

Status of the Negotiations related to the future of the market based mechanisms

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Presentation prepared & presented by Andrew Gilder
This presentation does not constitute legal advice



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- Specialist South African environmental, health & safety climate change (sustainability) legal consultancy and attorneys firm.
- Johannesburg-based / Eastern Cape satellite office.
- Wide range of South African environmental, climate change health & safety and sustainability legal advice, electronic legal registers, legal training; issues pertaining to implementation of climate change mitigation projects, e.g., CDM projects; climate change business, strategy and policy advice.
- Climate change and carbon markets law.

Sustainability Law?

- "Sustainability law":
 - encompasses a variety of inter-related legal disciplines;
 - common theme: the constitutional imperative of securing "ecologically sustainable development and use of natural resources while promoting justifiable economic and social development".
- Taking its direction from the Constitution Act (106 of 1996):
 - South African law is evolving to meet the country's contemporary needs.
 - Paramount among these:
 - provide for legitimate social and economic development,
 - while considering the sensitivity of the natural environment to the effects of such development; and,
 - including the consideration and protection of employee health and safety.

To consider

- Status of the negotiations relating to:
 - CDM and new market mechanisms (yes)
 - Mitigation (yes)
 - Adaptation (no)
 - Climate finance for developing countries (yes)

Initial thoughts

- Final phase of COP17.
- Can anything happen?
 - What the next 12 hours will bring (24 hours?).
 - It is the final text that really counts.
- Leadership from the front, e.g., COP13 (Bali Action Plan).
- Identify (and celebrate) real progress / apply the converse to lack of progress.

CDM & new market mechanisms (1)

- CDM continuation:
 - New market mechanisms (old market mechanisms?):
 - Purpose of new mechanisms.
 - Design of new mechanisms.
 - Kittens and baby with bathwater.
 - The CDM will continue but not in ye olde CDM form.
 - Innovations to the CDM are likely to take some time to come online.
 - CDM and NAMAs?
 - Credited NAMAs
 - Ownership issues.

CDM & new market mechanisms (2)

- CDM refinements under discussion:
 - EU further restrictions eligible projects (alternative markets for CERs)
 - Maximum access to mechanisms should be a percentage of a party's commitment under a second Kyoto Protocol Commitment Period.
 - Share of proceeds: increase to 50%.
 - DNA's right to intervene in a request for issuance, in order to help host countries to ensure that sustainable development goals are being met.
 - Review of modalities and procedures.
 - Guidelines on stakeholder engagement.
 - Improvement of additionality assessment ("improvement" depends on your perspective).

CDM & new market mechanisms (3)

- Carbon Capture and Storage in the CDM:
 - Agreement on Modalities.
 - Agreed text to be submitted to the COP.
 - South African position on CCS.
 - Implications of EU policy.

Mitigation

Based on the science:

- Process to agree targets of between 25 to 40% for developed countries by COP18:
 - Shadows of Bali "agreed outcome" as opposed to legally binding agreement.
- NAMA registry is in place, supported and populated with developing country NAMAs.
- Process including: submissions, technical papers and dedicated high level negotiations.

Climate finance for developing countries

- Agreement on the Green Climate Fund.
- Dynamic between AI and NAI:
 - Allocation of funds.
 - Management of funds.
 - Access to funds:
 - South African view.
- The best chance for meaningful progress out of COP17?

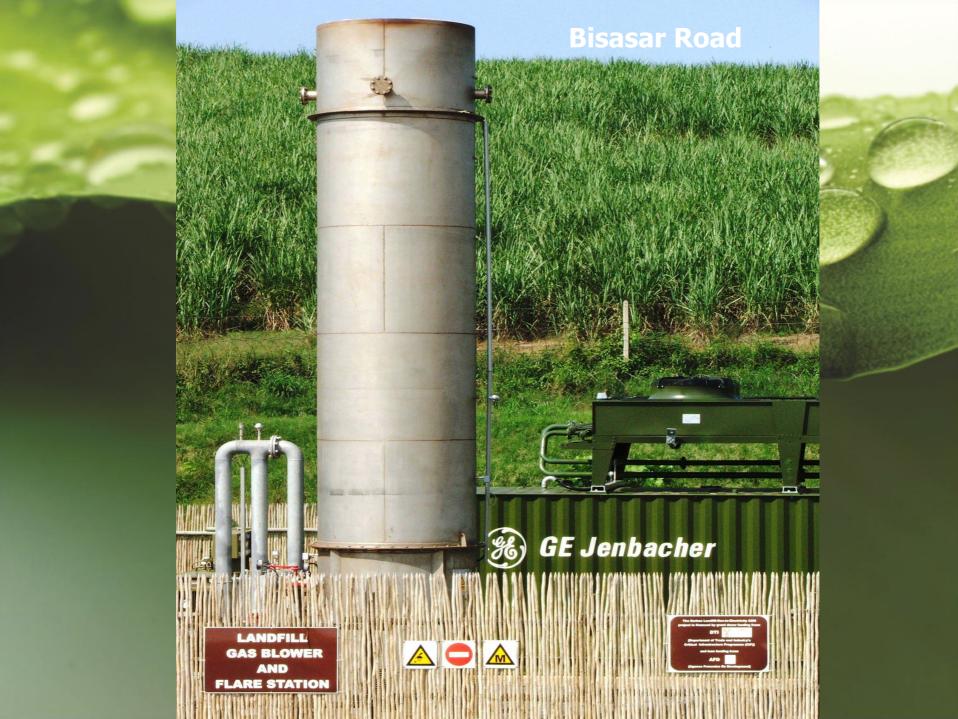
eThekwini Solid Waste Landfill Gas to Power Generation CDM Project

- CDM Project Activity:
 - The active extraction of landfill gas.
 - The generation of up to 8 MW (Bisasar) plus 0.5 MW (Mariannhill) of electrical power to feed the Durban Municipal grid.
 - Excess landfill gas to be burned in flares.
 - Emissions reductions attributed to the destruction of methane gas and the displacement of carbon dioxide from coalderived electrical power.













CONTACT DETAILS

Thank You

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