

 <p>CDM: FORM FOR SUBMISSION OF A “LETTER TO THE BOARD” (Version 01.2)</p> <p>This form should be used only by project participants and other stakeholders for submitting a “Letter to the Board” in accordance with the latest version of the <i>Modalities and procedures for direct communication with stakeholders</i></p>	
Name of the stakeholder ¹ submitting this form (individual/organization):	Diego Nicoletti / Solvi Participações S.A.
Address and contact details of the individual submitting this form:	Address: 967 Bela Cintra Street, 10° floor. São Paulo – SP, 01415-000, Brazil Telephone number: +55 71 3239 8722 E-mail address: dnicoletti@solvi.com
Title/Subject (give a short title or specify the subject of your submission)	Request of reconsideration by the CDM-EB of registration dates for the recently registered CDM project activities with registration numbers 9295, 9298, 9300 and 9302
Please mention whether the submitter of the form is:	<input checked="" type="checkbox"/> Project participant <input type="checkbox"/> Other stakeholder, please specify
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)
Please choose any of the type(s) below ³ to describe the purpose of this submission.	
<input type="checkbox"/> Type I: <input type="checkbox"/> Request for clarification <input type="checkbox"/> Revision of existing rules <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 <input type="checkbox"/> Type II: Request for Introduction of new rules <input checked="" type="checkbox"/> Type III: Provision of information and suggestions on policy issues	
Please describe in detail the issue on which you request a response from the Board, including the exact reference source and version (if applicable).	

¹ DNAs and DOEs shall use the respective DNA/DOE forms for communication with the Board.

² As per the applicable modalities and procedures, the Board may make its response publicly available.

³ Latest CDM regulatory documents and information are available at: <http://cdm.unfccc.int/Reference/index.html> .

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Dear members of the CDM Executive Board,

As the representative of all the project participants and as the appointed "Focal point" (contact person) within UNFCCC, I would like to have your attention and time for the inquires/requests below which are applicable for the following recently CDM for which our organization is a project participant:

- Project 9290 : ITVR Sao Leopoldo landfill gas project
- Project 9295 : CTDR Bob Ambiental landfill gas project
- Project 9298 : CPTR Marituba landfill gas project
- Project 9300 : Rio Grande landfill gas project
- Project 9302 : CTR da Caturrita landfill gas project

We envisage through this communication as a unique opportunity to provide our view about the outcome of the currently finalized process for submission of requests of registration for the above listed recently registered CDM project activities and request review/change of the appointed registration dates for the project activities with registration reference 9295, 9298, 9300 and 9302.

Please provide any specific suggestions or further information which would address the issue raised in the previous section, including the exact reference source and version (if applicable).

Background

In the first semester of 2012, as practitioners of the market for Municipal Solid Waste collection and disposal, the project participants for the above listed CDM project activities took the decision to implement initiatives promoting landfill gas (LFG) forced collection and destruction in landfills which are located in Brazil and are under their control by taking into consideration CDM benefits.

It is crucial to note that while collecting and destroying LFG (in a country where there are no related legal or regulatory requirements) does not generate any income, **the potential CDM revenues were the only source of revenue for the initiatives**, making them **truly additional**.

At that time, the VVM regulatory framework was still valid for ongoing CDM validation/verification assessments and the new VVS regulatory framework was recently announced by UNFCCC and entered into force. By following the applicable CDM project cycle, as per rules and procedures applicable under the VVS regulatory framework, the project participants developed the project documentation for the 5 above listed proposed CDM project activities and had them validated by the DOE Germanischer Lloyd Certification GmbH (GLC) with related request of registration packages being submitted to UNFCCC on 27/12/2012.

As your team is aware, by considering the announced plans of the European Commission (EC) for the use of CER from CDM project activities registered after the end of year 2012 under the EU-ETS, for most of the proposed CDM project activities being implemented in non-LDC parties (such as Brazil), **achieving CDM registration date prior to 31/12/2012 was regarded as crucial by most of the experts and players of the carbon market**. In our the particular case, the recently enacting post-2012 use restrictions on CERs from industrial gas projects and projects registered post-2012 (as announced by the European Union Emission Trading Scheme) from non-LDCs were considered as a relevant aspect for the implementation of our initiatives. (<http://www.emissions-euets.com/cers-erus-market-as-from-2013>).

