG emission targets is to be welcomed and the use of the CDM as a globally recognized mechanism which assures comparability is to be promoted versus other voluntary or national standards which are not suitable for subsequent international linking. Now if the complementarity of the CDM with national policies would be phased out it is evident that alternative offset standards will have to fill the gap.

In this discussion it is also of utmost importance to reflect again about the urgency of meaningful mitigation in the developing countries energy sector as the observed fast buildup of fossil fueled thermal infrastructure in industry and power generation is rapidly closing the window of opportunity to limit climate change to 450 ppm. Significant funding and the establishment of a sound enabling framework is required to maximize the implementation of clean and efficient technologies and

[6] The key barriers to effective GHG mitigation are lack of access to capital, regulatory risks and long lead time of GHG mitigation technologies. All these issues are not being captured by a financial analysis.

[7] As explained in our submission from 8 May 2013, for example Chile enacted its policy on March 2008, but the policy phases in with an increasing renewable energy target between 2010 and 2024. Likewise Peru established its Renewable Energy Portfolio Standard in May 2008 and the policy is currently under review.

renewable energies in the short term as otherwise cheap and rapidly installed thermal power installations are required to satisfy fast growing energy needs. The CDM with its capability to promote least cost abatement opportunities and with its solid and recognized principles for baseline setting and MRV is an important element to identify and support meaningful long term mitigation and to ensure solid quantification, verification and reporting of emission reductions, regardless if they are to be used under national or international emission trading schemes or for domestic accounting of the mitigation results.

In this respect, it is also important to recognize that all countries, including the developing countries, have signed up to negotiate and agree on a protocol, another legal instrument or an agreed outcome with legal force under the Convention applicable to all Parties, to be agreed on by 2015 and effective as of 2020. The negotiation of this new agreement is a gradual and constructive process which is taking place on the basis of current GHG mitigation policies and CDM rules. Therefore, a change in current practice will be seen as another obstacle to the negotiation process, mainly in developing countries which recognize the complementarity of CDM with national policies. Under this perspective, even though CDM is replaced in the future by a more effective carbon market mechanisms which do not depend on project based baseline and additionality discussion[8], it seems appropriate to safeguard the current practice for the CDM and refer the responsibility to negotiate new principles to the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP).

In conclusion, we urge the EB to maintain or even reinforce the current practice and rulings in relation to the E- regulation as established by EB 22, Annex 3 as any other approach would damage the critical process to support and enhance mitigation ambition of developing countries, while any discussion about changing the current practice would have to be referred to the Conference of the Members of the Protocol and ultimately to the UNFCCC.

2) Limiting the effect of E- policies on a project cash flow to a “Seven-year benefit period”.

In complement to the comments put forward above, the *Draft Guidelines* interpret the guidance given by the EB in a manner which, in our opinion, does not respect the principles of the current CDM rules, nor the principles of sound financial theory and which, if adopted, will cause important distortions and perverse incentives which are in conflict with the UNFCCC, the Guidance established by CMP 5 and with the objective to promote sustainable development, especially in less and least developed countries. For further understanding we would like to provide the following considerations:

The definition of a “Seven-year benefit period” starting from the *“Effective implementation date”* of an E- policy (*“which in any case shall be before the time of the investment decision/start date of the project activity*”), would have different and therefore distorting effects depending on the project type, the policy type and country’s economic circumstances:

- Limitation to a “Seven-year benefit period” will harm capital intensive projects with a long construction and implementation time, such as highly efficient industrial assets, renewable energies and transport. Their financial feasibility depends on solid and long term revenue streams and therefore stable long term, support policies and CER revenues. Also their construction time of 2 to 5 years or more often would consume most of the Seven-year benefit period”. Now given their long project lifetime these projects generate emission reductions which go beyond the crediting period and have a tangible and lasting effect on a country’s sustainable development.

