



## **Submission of Environmental Defense Fund ([www.edf.org](http://www.edf.org)) on paras. 44-47 of the Doha Decision 1/CP.18, on various approaches, including opportunities for using markets**

Environmental Defense Fund (EDF), a 750,000-member non-profit, non-governmental, non-partisan, accredited observer organisation that has participated in the climate treaty talks since their inception, respectfully presents this submission on the matters referred to in paragraphs 41–48 of Decision 1/CP.18 (FCCC/CP/2012/8/Add.1) of the Conference of the Parties (COP) of the United Nations Framework Convention on Climate Change (UNFCCC) taken at Doha in 2012, including information, experience and good practice relevant to the design and operation of various approaches.<sup>1</sup>

### **Executive Summary**

EDF strongly supports the Conference of the Parties' (COP) Durban Decision that says approaches to enhance the cost-effectiveness of, and to promote, mitigation actions must "*deliver real, permanent, additional and verified mitigation outcomes, avoid double counting of effort and achieve a net decrease and/or avoidance of greenhouse gas emissions.*"<sup>2</sup> A **framework** establishing (a) standards for such approaches, (b) processes for evaluating whether the standards have been met, and (c) mechanisms for domestic or international accountability and consequences if the standards have not been met, can provide a useful way forward. Recognising that each Party retains sovereign prerogatives to design its own approaches, EDF believes that the role of the COP can and should be to set harmonized standards by which domestic programs can be transparently assessed to determine whether they are meeting the UNFCCC's objective. Such standards could also serve as criteria by which sovereigns that choose to establish domestic market approaches evaluate other sovereigns' programs for potential linkage, and thereby support decisions by individual sovereigns to allow emitters operating within their jurisdictions to tender, for compliance purposes, units that arise within the jurisdiction of other sovereigns.

Building on our previous submissions to the UNFCCC on [ambition](#),<sup>3</sup> [market mechanisms](#),<sup>4</sup> and [legal architecture](#),<sup>5</sup> this paper identifies key issues that could usefully be decided by the Parties so that a framework for various approaches could help unlock the power of well-designed, high integrity market-based mechanisms to strengthen and broaden participation in global efforts to meet the objectives of the UNFCCC.

## **A. What is the purpose of a framework for various approaches? The role of sovereigns and the role of the COP**

The diversity of market and non-market approaches to reducing climate pollution that has developed across nations and sub-national jurisdictions suggests that as it looks forward, the COP should recognize that each Party retains its sovereign prerogatives to establish its own national, subnational or regional approaches to enhance the cost-effectiveness of, and promote, its own mitigation actions, including market-based and non-market-based approaches of its own choosing.

*The purpose of a framework for various approaches (FVA) is to provide a set of standards that allow a transparent assessment of whether the sum total of the mitigation results achieved by the various approaches is sufficient to meet the objective of the UNFCCC, and whether individual domestic programs are meeting their stated goals with integrity.*

Establishing harmonized international standards in such a framework does not mean that all, or even most, aspects of each Party's domestic market- and non-market approaches can or should be regulated by the COP. Instead, we suggest that the Parties consider, as a vision for the role of the COP, the development of a framework that is based on an exchange of views on best practices and standards used among Parties. The goal of this process would be to create a framework that is strong enough to provide durable standards for transparency and integrity in non-market and market approaches, and capacious enough to support and foster great variability and innovation in the approaches chosen by individual sovereigns.

In this way, we see a distinction between the COP's role in transparently assessing the atmospheric impact of various approaches and facilitating the comparability of efforts - for which broadly-agreed accounting rules need to be developed - and sovereigns' domestic political roles in assessing which approaches they will choose to implement in light of their national circumstances and the ongoing efforts of other sovereigns.

A further benefit of such a framework would be to facilitate a set of agreements by which nations choose to mutually recognise each other's domestic market approaches as the basis for market linkage. A framework could thus help inform the development of domestic systems that may, at some future point, seek international linkage.

Recognising that an agreement on a single new market mechanism under the UNFCCC may not be achievable, a framework might usefully inform – and be informed by – the design and implementation of domestic and international carbon market mechanisms. For example, current experience with linkage between California and Québec suggests that the collaborative development of equally rigorous market-based mechanisms facilitates effective linkage.

**Context for a framework:** In previous submissions, EDF has proposed that any country that chooses to establish a binding commitment – under a clear transparency, compliance, and enforcement framework – to limit total GHG emissions on a national,

subnational, or sectoral level (a “QELRC Party”), should be able to gain access to the global carbon market; countries that choose not to make a binding emissions limitation commitment would not participate in international carbon markets.

