

**Annex 14****SUMMARY NOTE OF THE PUBLIC INPUTS RECEIVED FROM THE CALL ON THE USE OF
FIRST-OF-ITS-KIND BARRIER AND THE ASSESSMENT OF
COMMON PRACTICE****I. Mandate**

1. Decision 3/CMP.6 paragraph 37 states:

The Conference of the Parties serving as the meeting of the parties to the Kyoto Protocol (CMP) *requests* the Executive Board, as its highest priority, to finalize guidance on the use of the first-of-its-kind barrier and the assessment of common practice.

2. The Executive Board's request as contained in paragraph 34 of the EB 62 report states:

34. The Board agreed to launch a call for public inputs on the work related to the use of the first-of-its-kind barrier and the assessment of common practice. The Board also agreed to specific questions for stakeholder inputs, as contained in annex 7 to the report. This call will be open from 18 July 2011 and will close on 15 August 2011.

The Board further requested the secretariat to prepare:

- (a) A note that summarizes the inputs that will be received from the call, taking feedback from the small group of Board members working on the issue; and
- (b) A new proposal on the use of first-of-its-kind barrier and the assessment of common practice, taking into account the inputs received from the call.

The note and the new proposal will be considered by the Board at a future meeting.

3. Questions as agreed by the Board for the call for public inputs on the use of the first-of-its-kind barrier and the assessment of common practice (EB 62, annex 7) were as follows:

I. First-of-its-kind

1. One possible barrier that needs to be analyzed as part of the barrier analysis is whether "barriers exist due to prevailing practice". One such barrier would be the fact that the project is "first-of-its-kind" which implicitly assumes that such "first of its kind" (FOIK) projects are facing barriers due to prevailing practice. If these can be alleviated by the CDM, then the project is additional. The questions could then be:

- (a) How would you normally define "prevailing practice" and what influences the consideration of whether such prevailing practice constitutes a barrier?
- (b) In light of the previous answer, in your understanding, is a "first of its kind" project always facing barriers due to prevailing practice?
- (c) Consequently, is there a need for a FOIK concept in the additionality and combined tools or can the normal - or further improved - investment



analysis or barrier analysis test sufficiently or even better capture the additionality of a project?

- (d) Is it sufficiently clear what constitutes a technology that is FOIK or is additional guidance required (e.g. geographical limitations, methodologies, industry and technology, other differentiating factors...)? How would one define this guidance?
- (e) Should there be technologies that are automatically deemed FOIK or technologies that are deemed never to be FOIK?
- (f) Since FOIK is meant to reflect a barrier due to a very limited and quite unique application of a (new) technology, would it then be necessary to demonstrate how CDM helps to overcome this barrier?
- (g) Should CDM projects (registered or under validation) continue to be excluded from the FOIK test in the long term? What would be a reasonable term?

II. Common Practice (CP)

1. In the additionality tool, the generic additionality tests shall be complemented with an analysis of the extent to which the proposed project type (e.g. technology or practice) has already diffused in the relevant sector and region. This test is a credibility check to complement the investment analysis or barrier analysis.

- (a) Is there a need for a CP concept in the additionality and combined tools or can the normal - or further improved - investment and barrier analysis tests sufficiently capture the additionality of a project?
- (b) Should this concept be introduced early on in the assessment of additionality or should it continue to be implemented as a final stage of the assessment acting as a credibility check?
- (c) Do you agree with the current approach to determine the CP of an activity?
- (d) Is there a need to better define what constitutes a "similar activity" and the criteria used to identify essential distinctions (e.g. geographical scope, methodology, industry, technology, size, local circumstances, others criteria including the current criteria in the existing guidance)
- (e) Is there any other alternative approach to determine the CP of an activity?
- (f) Should CDM projects (registered or under validation) continue to be excluded from the CP test in the long term? What would be a reasonable term?
- (g) Should there be a list of activities that are exempt from the CP test?

