

**Submission by Nauru on behalf of the
Alliance of Small Island States (AOSIS)**

Views on revision of the CDM Modalities and Procedures

June 2013

AOSIS welcomes the opportunity to present views on possible revisions to the CDM modalities and procedures, in the context of the review of the CDM mandated by decision 3/CMP.1. The evolution of the flexible mechanisms is of great importance to AOSIS and AOSIS is interested in participating actively in these discussions.

I. Role of the CDM: assistance in meeting internationally-legally binding commitments under Article 3

The CDM was established to assist non-Annex I Parties in achieving sustainable development and in contributing to the ultimate objective of the Convention, and to assist Annex I parties in achieving their Article 3 commitments.

As agreed under the Doha Amendment (decision 1/CMP.8, para. 14), CERs may only be used in the second commitment period by a Party toward its Article 3 commitment if that Party has an internationally-legally binding commitments that has entered into force for that Party¹. In addition, only a Party with a quantified emission limitation and reduction commitment inscribed in the third column of Annex B is eligible to transfer and acquire certified emission reductions (CERs) valid for the second commitment period. These Parties may nonetheless continue to participate in CDM projects and receive into their national registries units from CDM projects.

The limitation on trading by Annex I Parties without Kyoto commitments, agreed in Doha, and the restriction on use of CERs to Parties with Annex B commitments, are not to be renegotiated through amendments to 3/CMP.1 or by other alterations to the Marrakech Accords. These limitations were an integral part of the political compromise struck in Doha in exchange for allowing Annex I Parties without second commitment period QELRCs to continue to participate in the CDM and receive CERs from past and future projects.

At present, no Annex I Party yet has an internationally-legally binding commitment under Article 3 of the Kyoto Protocol for the Protocol's second commitment period that would enable the use of CERs for the second commitment period. AOSIS looks forward to the Depository's receipt of instruments of acceptance in respect of the Doha Amendment, pursuant to paragraphs 1 to 3 of decision 1/CMP.8 from all Parties to the Kyoto Protocol to ensure the prompt entry into force of the Doha Amendment. AOSIS also looks forward to notifications of Parties' provisional application of the Doha Amendment pending its entry into force.

If Parties that have thus far declined to accept legally binding commitments for the second commitment period (e.g. New Zealand, Japan and Russia) now wish to access the benefits of international emissions trading of CERs, these Parties are welcome to propose legally-

¹ "14. *Decides* that a Party referred to in paragraphs 15 and 16 below shall be eligible to use CERs to contribute to compliance with part of its commitment under Article 3 of the Kyoto Protocol for the second commitment period upon the entry into force for that Party of the amendment contained in annex I to this decision and upon that Party meeting the requirements set out in paragraph 31 of the annex to decision 3/CMP.1"

binding QELRCs for themselves under the Protocol for the second commitment period for consideration by all Parties.

2. The long-term viability of the CDM: ambition

The Doha Amendment, if fully implemented, will result in only an 18% reduction below 1990 levels for participating Annex B Parties. The IPCC Fourth Assessment Report has indicated that a 25-40% reduction is needed from Annex I Parties in aggregate, and a 15-30% reduction below business as usual emissions from developing country Parties, to be consistent with even a 2.0 – 2.4 degree limitation of temperature increases below 1990 levels. More ambition is needed to achieve the 1.5 degree limitation supported by over 100 Parties in this process.

The most direct way to support CER pricing and the long-term viability of the CDM is to increase the ambition of Annex I Party QELRCs. For example, the EEA in October 2012 estimated that the EU-27's 2011 emissions were already 17.6% below 1990 levels.² Yet the EU-27 has only taken a commitment to reduce its average annual emissions to 20% below base year emission levels, over the course of the 2013-2020 period,. There is ample room for the EU to increase the ambition of its QELRC and room as well for other Parties, with Annex B commitments for CP2, to increase the level of their ambition for the second commitment period. This will create demand for the CDM.

Additional means are to enhance the environmental integrity of CDM projects by narrowing the scope of permissible project activities and eliminating projects that create perverse incentives.

3. Moving beyond offsets to substantial net emission reductions

To contribute in a measurable way to the reduction of GHG emissions and sustainable development, the CDM should be redesigned to generate substantial net emission reductions. Unless the CDM is restructured, it may only serve to re-allocate mitigation effort among Parties or erode what could be delivered by Annex I and Non-Annex I commitments and pledges for 2020 standing separately.

The generation of substantial net emission reductions from CDM project activities could be achieved in a number of ways (e.g. consideration could be given to the concepts of conservative baselines, discounting, and/or cancellations for the benefit of the environment)

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4. Crediting period length reductions

3/CMP.1, paragraph 49 provides for maximum project crediting periods for proposed activities of either a maximum of 7 years, which may be renewed at most two times, or a maximum of 10 years with no option of renewal.

As part of the CDM review, it may be useful to consider adoption of substantially shorter maximum crediting periods (e.g., a maximum of 5 years, which may be renewed twice or a

² Greenhouse gas emission trends and projections in Europe 2012: Tracking progress toward Kyoto and 2020 targets, <http://www.eea.europa.eu/publications/ghg-trends-and-projections-2012>

maximum of 7 years with no option of renewal) and apply these shorter crediting period maximums to all newly-registered projects.