[8] In our view offset mechanisms may represent an important element under future national emission trading schemes or carbon tax regimes as we observe today already in China, South Korea and South Africa, as well as in OECD nations such as Australia and New Zealand, as well as in the Californian trading scheme. Another example is the JI as it exists for Annex I countries which are capped under the Kyoto Protocol. The difference of these schemes is that are embedded in an economy wide quantified emission target and that therefore issues of baseline setting and additionality are less critical.

While harming such important GHG mitigation activities the proposed guidelines will promote relatively low cost end-of-pipe projects with short construction time, short asset lifetime and low capital investments which do not lead to the transformational change that is required.

- Most E- policies provide some sort of support to the project's long term cash flow, which is the example of Feed in Tariffs or revenue tax exemptions and they are only effective if contemplated over the whole project lifetime. This is especially true for the mentioned capital intensive investments and it is in the interest of the host country to attract private investors which are capable to invest capital in sight of a long term future incentive. This allows countries to avoid the high immediate impact that such investments have on governmental budgets and the country's economy and to dilute the cost of such projects over many decades.
    - While penalizing such economically sustainable long term incentive policies the proposed *Draft Guidelines* will promote policies which reduce Capex or provide important subsidies in early years and therefore during the "benefit period", an economic fact which may have three dangerous effects:
        - It may encourage countries to take economically inefficient measures or to limit the measures to a scale which can be financed in the early years.
        - It favors developing countries with enough financial means to undertake such short term support policies and penalizes countries with more severe budget constraints which depend on diluting the support over decades.
        - Carbon investors will prefer countries which have the right policies from CDM perspective, rather than those which have the right policies to promote their domestic sustainable development.
- Early mover countries which launched first policies several years ago now get penalized if they want to expand their policies, while late movers get a credit.

In conclusion, we urge the EB to abandon the current ***Draft Guidelines*** which have been put forward by the UNFCCC Secretariat and to reinforce the clarity of the current rulings. In this respect we would like to refer to a working paper which had been put forward by UNFCCC Secretariat back in 2010 as Annex 3 for discussion at EB 52[9] as it accurately summarizes the intrinsic logic and procedure of dealing with E+ and E- policies. Our letter from 8 May 2013 provides many examples and references of registered CDM projects and the underlying NAMA policies which illustrate this approach in practice. .

Summary:

In summary, the PD Forum would like to reiterate again that that it is paramount to maintain the established interpretation and application of the E- principle for baseline definition and additionality discussion in order to warrant the synergy of the CDM and national policies and to safeguard the principles of CMP 5. As required by paragraph 10 of this guidance, it is important to allow that host countries design and implement the policies which are best suited to achieve ambitious mitigation and sustainable development in their national context, while the CDM allows to support, assess and monitor the results of these policies on the basis of uniform global principles, which is essential to ensure comparability of efforts. In this respect, we understand that the proposed Draft Guidelines not only represent a perverse incentive, but that they imply distortions which would *interfere with the prerogative of the host country to decide on the design and implementation of policies to promote or*

[9] The "*Working Working paper for policy discussion by the Executive Board* entitled THE APPLICATION OF E+/E- POLICIES IN THE ASSESSMENT OF ADDITIONALITY"is available from http://cdm.unfccc.int/EB/052/eb52annagan3.pdf

give competitive advantage to low greenhouse gas emitting fuels or technologies" as it penalizes or promtes different kinds of policies and technologies in a distortive manner. Most importantly the proposed rules would hurt renewable energies and transformational infrastructure projects, early mover countries and the parties which suffer from severe budget constraints.

It is further crucial that the provision of CMP 5 paragraph 11 is respected to ensure that perverse incentives which would frustrate or weaken national efforts are avoided and that the achievement of the ultimate objective of the Convention is promoted. This implies that GHG mitigation ambition by all parties is enhanced, that emerging NAMA policies can be supported and on the basis of the existing and emerging carbon market instruments and MRV infrastructure to ensure comparability of efforts and as a basis for the development and integration into an efficient Framework of Various Approaches.