EDF has further noted that a nation’s commitment could be binding internationally, or only domestically, but it must be binding and enforceable. Depending on the rigor and ambition of that commitment, other countries could then welcome a carbon market linkage with that country, or could choose not to. (Countries that do not qualify for international carbon market linkage, or choose not to participate in international carbon markets, would of course still be free to establish domestic carbon markets.)

Seen in this context, part of the purpose of a multilaterally-developed FVA could be to help reduce the risk that particular market-based programs (e.g. so-called “NAMA crediting”) might inadvertently “mint” (or “print”) credits that lack environmental integrity, because they do not represent a tonne of emission reductions below a cap or high-integrity baseline.

## **B. How would a framework operate? The minimum elements of an effective framework for market-based approaches**

A framework could establish a set of standards whose minimum elements can be envisioned as a “systems checklist” for the environmental and market integrity of a variety of domestic approaches. Completion of the checklist would entail analysis and exploration of the following 8 questions:

1. **Does the domestic approach include some type of cap on total (absolute) emissions**, including provisions to address emissions leakage? The cap could be on total national emissions, or on the emissions of one or more sectors or political sub-units. The cap could be internationally or domestically binding. What is important is that the standard specify that for carbon market access, the cap should be framed in absolute (total) emissions terms (as compared with “intensity” targets or caps on emissions per unit of economic output). *Without such a cap, a Party could not be eligible to participate in international market-based approaches* (although Parties with low emissions would be afforded a substantial transition period). Such a program should also contain effective provisions to address displacement of emissions to sources in uncapped sectors or jurisdictions (“leakage”).
2. **For the portion of the approach that has an absolute cap, does the approach premise its cap on historical emissions** rather than on reductions below Business-as-Usual (BaU)? What matters to the climate is total emissions going into the atmosphere. Allowing large-scale crediting of reductions from projected future emissions baselines is not sufficient and could trigger inflated projections of BaU, resulting in increases in total allowable emissions.<sup>6</sup>

Requiring caps to be premised on historical levels does not mean that emissions of every country choosing to adopt a cap must be below historic levels; under the Kyoto Protocol, for example, some countries committed to emissions caps at levels more

than 100% of their base year. Stating emissions caps in reference to measured, historic levels has the advantage of increasing transparency and allowing comparison of effort among similarly situated Parties.

EDF has supported a voluntary REDD+ mechanism for forest nations with robust reference levels that will provide the benchmark against which future GHG emissions and removals can be measured to assess progress in meeting a REDD+ goal. Robust reference levels based on historical emissions, together with strong emissions monitoring, reporting, and verification rules, can provide sufficient assurances of net reductions so as to enable REDD+ credits achieved by reducing deforestation emissions below reference levels to be transferred to Parties with absolute caps for compliance purposes. EDF believes that on an interim or transitional basis, a market-based approach utilizing REDD+ could be applicable at a subnational scale, through mechanisms that nest REDD+ projects into national systems, as long as the same rules are met and environmental integrity is maintained.

- 3. Does the domestic approach provide for *transparent and comprehensive accounting for total emissions and sequestration*, using broadly accepted accounting rules and independent verification of emissions reports? National reporting of all emissions and sequestration, on a regular basis, using established international standards, and with international review of the results, is essential to determine whether the objectives of the Convention are being met.**

Comprehensive accounting and robust monitoring, reporting, and verification (MRV) also benefit countries by creating a structure that encourages investment, innovation, and finance for low-carbon development. Comprehensive accounting and MRV rules are a fundamental pillar of policy effectiveness in both the non-market and market contexts: they provide the certainty needed to ensure commitments are being achieved, and incentivize private sector investment in mitigation action by assuring the environmental integrity of the carbon “currency” established by market-based approaches.

Our emphasis on comprehensive accounting and robust and independently verified emissions reporting should not be misinterpreted as a call for all domestic approaches to account for and measure their emissions in the same way. In previous submissions,<sup>7</sup> EDF has suggested how the principle of common but differentiated responsibilities and the Parties’ respective capabilities for accounting, monitoring, reporting, and verification of emissions and sequestration could be addressed by establishing “tiered” levels of access to market and non-market finance. Capacity building and financial assistance could be provided to those jurisdictions that wish take on ambitious approaches and develop more rigorous capabilities, which in turn can enable them to access to international carbon markets, allowing greater flexibility and creating a stepwise set of incentives for greater action.