Since the CDM was established, many low-emission technologies have become common in many countries, cost-competitive with other technologies in many countries, or cost-effective in the absence of the CDM. Accordingly, it is increasingly important to ensure that crediting periods are not so long that they undermine the requirement of additionality or extend beyond project lifetimes.

In addition, the CDM review should deliver greater flexibility to the CDM EB to reduce crediting periods below maximums for certain project types, technologies or in certain country contexts, where useful to ensure that the requirement of additionality is met. As part of the crediting period renewal process, projects types should be reviewed by the CDM EB to ensure that they remain additional using country-specific information.

5. CDM project scope: exclusions

One purpose of the CDM is to assist Non-Annex I Parties in contributing to the ultimate objective of the Convention and in achieving sustainable development. Emission reductions under the CDM are to be certified only if they represent real, measurable, and long-term benefits related to the mitigation of climate change, and are additional to any that would occur in the absence of the certified project activity.

To be consistent with these requirements, CMP 9 should act decisively to ensure that certain categories of projects are no longer permitted for registration. These include:

- HFC-23 destruction projects and N₂O reduction projects from adipic acid production, that involve gases with very high global warming potentials (GWPs)³ and which can be reduced at an extremely low abatement cost, as these projects have led to perverse incentives to increase GHG emissions, and/or have undermined the utility of the CDM in generating a strong price signal for emission reductions and can often be better addressed through direct regulation or direct payment for emission reductions;
- super-critical coal-based projects or other efficiency measures at coal-fired plants), as these projects subsidize fossil fuel use, undermining long-term sustainable development;
- expensive technologies and large-scale projects that are clearly motivated other than by the generation of CERs at the current market price, and therefore cannot satisfy additionality criteria under Article 12.5(c) (nuclear, coal-fired power plant projects other than CCS, large hydro-electric projects).

The difficulties with these types of projects in the context of the CDM have been broadly recognized by most Kyoto Parties.

In addition, NF3 has recently been included in the Kyoto basket of regulated gases. NF3 has an extremely high GWP (20,700). Projects involving this gas should be considered for categorical exclusion from JI and the CDM, to ensure that perverse incentives or estimation challenges do not undermine the functioning and environmental integrity of the Kyoto Protocol's targets and mechanisms, as has happened with other high-GWP gases.

6. Additionality

³ Based on Fourth Assessment Report values, N₂O has a GWP of 298; HFC-23 a GWP of 11,700.

No project should be permitted to go forward or be renewed for crediting purposes in the absence of a clear demonstration or express finding of additionality or continuing additionality. The CDM review process should raise the bar for these determinations, to provide full confidence to Parties that all projects generating CERs are truly additional. Where standardized approaches or benchmarks used or considered for use, these must be set conservatively, and be reviewed periodically, frequently and objectively.

7. Governance

As agreed in 3/CMP.1, paragraph 7, the CDM EB is comprised of: (a) 1 member from each of the 5 UN regional groups; (b) 2 other members from Annex I Parties; (c) 2 members from Non-Annex I Parties; and (d) 1 representative of the small island developing States. Under paragraph 9, alternate members are elected for each member, from the same constituency.

Some Parties have proposed that as part of the review of the CDM, it may be useful to establish an entirely new governing body for the CDM. In this context, it must be emphasized that all Parties to the Kyoto Protocol have an interest in ensuring the smooth functioning and environmental integrity of project-based activities under the Kyoto Protocol. The composition of the CDM EB is representative and this representative aspect plays an important role in transparency and legitimacy. The CDM should continue to be overseen by a body comprised of representatives of both developed and developing country Parties, under the umbrella of the Protocol, and small island developing States must continue to have dedicated seats on this body, consistent with the usual practice of the UNFCCC and decisions previously taken by the CMP.

AOSIS appreciates the need for a substantial degree of technical expertise among Board members. AOSIS is confident that if these technical requirements and desired qualifications are elaborated more specifically, they will readily be satisfied by Party nominees. Relevant considerations in this context, and/or in the context of any reconsideration of term limits, include: the size of the CDM EB, the balance of technical and policy inputs needed to accomplish the work of this body, issues of accountability and representativeness.

8. Letters of Approval

Where host countries wish to withdraw letters of approval for CDM projects, it will be helpful if criteria for possible withdrawal are set out in advance with a degree of clarity in countries' criteria for project approval (e.g., with respect to national laws, requirements of international law, human rights, etc).

Clear criteria for the withdrawal of letters of approval by host Parties should be established and provided by DNAs to the CDM EB for publication, to provide sufficient notice to project participants. It may be useful for the CDM EB or secretariat to provide illustrative types of criteria that DNAs may wish to consider.

A process should also be established at the international level to receive supported complaints regarding specific projects and project impacts, which can then be directed to the host country DNA for investigation and assessment and, if substantiated, result in corrective measures which may include withdrawal of approval.

9. Appeals

AOSIS looks forward to a final resolution of the issue of appeals of CDM EB decisions on the basis of procedural irregularities.

In AOSIS's view, it is appropriate for the existing composition of the CDM EB to be fully reflected with respect to the roster established for hearing appeals.