For these reasons, we would like to once again highlight our proposal that host countries be given a greater role in determining the relationship between CDM projects, CERs and own effort. The impact of E- policies operating in conjunction with CDM support is extremely powerful and has the potential to bring about transformational change, however, the precise nature of that relationship varies from one country to another. What may suit the climate change policies and sustainable development priorities of an advanced developing country, which may be able to afford long term E-policy support and hence rely less on the CDM element, may not suit an LDC which may not be able to afford such long term E- policy support. In this way, the duration of E- and CDM support for specific technologies could be varied by country, allowing some countries to curtail the support whilst other prolong it. Please refer to our proposal for the establishment of a host country mitigation share of proceeds available at http://www.pd-forum.net/files/ed84473f99c954b735e348b742e5c643.pdf

We also would like to refer to paragraph 12 of the CMP guidance which requested the EB *"to consolidate, clarify and revise, as appropriate, its guidance on the treatment of national policies".* We acknowledge that this was done with the Information Note on the implementation of E+/E- in the context of projects on the agenda of the fifty-third meeting of the CDM executive board (Version 01.1) EB53, Annex 32, but unfortunately the current discussion again has created doubts about the sustainability and solidity of the principles and practices which define the treatment of national policies which create uncertainties by policy makers and investors.

In conclusion, we urge the EB again to reinforce the existing rules and their interpretation and application by the UNFCCC secretariat and the DOEs in a way which safeguards the principles of EB 22, Annex 3 and addresses the concerns of CMP 5. This will allow reinforcing the synergy of the CDM with national approaches as a basis for enhanced ambition and comparable mitigation results in the crucial years before 2020 and help to reinforce the position of the CDM as fundamental project based MRV standard and as a basis for national accounting of emission reduction results by developing countries as well as a fungible offset mechanism for and between national and international markets.

We further understand that any limitation to the established principles would be a topic for the CMP and UNFCCC as it would imply that mostly voluntary NAMA policies which have been established in the past on the prevailing circumstances and premises would now be gradually regarded as baseline policies. In our view such discussions are to be held under the ADP and the new global agreement to be agreed by 2015 and implemented by 2020 represents an opportunity to substitute the project based CDM rationale by an approach where all countries have measurable and verifiable emissions and targets and where project based baselines and the additionality discussions will disappear in the context of national baselines.

In addition and as already highlighted in our submission from 8 May 2013, it is important to establish an equivalent regulation for the treatment of multilateral carbon financing instruments such as those applied by the European Investment Bank, the World Bank and possibly in the future by the Green Climate Fund. The provision of adequate financing is often the key solution to the lack of access to capital which is not captured by the investment analysis and the recognition that

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multilateral financing is key to trigger ambitious mitigation and sustainable development policies especially in less and least developed countries is not only key for the evolution of the international climate change regime, but also for the geographical distribution of the CDM and its enhanced efficiency in less and least developed countries where capital constraints are most prevalent.

Annex 11: Concept note – Share of proceeds for administration – adjustment analysis

We note the contents of this report which was raised in response to an earlier submission from the PD Forum and wish to thank you for undertaking this work. One comment we would like to make is that the data expressed in Figure 1 is very interesting and whilst we note it is referenced as being checked by expert sources based on models from Point Carbon and Bloomberg New Energy Finance, we are not sure how representative this data is as it suggests that CERs from a very wide range of project types can be produced at a cost of less than EUR2.50. We would also raise the point that whilst the SOP-Admin fee may be small proportion of overall costs, the key point for some investors may be the impact it has upon profit. In a situation where the sale prices matches or is below the cost price, removing any cost from the value chain can have a very significant impact upon profit.

We thank you for the opportunity to provide our comments on the annotated agenda and annexes and would be very happy to discuss them with you further,

Kind regards,

Gareth Phillips

Gareth Phillips
Chair, Project Developer Forum