4. **How does the approach address the *definition and fungibility of tradable units*?** Strong standards are needed to ensure that domestic programs clearly define the traded units and the rules for trading and banking, so that a tonne of allowable emissions in one jurisdiction in a given time period can be fungible with a ton of allowable emissions in another jurisdiction or another time period.

In the case of domestic approaches that allow for credits/offsets to be earned in uncapped sectors, the framework should establish standards requiring that domestic programs must have means of demonstrating that such offsets “*deliver real, permanent, additional and verified mitigation outcomes, avoid double counting of effort and achieve a net decrease and/or avoidance of greenhouse gas emissions.*”<sup>8</sup> These standards should include procedures for assessing leakage, updating of baselines, and provision of independent reviews and verification.

5. **Does the approach require *transparent tracking and reporting of tradable emissions units and transactions*?** Standards must be in place to ensure that tradable units have not previously been used to comply with any foreign, international, or domestic greenhouse gas regulatory program.
6. **Is the approach *enforceable*?** Domestic systems must hold emitters accountable for meeting clearly established targets, with known-in-advance consequences for failure to do so. The systems may be international if the COP agrees upon such a framework and a jurisdiction decides to subscribe to international enforcement. Or the systems may be wholly domestic.
7. **Is the approach *durable, with clear and consistent rules that foster long-term investments*?** Sustained investment in low-carbon development is crucial to the success of mitigation efforts. Investor confidence in the durability of policy is, in turn, crucial to that sustained investment. Consequently, once policy-makers establish the rules of a market-based framework, they should change those rules seldom and only via previously announced procedures for doing so.
8. **Credit for Early Action (optional element):** for those approaches that choose to encourage voluntary greenhouse gas emission mitigation actions prior to the commencement of binding caps, **does the approach include *rigorous standards for the setting of baselines for forward-allocation of tradable allowances*?**

Delaying necessary action to reduce global warming pollution until 2020 will quadruple costs to the global economy, according to the International Energy Agency.<sup>9</sup> Credit for Early Action programs are designed to give domestic emitters the incentive to voluntarily reduce emissions early, when it may be less expensive for them to do so, rather than requiring them to wait until binding caps are in place to begin earning tradable units.

In addition to guiding the development of domestic early action programs, a framework can guide the development of robust rules under the new market

mechanism currently being elaborated in SBSTA. For example, in Doha, the COP instructed SBSTA to consider the “facilitation of the prompt start” of the new market mechanism defined in decision 2/CP.17, para. 83. This opens opportunities to bend emission trajectories downward via pre-2020 emissions trading under emissions caps, and (where additional rigorous standards are in place to ensure net reductions) emissions crediting.

In designing a framework, the Parties should discuss how it can promote and encourage early action, and thus support – and coordinate with – the ADP’s work on pre-2020 ambition. For example, the 2015 agreement under the ADP could provide credit for early mitigation for nations that move more swiftly than 2020 to adopt domestically or internationally-binding emissions caps and become QELRC Parties. Decision text at the COP in Warsaw this year could lay the groundwork by including language instructing the Parties to ensure that successful early actions to reduce emissions prior to 2020 are appropriately incentivised and recognised.

The potential role of the COP and Parties in implementing these eight elements of a framework is identified in the following table:

**Table 1: Elements of a COP Framework, and roles of the COP and Parties**

|           | <b>Framework Element</b>  | <b>Role of COP</b>   | <b>Role of Host Government</b>  |
|-----------|---|--|---|
| <b>1.</b> | <b>Caps on total, sectoral, or jurisdictional emissions</b>                         | Facilitate willing sovereign decisions to adopt caps   | Describe cap (sectors and gases) and implement cap. Account for possible leakage of emissions to other uncapped sectors or jurisdictions. |
| <b>2.</b> | <b>No large-scale crediting of reductions below BaU</b>                             | Adopt standards that domestic approaches should meet to preclude large-scale crediting of reductions below BaU                           | Base domestic program on actual historic emissions data   |
| <b>3.</b> | <b>Transparent accounting and verification of total emissions and sequestration</b> | Establish and promote broadly agreed best-practice standards for emissions accounting, and monitoring, reporting, and verification (MRV) | Monitor, report, and verify national emissions and sequestration.   |
| <b>4.</b> | <b>Definition and fungibility of traded units, including offsets</b>                | Establish clear standards for traded units, with rigorous standards that domestic offset programs need to meet.                          | Set rules for tradable units in domestic program, including clear standards for acceptance of, and restrictions on, offset credits        |
| <b>5.</b> | <b>Transparent tracking and reporting of emissions units and transactions</b>       | Establish transparent international transaction log  | Monitor, report, and verify transactions and units, subject to standards.   |