**III. Information on inputs received in response to the call for public inputs**

4. Summary information on stakeholders that provided the input:

	Submission	Institution	Individual PP
1	Douglas A. Marett.pdf	Grue & Hornstrup	
2	E-0003 DNV official account.pdf	DNV	
3	eva filzmoser.pdf	CDM Watch	
4	Jenny Peetermans	IETA	
5	Rachel Child.pdf	Project Developers Forum	
6	World Bank.pdf	World Bank	
7	International Rivers.pdf	International Rivers	
8	Caiyang Wu.pdf		Caiyang Wu
9	Sunil Solanki.pdf		Sunil Solanki
10	zheng zhaoning.pdf		Zheng Zhaoning



5. Summary information on stakeholder's answers to questions related to “prevailing practice” / “first of its kind” (“FoIK”):

Does “prevailing practice” constitute a barrier?	Is a “FoIK” project always facing barriers due to “prevailing practice”?	Is there a need for a “FoIK” concept in the AT and CT?	Is it sufficiently clear what constitutes a technology that is “FoIK” ?	Should there be technologies that: (i) are automatically deemed “FoIK” or (ii) that are deemed never to be “FoIK” ?	Is it necessary to demonstrate how CDM helps to overcome the “FoIK” barrier?	Should CDM projects continue to be excluded from the “FoIK” test?	Who?
No	No	Yes		(i) No (ii) No	Yes		1
Yes, but only to the first projects in the host country	No	Yes	Yes - LS; more work is needed for SSC	(i) Yes (ii)	No	No	2
Yes, but only if it is based on the lack of access to capital, technologies and skilled labour.	No	No	Methodology-specific guidance is needed to specify FOIK requirements. If there is no data then no FOIK projects should be allowed.	(i) No (ii)	Yes	No	3
No	No	Yes	No	(i) Yes (ii)	Yes		4



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Does “prevailing practice” constitute a barrier?	Is a “FoIK” project always facing barriers due to “prevailing practice”?	Is there a need for a “FoIK” concept in the AT and CT?	Is it sufficiently clear what constitutes a technology that is “FoIK” ?	Should there be technologies that: (i) are automatically deemed “FoIK” or (ii) that are deemed never to be “FoIK” ?	Is it necessary to demonstrate how CDM helps to overcome the “FoIK” barrier?	Should CDM projects continue to be excluded from the “FoIK” test?	Who?
No	Yes	Yes	No	(i) Yes (ii) No	No	Yes	5
	No	Yes		(i) Yes (ii)	No	No	6
							7
	No	No		(i) (ii)			8
Yes	No	No		(i) No (ii) No	Yes	No	9
Yes	Yes	Yes	No	(i) (ii) Yes	No	No	10



6. Summary information on stakeholder's answers to questions related to "common practice" ("CP"):

Is there a need for a CP concept?	Should CP be at: (i) first step, or (ii) last step?	Do you agree with the current approach to determine the CP?	Is there a need to better define what constitutes a "similar activity"?	Is there any other alternative approach to determine the CP of an activity?	Should CDM projects continue to be excluded from the CP test in the long term? What would be a reasonable term?	Should there be a list of activities that are exempt from the CP test?	Who?
Yes	Last step	Yes	Yes	No			1
Yes	Last step	Yes	No		Yes	No	2
Yes	Irrelevant	Yes	Yes	Yes	No		3
No	No conclusion		Yes				4
Yes	Last step				Yes		5
Yes							6
Yes	First step		Yes			No	7
Yes	First step						8
Yes		Yes		No	Yes	No	9
Yes	Irrelevant	Yes	Yes		Yes	Yes.	10