Elaboration of project documentation (PDD) and performance of validation assessments

By taking into account the relevant aspects and requirements for the date of registration of the proposed project activities, our project participants made efforts on hiring professional teams with outstanding expertise for the development of the project documentation (PDD) for our project activities as well as for the development of the related CDM validation/certification work. In this sense, while both the CDM consultants/experts hired by our project participants as well as the members of the validation team of the selected Designated Operation Entity (DOE) Germanischer Lloyd Certification (GLC) have demonstrated very strong expertise and professional attitude during the whole PDD elaboration and CDM validation process, it was indeed possible to submit all 5 request for registration packages prior to the end of year 2012. It is remarkable that in DNA of Brazil normally takes more than 3-4 months to issue the Letter of Approvals (LoAs) for the proposed CDM projects (with latest version of PDD and Validation Report being required to be submitted as part of the LoA application). Thus, in 27 December 2012, the registration package for our 5 proposed CDM project activities were submitted to UNFCCC.

As part of the assessment of the project documentation performed by the UNFCCC CDM Team side, for all the 5 project activities, the completeness checking and reporting and information checking phases were concluded without any non-conformance being identified. It is crucial to note that while all proposed CDM project encompass the construction and operation of LFG collection and flaring systems with all related construction work being dependent on successfully registration of the projects under the CDM (as CDM revenues are the only revenue sources for all the projects), the 5 PDDs for the project activities were very similar each other. Identical wording, text structure and spreadsheet format were applied for all project activities, with the differences representing the particular aspects of each project and host landfill (names, locations, aspects of the landfill, size of the project activity due to the size of the host landfill, etc.). The Validation Reports for all 5 project activities were very similar each other too (in terms of structure, assessment texts and approach, etc...).

Requested reviews for 4 of the 5 submitted request of registrations

During the request for review period, no request for review was raised for the project activity Project 9290: ITVR Sao Leopoldo landfill gas project. As per the applicable CDM rules, this project activity was registered with registration date indicated as being 27 December 2012. This was considered by our project participants as an evidence of the high expertise of the team involved in both the elaboration of project documentation (PDD) and CDM validation/certification assessment.

However, for the surprise of our project participants, all other somehow identical four proposed CDM project activities received identical comments in the context of raised Request for Reviews (RfRs):

“The DOE is requested to substantiate how it has validated that the project complies with the applicability criteria (d) of the applied methodology, i.e. “Do not reduce the amount of organic waste that would be recycled in the absence of the project activity”. The DOE has mentioned in the validation report (p. 20) that “.....No change in the current practice of landfilling of MSW is expected to occur at the {name of the landfill} after the implementation of the project activity. With or without the project activity, no recycling of the organic fraction of the waste, neither aerobic treatment, neither incineration, is expected to occur at the {name of the landfill}. In fact, recycling of organic matter, aerobic treatment and incineration are not common practice in Brazil. During performed on-site visit, interviews were conducted with representatives of the project participant and it was confirmed that the project participant does not intent to change the operation of the {name of the landfill} site under any aspect.” However, it is unclear how the prevailing waste management practices pertinent to organic waste recycling in the region attended by the landfill have been validated, and whether the amount of organic waste being recycled currently, if any, will be impacted by implementation of the project activity. Please refer to VVS version 3.0 paragraphs 76 and 88..”

In our interpretation, the received comments in **the context of the raised Request for Review are not pertinent or plausible** due to the following aspects/reasons:

- While the received identical comments indeed correctly outline that the 4 PDDs and the 4 Validation Reports emphasize that no changes in the current operational practice are expected to occur at the host landfills after the implementation of the project activities (with no recycling of the organic fraction of the waste, neither aerobic treatment, neither incineration occurring at the host landfills under both baseline and project scenarios), the received four identical comments paradoxically all identify as validation deficiencies (i) the assessment of the prevailing waste management practices pertinent to organic waste recycling in the region attended by the landfill and (ii) the assessment on whether the amount of organic waste being recycled currently, if any, will be impacted by implementation of the project activity.

In our interpretation, for each case, as clearly indicated in the submitted versions of the PDD and Validation Report, while **there are no quantitative or qualitative changes in the operation host landfill which would be triggered by the implementation and operation of the project activity**, obviously there would be no qualitative or quantitative change in terms of recycling activities in the host site and/or other sites under the area of influence of the landfill that would be triggered by the implementation and operation of the project activity. In this context, any further assessment of how the amount of organic waste being recycled currently, if any, in the host landfill or in any other site will be impacted by implementation of the project activity represents a completely redundant and not applicable additional requirement in our view.