|    | Framework Element                         | Role of COP   | Role of Host Government   |
|----|---|---|---|
| 6. | <b>Enforceability</b>                     | COP can establish best practice guidelines for domestic enforcement and long-term policy stability  | Domestically or internationally legally binding, with bar on international trading in case of non-compliance  |
| 7. | <b>Consistency</b>                        | Facilitate periodic scientific reviews of performance; establish best practice guidelines for predictable evaluation and revision of programs | Establish clear, predictable rules for domestic programs. Change rules seldom and only in accordance with previously announced procedures for doing so. |
| 8. | <b>Credit for early action (optional)</b> | Adopt clear standards for establishment of effective, high-integrity early action programs.   | If early action is chosen as part of the domestic approach, set rigorous rules for setting of baselines.  |

### **C. How could Parties and the COP promote compliance with a framework for internationally-traded units?**

We believe that one way to achieve these minimum elements in the context of developments in the UNFCCC, in a world in which there will be bottom-up and top-down environmental markets, is for the COP to play a major role, while allowing contemporaneous national and subnational experiments to develop.

In light of some Parties' resistance to the creation of an international regulator for compliance with the minimum elements above, the Parties themselves must assume a larger role in ensuring the integrity of units entering the international carbon market, while recognizing the useful role the COP can continue to play.

How could such a system operate? One possibility is that Parties could establish the COP as an "early warning system," as illustrated in Figure 1 below. In this role, the COP would promote and recommend durable standards on each of the minimum elements, ensuring transparency and integrity while refraining from attempting direct regulation of domestic approaches.

Figure 1: Possible roles for the COP in assessing various approaches



In this role, the COP could serve as a “best practice” hub, enhancing the effectiveness of the framework by supporting and fostering innovation, while reducing the risks of non-compliance and non-participation by Parties. Drawing on lessons learned from the Montreal Protocol’s Multilateral Fund,<sup>10</sup> other successful capacity building efforts, and pre-existing institutions, the COP could assist countries that wished to develop the capacity and infrastructure for domestic or international carbon trading. The “systems checklist” provided by a COP framework could guide the development of these new domestic approaches.

Those Parties with the existing infrastructure to participate in the international carbon market could make regular submissions to the COP indicating how their domestic programs meet the framework criteria, and the COP could conduct a facilitative analysis of conformity with the “systems checklist.” Other Parties could take those submissions and the COP’s analysis into account in deciding whether to allow linkage. Parties’ submissions should also include information about foreign sources of allowances and credits in their domestic system, which would help facilitate the integrity of linkage arrangements and the creation of anti-circumvention standards.<sup>11</sup>

An example of the power of this kind of “transparency check” in action can be seen in the Convention on Endangered Species of Wild Fauna and Flora (CITES). CITES regulates international trade in endangered species through an extensive import and export permitting process overseen by each Party’s designated scientific and management authorities. CITES is notable for its Standing Committee, with its ability to promote compliance with the basic trading requirements of the treaty. If any trading nation is not upholding CITES standards, the Standing Committee is empowered to recommend trade suspensions to the Secretariat, who then transmits them to the Parties. Though technically only recommendations, adhering to trade suspensions is a

widely-prevailing norm among CITES Parties. While far from perfect, CITES enjoys the significant participation of 175 Parties, and there is a general consensus that those Parties adhere to the trade recommendations of the Standing Committee.

In this way, a COP framework could promote information sharing among Parties to support effective analysis, operation, enforcement, and supervision of the market for tradable market-based compliance units. It may also facilitate a system to manage conflicts and address grievances between Parties, or between market participants from different nations.

Thus, even if agreement on a new market mechanism is not possible under the UNFCCC, the COP's framework would still be useful for Parties wishing to design and use market mechanisms to meet their own domestic or internationally-legally binding emissions reduction commitments.

#### **D. How can a framework for various approaches help Parties decide whether to link to international markets?**

According to the World Bank, at least 35 countries, 18 sub-national jurisdictions in the U.S. and Canada, and seven Chinese cities and provinces -- covering about one-third of China's GDP -- will soon be participating in emissions trading systems.<sup>12</sup> Connecting these domestic markets via "linkage" means that compliance units (i.e., emission allowances and offset credits) issued by one jurisdiction can be used interchangeably for compliance in another jurisdiction.