IV. Analysis

A. First-of-its-kind

7. Analysis of inputs related to the question: “How would you normally define ‘prevailing practice’ and what influences the consideration of whether such prevailing practice constitutes a barrier?” leads to the conclusion that the following definition of “prevailing practice” could meet the expectations of all involved stakeholders:
8. Technology/technologies used to deliver an output in a given sector within a defined geographical boundary shall be classified as “prevailing practice” if the following conditions are met within the appropriate region:
- (a) If more than one technology is assessed, the difference between the shares in the output between any two of these technologies is less than [5]%;
 - (b) The share of the average (per technology) output of the technology/technologies in the total output of the sector is more than [5]%; and
 - (c) The difference in the share in the average (per technology) output of the technology/technologies and any other technology able to deliver the same output is more than [5]%.
9. “Prevailing practice” can be identified by calculating the shares of output delivered by all different technologies capable of delivering the same output in a given sector within a defined geographical boundary and ranking them.
10. Technologies able to deliver the same output are different if they differ at least by:
- (a) Energy source/fuel;
 - (b) Feed stock – if relevant;
 - (c) Size of installation (power capacity) – if relevant;
 - (d) Operating conditions – if relevant.
11. In order to conclude that two technologies able to deliver the same output are different, a DOE should on a case-by-case basis assess whether the technologies differ in at least one of the features identified above.
12. Most of the stakeholders were of the opinion that “prevailing practice” is not a barrier per se. Some of the stakeholders noted that “prevailing practice” may lead to other barriers (such as the lack of access to capital, technologies and skilled labour) which may be assessed using the “Guidelines for objective demonstration and assessment of barriers”. This was further corroborated by the fact that eight out of ten stakeholders were of the opinion that a “first-of-its-kind” project does not always face barriers due to “prevailing practice”, which leads to the conclusion that a “first-of-its-kind” situation should not be treated as a permanent barrier allowing for demonstration of additionality. Consequently, if the “first-of-its-kind” situation impacts additionality, the impact is reflected through barriers already covered by the Additionality Tool, such as investment or technological barriers. All but one stakeholder were of the opinion that CDM projects should be included in consideration of a “first-of-its-kind” project”, which further confirms the opinion that a “first-of-its-kind” project does not always face barriers due to “prevailing practice”.



13. Four out of five stakeholders agreed that it is not clear what constitutes a technology that is “first-of-its-kind”. However, inputs from the stakeholders on: (i) the need for demonstration that the CDM helps to overcome the “first-of-its-kind” barrier; and (ii) should there be technologies that are automatically deemed “first-of-its-kind” or that are deemed never to be “first-of-its-kind”, were entirely diverse. This may follow the fact noted earlier that the majority of the stakeholders agreed that a “first-of-its-kind” project does not always face barriers due to “prevailing practice”.

14. On the other hand, six out of nine stakeholders confirmed that there is a need for the “first-of-its-kind” concept in the Additionality Tool and Combined Tool. This opinion, when analysed together with the opinion that “prevailing practice” is not a barrier per se, may lead to the conclusion that the stakeholders opt for a simplified test of additionality. Such a simplified test is currently provided by the recently approved “Guidelines for the establishment of sector specific standardized baselines” (EB 62, annex 8). It is likely that the simplified additionality approach contained in these guidelines was not yet fully absorbed by the stakeholders at the time they responded to the call for public inputs.

B. Common Practice

15. Nine out of ten stakeholders agreed that there is a need for a “common practice” (CP) concept. Opinions of the stakeholders were highly diverse as to whether the CP should be tested at the first or the last step. Two stakeholders responded that the location of the CP is irrelevant. Concluding, the stakeholders would like to continue with the “common practice” concept and they have no clear preferences as to whether the CP should be the first or the last step.

16. Five stakeholders (all that responded to the question) agreed with the current approach to determine the CP. On the other hand, five out of six stakeholders expressed the view that there is a need to define better what constitutes a “similar activity”. Two out of three stakeholders expressed the view that there is no other alternative approach to determine the CP of an activity. Concluding, the stakeholders seem to wish to keep the current approach, possibly with some revision.

17. The above-mentioned possible revision should not aim to include a list of activities that are exempt from the CP concept (three out of four stakeholders) and it should not change the rule that CDM projects are excluded from the CP test.