Furthermore, assessment of the prevailing practice pertinent to organic waste recycling in the region attended by the host landfill is not explicitly indicated as a validation requirement for any project activity applying ACM0001 (version 13.0.0.) baseline and monitoring methodology. VVS does not explicitly or implicitly include such requirement either. As per ACM0001 (version 13.0.0), it is a applicability condition that the proposed project activity promoting LFG collection and destruction and/or utilization "*Does not reduce the amount of organic waste that would be recycled in the absence of the project activity.* Furthermore, in the context of the identification of the baseline scenario, the following alternative should be taken into consideration: "*LFG3: LFG is partially not generated because part of the organic fraction of the solid waste is recycled and not disposed in the SWDS;*". It is crucial that in order to address such requirements/criteria, assessment of the prevailing practice pertinent to organic waste recycling in the region attended by the host landfill is not be seem as a requirement. With recycling being or not a practice in such are of influence of the host landfill, the mere fact that the implementation and operation of the project activity will not be expected to promote any quantative or qualitative change the operation of the host landfill when compared to the scenario with absence of the project (this is a condition to be monitored ex-post through monitoring paramerer "Management of SWDS"!) is a condition sufficiently enough to confirm that:

- The project activity in question will not promote any reduction or increase in the amount of organic waste that would be recycled in the absence of the project activity in the host landfill or in any other site.
 - In the absence of the project activity there would be no relative decrease in generation of LFG in the host landfill due to recycling or any part of the organic fraction of the solid waste that would be disposed in the landfill in the project scenario.
- Based in our assessment of CDM project activities applying ACM0001 (version 12.0.0 or 13.0.0) more recently registered by UNFCCC, we confirmed that while other project activities indeed received similar comments in the context of received requests for reviews, there are significant share of submitted CDM registration requests which were granted with successful registration with PDDs and Validation Reports including similar information and without any RfR being raised (such as the case of our project named "Project 9290 : ITVR Sao Leopoldo landfill gas project". We thus conclude that, unfortunately, in the particular cases of the raised RfRs for our project activities, it might be the case that the independent reviewer on behalf of UNFCCC was not that familiar with applicable methodological requirements or even with the nature of a project or initiative encompassing LFG collection and destruction/utilization (which normally does act as a driver to promote any decrease of recycling of organic fraction of waste).

Action previously taken by the project participants and DOE

At the time we were informed about the received RfRs, we have indeed suggested the DOE GLC to update their Validation Reports as requested in the received comments.

We also took the initiative to complement and better substantiate related information made available in the PDDs for mere sake of transparency (even by acknowledging such editing's as not required or applicable). While historically, it has been the practice of the UNFCCC CDM team to grant submitted request of CDM registration for project activities with the date when such registration package was submitted by the validating DOE for all cases where the project activity would successfully pass through the so-called "*completeness checking*" and "*information and reporting checking*" assessment phases at UNFCCC level (even with Request for Reviews being later raised), we thus assumed that even with the raised RfRs we would assure registration dates prior to the end of 2012 for our project activities (which were all submitted to registration on 27 December 2012). In this particular sense, we also consider the change of practice and approach historically applied by the CDM team unfair (especially in the context of request of CDM registration submitted in year 2012 for project to be hosted in non-LDC parties). Based on our CDM experience, we are aware that our understanding was also the common understanding among other CDM practitioners (including CDM consultancy companies, DOEs and even CDM experts which are or were members of panels and/or working groups at the CDM-EB level). We are aware about submissions made by other project participants asking for related clarifications (http://cdm.unfccc.int/stakeholder/submissions/2012/0725_ebl_req.pdf). We are also aware about the currently official position from the CDM team on the issue as outlined in the Frequently Asked Questions (FAQ) Section at UNFCCC CDM website (<http://cdm.unfccc.int/faq/index.html>).

Request of change of appointed registration date for 4 of the 5 recently registered CDM project activities

By taking into account the hereby demonstrated relative lack of competence of the member of the independent review team who raised 4 comments for our currently registered CDM project activities with registration numbers 9295, 9298, 9300 and 9302, and by also taking into account that the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP) through decision 3/CMP.6, paragraph 59, further requested the Board to ensure that editorial errors which will not affect the assessment of compliance with validation and verification requirements do not lead to a determination that the request for registration or issuance is incomplete, while ensuring environmental integrity; **we thus kindly request this Board to reconsider the date of registration for such CDM project activities to 27 December 2012, thus making their implementation and operation really incentivized by the CDM.** With no assurance of future purchase of the CERs to be generated by such project activities by entities and/or parties under the EU-ETS in case it remains with registration date after the end of year 2012, the implementation of such GHG emission initiatives (which will have CDM revenues as the only revenue source and faces high implementation and operation costs) is very uncertain.

<i>If necessary, list attached files containing relevant information (if any)</i>	<ul style="list-style-type: none"> [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	30 September 2013
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History of document

Version	Date	Nature of revision
01.2	08 February 2012	Editorial revision.

01.1	09 August 2011	Editorial revision.
01	04 August 2011	Initial publication date.
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