Linking programs expands the market, enhancing the flexibility such programs provide. Linking can also streamline administrative functions, improving efficiencies and potentially reducing government costs. The success of any linkage depends on the responsible domestic regulatory entities employing equivalent rigor designing and implementing their respective programs.

Effective, efficient, and broadly agreed standards based on the eight elements above could help facilitate linkage of diverse markets. These elements could be adopted as part of a COP-established global framework. They could include provisions to enable nations that do not ratify the framework to link to its carbon market if they adopt comparable domestic programs.

Alternatively, in the absence of a COP-established framework, these framework elements could serve as criteria by which sovereigns that choose to establish domestic market approaches evaluate other sovereigns' programs for potential linkage, and thereby support decisions by individual sovereigns to allow emitters operating within their jurisdictions to tender, for compliance purposes, units that arise within the jurisdiction of other sovereigns. For example, California and Québec are able to discuss linking programs because their programs incorporate the key elements above and share many identical features, including similar levels of stringency. Both legislatures plan to implement regulations to harmonize their programs.<sup>13</sup>

## Conclusion

Environmental Defense Fund appreciates the opportunity to share views and perspectives on the respective potential roles of the COP and individual Parties in developing a framework of standards for effective domestic and international market- and non-market approaches to mitigation; in formulating minimum elements for the successful operation of market mechanisms; and in opening discussion about creative new tools for supporting the transition of Parties that wish to enhance their participation in market mechanisms.

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<sup>1</sup> FCCC/CP/2012/8/Add.1. This EDF submission focuses on the “Framework for Various Approaches,” paras 41-48, and in so doing, also comments on the New Market Based Mechanism, paras 50-53.

<sup>2</sup> 2/CP.17 para. 79.

<sup>3</sup> See <http://unfccc.int/resource/docs/2012/smsn/ngo/133.pdf>.

<sup>4</sup> See <http://unfccc.int/resource/docs/2012/smsn/ngo/231.pdf>.

<sup>5</sup> See <http://unfccc.int/resource/docs/2013/smsn/ngo/302.pdf>.

<sup>6</sup> See, e.g., "Clean Development Mechanism Rules of Procedure: Standards for the Executive Board and Operational Entities" (Environmental Defense 2002) [http://apps.edf.org/documents/606\\_CDM\\_ethics.PDF](http://apps.edf.org/documents/606_CDM_ethics.PDF)

<sup>7</sup> See <http://unfccc.int/resource/docs/2013/smsn/ngo/302.pdf>. For an example of the possible application of these market access principles to the land sector, see Table 1 in EDF's “Submission to SBSTA work program to explore more comprehensive accounting of anthropogenic emissions by sources and removals by sinks from land use, land-use change and forestry” (September 2012), available at <http://unfccc.int/resource/docs/2012/smsn/ngo/266.pdf>.

<sup>8</sup> 2/CP.17 para. 79.

<sup>9</sup> International Energy Agency, World Energy Outlook 2011, at 2, available at [http://www.iea.org/weo/docs/weo2011/executive\\_summary.pdf](http://www.iea.org/weo/docs/weo2011/executive_summary.pdf).

<sup>10</sup> See <http://www.multilateralfund.org/default.aspx>.

<sup>11</sup> Anti-circumvention standards ensure that if a program's tonnes do not meet the standards, trading in their units - and in units fungible with them - can be suspended.

<sup>12</sup> See [http://www.huffingtonpost.com/rachel-kyte/carbon-markets\\_b\\_2875406.html](http://www.huffingtonpost.com/rachel-kyte/carbon-markets_b_2875406.html).

<sup>13</sup> Letter from James N. Goldstene, Executive Officer, California Air Resources Board, to Governor Edmund G. Brown, Jr., February 22, 2013, <http://www.arb.ca.gov/cc/capandtrade/linkage/go-findings-request.pdf>. Compatibility criteria for linkage have also been defined in proposed national policies and legislation. See, e.g., the “Waxman-Markey” climate bill, H.R. 2454 (111th): American Clean Energy and Security Act of 2009, 111th Congress, 2009–2010. Text as of Jul 07, 2009 (Placed on Calendar in the Senate), at section 311, subsection 728, text available at <http://www.govtrack.us/congress/bills/111/hr2454/text>.