

Agenda item 5.3

Paragraph 68 of the annotated agenda

Letters from the Stakeholders including DOEs: Concerns on Common Practice and Foik

CDM EB 65

Durban, South Africa, 21-25 November, 2011



Letters from the Stakeholders including DOEs

Background:

- a) Five letters have been submitted which raise procedural concerns on the recently approved guidelines on Common Practice (EB63, Annex 12).

Concern:

- a) The additionality and combined tool requires that if there exists no projects, with in reasonable range in the defined geographical region, commissioned prior to the proposed CDM project and excluding the other CDM projects (including those under validation) and the current proposed project, that is absolutely similar to the proposed CDM project, then the project is not a common practice.
- b) The “Guidelines on Common practice” (EB63, Annex 12) requires if less than 21% of all projects, with in “+/-50%” range in the defined geographical region, commissioned prior to the proposed CDM project and excluding the other CDM projects (does not include those under validation) and the current proposed project, are of similar technology as the proposed CDM project and this comprises less than 4 projects, then the project is not a common practice.



Letters from the Stakeholders including DOEs

Concern:

- a) The new guidelines introduce a completely new approach to determining additionality which is contradictory with the existing common practice analysis approach as contained in the additionality tool and the combined tool. The tools demand a completely different analysis of common practice. If the tool is followed, then the guidelines must be ignored; if the guidelines are followed, then this is incompatible with the requirements of the tool. Therefore, as tools sit higher in the document hierarchy and are mandatory, the guidelines would have to be ignored.

Therefore, the guideline is:

- a) inconsistent and in contradiction with the previous rules [additionality tool (EB39, Annex 10) and combined tool (EB60, Annex 7)], both in terms of the substance and approach; and
- b) suffering from hierarchal defects and inconsistency.

Impact of not addressing the Concerns:

- a) These concerns if not addressed will have impact on a large number of prospective CDM projects in the validation/ registration pipeline and may be reason for delays or increasing number of requests for reviews of the request for registration.



Proposed Recommendation:

The Board may wish to request the Secretariat to revise and integrate the guidelines with the additionality and combined tool to ensure the consistency in approach.

Letters from the Stakeholders including DOEs

Background:

- a) Three letters have been submitted which raise procedural concerns on the recently approved guidelines on First-of-its-kind project activities (EB63, Annex 11).

Concern:

- a) The new guideline is contradictory with the existing Foik analysis approach as contained in the additionality tool and the combined tool, in particular with respect to the paragraph 6 of the guideline which states “The proposed project activity that was identified as the first of its kind project activity is additional”.
 - b) However, the additionality tool does not imply that the project is additional, if the project is identified as the first of its kind. The additionality tool stipulates that the project activity is additional if: (a) the project is identified to be the Foik; (b) identified barrier would not prevent the implementation of at least one of the alternatives (step 3b of the additionality tool).
 - c) If the tool is followed, then the guidelines must be ignored; if the guidelines are followed, then this is incompatible with the requirements of the tool. Therefore, as tools sit higher in the document hierarchy and are mandatory, the guidelines would have to be ignored.
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Therefore, the guideline is:

- a) inconsistent and in contradiction with the previous rules [additionality tool (EB39, Annex 10) and combined tool (EB60, Annex 7)], both in terms of the substance and approach; and
- b) suffering from hierarchal defects and inconsistency.

Impact of not addressing the Concerns:

- a) These concerns if not addressed will have impact on some prospective CDM projects in the validation/ registration pipeline and may be reason for delays or increasing number of requests for reviews of the request for registration, in particular those applying new technologies or in LDCs or SIDS.

Proposed Recommendation:

The Board may wish to request the Secretariat to revise and integrate the guidelines with the additionality and combined tool to ensure the consistency in approach.