
SUMMARY OF THE NEGOTIATIONS ON THE REVISION OF THE MODALITIES AND PROCEDURES FOR THE CDM SBI 40, BONN GERMANY JUNE 4-15, 2014

INTRODUCTION

The Modalities and Procedures of the Clean Development Mechanism (CDM M&P) are the rulebook for the CDM specifying inter alia its governance structure, the steps of the project cycle and the principles for crediting emission reductions. When the CDM M&P were adopted in 2005, Parties at the same time agreed to carry out a first review *no later than one year after the end of the first commitment period of the Kyoto Protocol* (Decision 3/CMP.1), hence in 2013. The review process started in 2013 with submissions, a UNFCCC workshop and a first round of negotiations at SBI 39 in Warsaw. While Parties brought up many possible changes to the CDM M&P the Warsaw negotiations could not conclude the process but resulted in a mandate to SBI to *continue its consideration at its 40th and 41st sessions, with a view to recommending a draft decision for consideration and adoption by CMP 10 in December 2014*. Negotiations at SBI 40 thus were meant to pave the way for a decision in Lima later in the year.

The Carbon Initiative for Development (Ci-Dev) supports the group of African negotiators by making available a technical resource person. Ms Sandra Greiner from Climate Focus has been contracted to support the group in the CDM M&P negotiations from SBI 40 until Paris 2015 by facilitating strategic discussions and preparing summaries of meetings.

THE PROCESS

Negotiations at SBI 40 started on the basis of a co-chairs' note that was carried over from the Warsaw negotiations. The co-chairs' note consisted of the original CDM M&P in which boxes had been inserted with conceptual level changes proposed by Parties in their submissions and interventions. During SBI 40 Parties finalized the review of the co-chairs' note by considering each box and debating whether or not the suggested change should be incorporated.

In Warsaw, Parties had requested the Secretariat to prepare a Technical Paper on a number of issues (i.e. membership and composition of the CDM EB, liability of designated operational entities, provisions for PoAs, length of the crediting period, requirements for the demonstration of additionality, role of designated national authorities of Annex I and non-Annex I parties, and simplification and streamlining of the project cycle for certain project categories). The Technical Paper formed the basis for another call for submissions ahead of SBI 40 to which the African group, the Arab Nations, the EU, the Project Developers Forum and the World Bank responded. Neither the options evaluated in the Technical Paper nor the submissions received were integrated into the co-chairs' note at the start of SBI 40 as there was no mandate to do so. However, as a result of the negotiations the co-chairs produced a second co-chairs' note which integrates and makes transparent the options discussed in the Technical Paper.

SBI 40 provided ample negotiating time to the review of the CDM M&P. A total of seven slots of mostly two hour sessions were dedicated to the topic with an additional unplanned session at the end. In addition, the co-chairs held individual consultations with the main regional groups or countries including with the African group.

MAIN OUTCOME

In spite of these efforts the consultations on the review of the CDM M&P at SBI 40 ended without adopting a conclusion. The session produced two final in-session documents that remain without a formal status:

- A “Consolidated list of possible changes to the CDM modalities and procedures received to date through inputs and discussions”, as contained in the second co-chairs’ note. The note expands the first co-chairs’ note by integrating and referencing the options from the Technical Paper and the submissions and by capturing the plenary discussion during SBI 40. It shows Parties’ converging views on including an option in the CDM M&P by highlighting the option green and converging views for excluding an option from further consideration by striking it through. However, Parties viewed the second co-chairs’ note as partially incorrect or incomplete and hence did not endorse it as a consensus document.
- “Draft conclusion proposed by chair, version 2”, which acknowledged the “Consolidated list of possible changes” and invited Parties to comment on it before Lima. Due to remaining brackets in three of its paragraphs the draft conclusion could not be forwarded for adoption by SBI 40. Contentious issues included:
 - A request to the Secretariat to prepare a technical paper on net mitigation (para 4);
 - An invitation to the CDM Executive Board to identify options for the evolution of the CDM to generate substantial net emission reductions for the benefit of the atmosphere (para 5); and
 - A request to the Secretariat to prepare, by 6 October 2014, draft modalities and procedures for the CDM.

