

June 16 2006

CDM Executive Board
UNFCCC Secretariat
Martin Luther King Strasse 8
P.O.Box 260124
D-53153
Germany

Attention: Mr. Jose Miguez, Chairman

Dear Mr. Miguez,

I write to you on behalf of the International Emission Trading Association ("IETA") in response to your May 19, 2006 call for input on the definition of "policy" and "programme of activities". IETA welcomes the opportunity to provide you with the following submissions on these definitions in accordance with Decision 7/CMP.1 (the "Montreal Decision") at this early and critical stage in the Executive Board's decision-making.

The Montreal Decision provides that: *a local/regional/national policy or standard cannot be considered as a clean development mechanism project activity, but that project activities under a programme of activities can be registered as a single clean development mechanism project activity provided that approved baseline and monitoring methodologies are used that, inter alia, define the appropriate boundary, avoid double counting and account for leakage, ensuring that the emission reductions are real, measurable and verifiable, and additional to any that would occur in the absence of the project activity.*

The Executive Board has now been charged with providing further clarity on the definition of a policy or standard, in order to determine that what is an eligible clean development mechanism project activity under the Montreal Decision.

It is IETA's submission that, although a local/regional/national policy or standard itself would not be eligible to be registered as a clean development mechanism project activity, any actual project activities undertaken as a result of the implementation of local/regional/national policy or standard should nevertheless be eligible as they

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would constitute "project activities under a programme of activities", on the basis of the following

Firstly, it is important to note the impact of the Executive Board's earlier decision (the "Annex 3 Decision") on national and/or sectoral policies and circumstances in baseline scenarios (EB 22 Meeting Report, Annex 3).

The Board agreed that these two (2) types of policies shall be addressed as follows:

(a) Only national and/or sectoral policies or regulations under paragraph 6 (a) that have been implemented before adoption of the Kyoto Protocol by the COP (decision 1/CP.3, 11 December 1997) shall be taken into account when developing a baseline scenario. If such national and/or sectoral policies were implemented since the adoption of the Kyoto Protocol, the baseline scenario should refer to a hypothetical situation without the national and/or sectoral policies or regulations being in place.

(b) National and/or sectoral policies or regulations under paragraph 6 (b) that have been implemented since the adoption by the COP of the CDM Modalities and Procedures (Decision 17/CP.7, 11 November 2001) need not be taken into account in developing a baseline scenario (i.e. the baseline scenario could refer to a hypothetical situation without the national and/or sectoral policies or regulations being in place).

It is clear from the Annex 3 Decision that national and/or sectoral policies or regulations implemented after 11 November 2001 do not have to be taken into account when developing baseline scenarios. The baseline scenario, for project activities implemented under national and/or sectoral policies or regulations, would thus be the baseline scenario established for the specific project or projects, without taking into account the national and/or sectoral policy or regulation under which the project activity was implemented. This decision, by implication, explicitly permits project activities that were implemented under national and/or sectoral policies or regulations to be registered as clean development mechanism project activities. The exclusion of any projects that were implemented under a local/regional/national policy or standard (or national and/or sectoral policy or regulation) would effectively negate the Annex 3 Decision, which clearly allows for the registration of such project activities.



Secondly, any activity that results in emission reductions and meets the applicable requirements should be eligible to be registered as a clean development mechanism project activity, in accordance with Article 12 of the Kyoto Protocol. On this basis, the local/regional/national policy or standard (or national and/or sectoral policy or regulation) itself could not be registered as a clean development mechanism project activity because of the absence of a clear link to any resulting emission reduction activities. Nevertheless, the project activities themselves should be considered “project activities under a programme of activities” as they result in emission reductions, and therefore should be eligible to be registered, either individually or as a bundle.

- To use an example, if a Party not included in Annex 1 implemented a renewable portfolio standard, the renewable portfolio standard itself would not be eligible to be registered as a project activity, but any renewable generation project activity undertaken as a result of the implementation of the renewable portfolio standard should be eligible. Firstly, because the Annex 3 Decision specifically contemplates such an event, and secondly, because such projects clearly produce emission reductions (provided of course the projects use approved baseline and monitoring methodologies that, inter alia, define the appropriate boundary, avoid double counting and account for leakage, ensuring that the emission reductions are real, measurable and verifiable, and additional to any that would occur in the absence of the project activity).

In addition to the above elements it is also important to consider that the term “policy” and “programme” have a distinct different interpretation in the sense of language usage. Where a “policy” generally can be considered to be a general principle, idea, orientation, direction guideline and/or a goal, a “programme” on the other hand is the means of implementing a policy. As such programmes are a system of services, opportunities, or projects, designed to meet a social need, an ordered set of activities organized with the objective to achieve a concrete goal and as such, implement a policy.

Based on the assumptions IETA considers that CDM programme of activities should at least consider the following elements:



- the programme should define/describe the activities (actions) to be considered as part of the programme;
- the programme should define/establish the boundary for the CDM project;
- the programme should define/establish a timetable and/or dateline for implementation (as the individual activities under the programme will be executed over time) ;
- the individual activities that result from the implementation of the programme should be developed as a voluntary response to such programme; and
- the emission reductions may be the result of actions undertaken by individuals/entities different from the entity running the programme, who are actually responding to such programme

Other issues to consider

- a) A key difference between a CDM programme of activities and the bundling of individual activities is the fact that in bundling, the project proponent knows and defines in advance the number of project activities to be bundle. In CDM programme activities, the entity running the programme does not know in advance the number of individuals/entities that will respond to the programme (because response to such programme is by definition, voluntary).

As such, it should be adequate to estimate in the PDD the emission reductions that may result from an individual activity (even a sole individual activity), and apply a sensitivity analysis to a table of possible universe/scenarios.

- b) As described in the definition of programmes, a programme is a mean to meet an objective, usually the modification of a conduct or a common practice.

In this regard, the additionality test should be applied to the programme itself and not necessarily to the individual activities under the programme because, as was mentioned before, the programme is the actual implementation of a series of activities intended to modify a common practice.

- c) Considering that a programme may result in several individual activities, that may probably be small in terms of individual emission reductions impact, it is necessary to be able to use sampling, emission factors or other appropriate



methodologies when validating emission reductions, especially if the number/size/type of individual activities make it unfeasible to apply a validation method to each and everyone of the several/small size individual projects.

IETA trust that with the above comments the Board is able to proceed in a manner that will benefit the overall process of the CDM.

A handwritten signature in black ink, appearing to read 'Andrei Marcu'.

Andrei Marcu
President