These documents are available under agenda item 6 (a) here: <http://unfccc.int/8212>

NEXT STEPS

Without a formal conclusion it is unclear how the co-chairs will continue the negotiations at Lima as no plan of action has been adopted. It is likely that the second co-chairs’ note will form the basis for further negotiations. The co-chairs may try to expand the number of green boxes or strikethroughs in the document and seek Parties’ endorsement of the note as an official document. It is unlikely however that the mandate from Warsaw will be met and Parties will be able to decide on the CDM M&P at Lima. This still requires substantial effort from the co-chairs and/or the secretariat to translate the conceptual boxes into the actual M&P text.

TOPICS UNDER NEGOTIATION

During the SBI 40 consultations Parties’ views converged on a number of issues but it also became clear what the sticky points are. While in many instances the discussion was a repeat of Warsaw, Parties made some progress on a few specific items. They made overall progress by capturing areas of convergence in the negotiation document.

Convergence was seen in relation to what can be described as “housekeeping issues”, namely to update the CDM M&P to reflect annual guidance from the CMP and current practices of the Board on a number of points. Furthermore, Parties shared the same vision on a few strategic items and on a number of very specific items.

Converging views on housekeeping issues

- Include in the CDM M&P sections on
 - PoAs
 - Role of host country DNA

– Requirements for Letter of Approval

- Incorporate existing guidance on standardized baselines
- Reflect the current practice on review of requests for registration
- Delete Appendices B (PDD) and C (Methodologies) and integrate principles in the main body of the text

Converging strategic outlook

- Allow developing countries full access to the CDM for meeting their NAMAs*
- Reflect participation requirements of the Doha amendment in the CDM M&P (Annex I Parties without targets cannot use CERs)
- Elaborate principles, not details for demonstration of additionality (i.e. positive lists)*

* Not marked green in co-chairs' note but non-controversial during plenary discussion

Converging views on specific (new) guidance

- Allow local stakeholders to comment on verification reports
- Include specific provisions for multi-country PoAs
- Include direct communication between stakeholders and the Board and its support structure
- Include provisions for transparent cancellation of a share of CERs**

** Marked green in the second co-chair's note however some Parties objected to the point

There were issues on which Parties expressed deviating points of view during plenary discussion. These were parked by the co-chairs for further discussion at a later stage. On some issues the demarcation lines between Parties were not clear due to the complexity of the issue while on others Parties clearly disagreed. The latter were the main political crunch issues in the negotiations.

Issues for further discussion – remaining uncertainties on Parties' positions

- Shortening of/ flexible approaches to the length of the crediting period
- Change the provisions on DOE liability
- Allow for multi-country single project activities
- Clarify treatment of E+/E- policies
- DNAs to make their sustainable development criteria transparent
- Requirement for projects to report on sustainable development benefits
- Align CDM and JI governing bodies
- Review the thresholds for small and micro-scale projects
- Simplify provisions for voluntary cancellation
- Various suggestions for simplifying the CDM project and PoA project cycle

Issues for further discussion – political crunch issues

- Evolve the CDM with the broader context and the post-2020 agreement, ensuring consistency with other market mechanisms

- Net mitigation: Include further provisions for voluntary net emission reductions in a transparent and quantifiable manner which is clearly attributable and not double counted. Not applicable to LDCs
- Add seat for LDCs and private sector observers on the CDM Executive Board
- Exclude certain project types (HFC-23, N₂O from adipic acid plants, NF₃ projects, coal-based power without CCS)
- Mandatory or voluntary nature of standardized baselines

Lastly, some issues were parked until such time that other negotiation streams or the CDM Executive Board that are dealing with the issue at the moment conclude their assessment.

Issues to be reconsidered once other entities have completed their assessment

- Expand the scope of materiality (under consideration by the CDM Executive Board)
- Allow the monitoring plan to be submitted at the time of the first verification (approved by EB 79 for all project sizes)
- Simplified project cycle for automatically additional projects (EB 79 agreed to develop simplified PDD templates and registration procedures)
- Review the rules for afforestation and reforestation project activities:
 - Set more flexible criteria for land eligibility (SBSTA 40 agenda item 12 (d) considers including reforestation of lands with forest in exhaustion)
 - Allow for issuance of permanent CERs (under consideration by SBSTA 40 agenda item 12 (c))
 - Flexible monitoring and verification approaches (EB 79 considered a concept note on flexibility in timing of verification)
 - Allow LULUCF activities beyond A/R projects (under consideration by SBSTA 40 agenda item 12 (c))

An additional issue that is currently absent from the CDM M&P but under negotiation in a parallel stream is the CDM appeals mechanism (SBI 40 agenda item 6 (e)).

EVALUATION

In the end, negotiations failed to conclude because of the single issue of “net mitigation”. The EU asked for a technical paper on the topic supported by AOSIS and PNG which was adamantly opposed by Brazil. Other Parties (Arab countries and China) invited Parties that are interested in the further study of the topic to make submissions. The EU maintained that they have no clear position and understanding of what net mitigation entails but find the topic vitally important for the long-term credibility of the mechanism which is why they would like to engage in this discussion with all Parties. During plenary discussion and in bilateral meetings several possible interpretations of net mitigation transpired, including voluntary cancellation of credits by the host country or the buyer, deduction of a share of the credits at the point of issuance, mandatory conservative baselines, conservative default factors, disregard of E-policies when establishing the baseline or emission reductions that are generated after the crediting period has ended. Furthermore, no clear distinction was made between net mitigation and the use of the CDM beyond offsetting, such as for the disbursement of results based finance or the use of the CDM by host countries in meeting their NAMAs or as an offset mechanism in domestic carbon pricing schemes. Opposition to the concept of net mitigation was also underlying Brazil’s strong rejection of standardized approaches in the CDM M&P as a possible entry point to mandatory conservative baselines.

In the negotiations the African group had distinct priorities from those of other Parties. Africa still has a high expectation to benefit from a reformed CDM which is why the group attaches greater priority to a quick and successful conclusion of the review process. With the CDM being a priority in and by itself, the position of the African group differs from that of other vocal advanced developing countries. In particular, the African group has no interest in linking progress in the CDM M&P to other agenda items (FVA, NMM and NMA under SBSTA and INDCs under the ADP). This gives the African group a key role in moving the process forward. Consequentially, it was the African group who proposed to move forward by requesting the Secretariat to draft revised CDM M&P before Lima (para 6 of the draft conclusions). The African group is also well-placed to serve as a bridge-builder between developed and developing country Parties in this particular agenda item.

SBI 40 CLOSING PLENARY STATEMENT BY AFRICAN GROUP

For the closing summary of SBI 40 the African group has prepared talking points that represent the sentiment of the group vis-à-vis the failure to reach a conclusion. The statement has however not been delivered in plenary in its entirety.

Delegates,

- I'm afraid to say that we are very disappointed
- The African group is very committed to the review of the CDM M&P and has worked very hard to help the process move forward
- However we experienced that other Parties are not putting their weight behind the mechanism and do not seem to see this as an urgent matter
- Let me remind us of the mandate we have: Our mandate is to conclude the review of the modalities and procedures of the CDM in Lima
- This has already been postponed from our original mandate, which was to carry out the review in Warsaw
- But judging the progress so far it is disappointing to note that we might once again fail to meet our mandate
- We are particularly disappointed that progress is held hostage to a single issue, that of net mitigation
- We urge Parties to put their political quarrel aside and focus instead on what can be resolved under this agenda item
- The review of the CDM M&P should not have to wait until all issues of the 2015 agreement have been resolved
- Let us put our time and effort to good use and concentrate on the issues that we can work through constructively already now
- Let us work towards our common goal to build a robust and credible mechanism and fix what needs to be fixed so that the CDM can once again be supported and fully embraced by all Parties
- With that the CDM will become a strong pillar in support of the 2015 agreement
- CDM is a great priority to Africa as we see it delivers not only real emission reductions but also real benefits on the ground.
- If we do not act now, this unique mechanism will shortly go to waste and be lost forever. For us, the urgency is very real
- As you know, Africa has started to benefit from the CDM only very late and it is only now starting to transform into a useful mechanism for us

- If we do not act now, all the capacity that we have built in recent years will go to waste without us having really benefited from the opportunity
- Let me also state our long-term vision for the CDM:
- We can envisage many usages of the CDM as a tool to deliver real and quantifiable benefits. This includes developing countries using the CDM domestically to help them achieve their national targets as South Africa is currently exploring
- For these efforts to be fruitful we need to have a reformed CDM that is catering to our needs.
- CDM projects are still burdened with high transactions costs, uncertainty of outcome and cumbersome procedures
- We see tremendous opportunity for reducing costs and uncertainty by streamlining the procedures through the review of the M&P
- This is particularly urgent for projects that are micro-scale and that benefit our rural communities in Africa which could be tremendously helped by the CDM.
- In that context we have great expectations for simplifying the PoA project cycle and further develop standardized approaches
- With that I would like to urge all Parties to conclude the process in Lima
- I also would like to request Parties to work through their submissions and present us with constructive solutions rather than abstract concepts and demands.