



CDM: Recommendation Form for Small Scale Methodologies (version 01)

(To be used for presenting questions/proposals/amendments to the simplified methodologies for small-scale CDM project activity categories)

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| Date of SSC WG meeting: | 21–24 September 2009, SSC WG 22 |
| Title/Subject (give a small title or specify the subject of your submission, maximum 200 characters): | Consideration of sectoral regulations that came after Nov 11, 2001 for determining the baseline scenario |
| Indicative methodology to which your submission relates (refer the items of Appendix B of the Simplified Modalities and Procedures), if applicable. | AMS-III.F |
| Name of the authors of the query: | Ruchika Drall Institution: ICF International rdrall@icfi.com , bthapa@icfi.com , ksharma@icfi.com , sojha@icfi.com |

Summary of the query:

Please use the space below to summarize the query related to SSC methodologies/categories SSC Modalities and Procedures provide recommendation/analysis of the SSC WG.

Original text from PP:

The purpose of this submission is to seek clarification on the application of EB 22 Annex 3 which gives “Clarification on the Consideration of National and/or Sectoral Policies and Circumstances in Baseline Scenarios” to a project activity in a distillery unit using the approved small scale methodology AMS III F. As you know EB 22, Annex 3 divides policies into two categories, namely “E+” that gives comparative advantages to more emissions-intensive technologies or fuels over less emissions-intensive technologies or fuels (para 6a) and “E-“ that gives comparative advantages to less emissions-intensive technologies over more emissions-intensive technologies (para 6b).

The policy in question that is creating confusion for baseline assessment for our project is: the Charter on Corporate Responsibility for Environmental Protection (CREP) adopted by Central Pollution Control Board (CPCB) of India in March 2003. It was instituted by the Union Ministry of Environment after series of discussions and negotiation with industry associations. This charter is commitment for partnership and participatory actions by all the stakeholders in taking steps for environmental protection. It encourages the adoption of clean technologies and innovative management practices to prevent pollution beyond compliance, on a voluntary basis. Initially, it was planned to achieve 100% utilization of the effluent by December 2005 but this deadline was extended number of times. Please find it attached for your reference.

Adoption of CREP resulted in mandatory Zero Effluent Discharge (ZED) requirement set by different State Pollution Control Boards (SPCBs) and Ministry of Environment and Forest (MoEF). This restricts the discharge of any industry effluent into the surface water bodies until the COD, BOD and other characteristics of the effluent are below the prescribed limits. Whereas limits the land application of the effluents are comparatively liberal. So, far there is no written documentation for these requirements except the Charter on CREP, which is also voluntary. Therefore, while giving the consent to establish and operate the State Pollution Control Boards prescribe the requirement on the case to case basis. Initially, the distilleries were allowed to go for open lagoon, which was a cheaper option but required substantial

availability of land at the site where distillery was coming up, however as a result of CREP several states usually restrict the option of open lagoons while giving the consent.

We believe this policy falls under the E- category as it restricts the more emission intensive technology (open anaerobic lagoons) and recommends the less emission intensive technology such as biodigestion, incineration, composting, etc. In our view this is a proactive action on part of the Environmental protection agencies/ministries in India (or some of the states therein) to promote less emission intensive technologies, which is also the ultimate objective of convention (UNFCCC), but we also believe that convention would want that federal/national environmental agencies promote environment friendly regulations/policies in the country without having the concern of inadvertently incapacitating the project developers to develop emission reduction technologies as CDM; and that is the purpose of EB16, Annex 3 and EB 22, Annex3.

As per para 7b of Annex 3 of EB 22, National and/or sectoral policies or regulations under paragraph 6 (b) that have been implemented since the adoption by the COP of the CDM M&P (decision 17/CP.7, 11 November 2001) need not be taken into account in developing a baseline scenario (i.e. the baseline scenario could refer to a hypothetical situation without the national and/or sectoral policies or regulations being in place). The CREP guidelines and the resulting Zero Effluent Discharge requirements were imposed much after 11 November, 2001 in March 2003.

So, the questions that we are trying to get answers to are:

1. What is the definition of comparative advantages? If one of the options is restricted, could it be considered that other options have comparative advantages? That is can the restriction of open anaerobic lagoons in the consent for establishment, be considered as comparative disadvantage to it and in other words comparative advantage to the other alternatives or technologies.
2. Whether the comparative advantage is to be discussed among the possible allowed baseline scenarios or all scenarios which would have existed in the absence of a particular national/state policy?

As per our understanding, the objective of EB to give such a Clarification on considering of National/ Sectoral Policies (EB 22, Annex 3, paragraph 5) was to prevent creating perverse incentives that may impact host Parties' contributions to the ultimate objective of the Convention. Therefore, the adoption of CREP and ZED requirements by India as the host country should not affect the eligibility of its industries (distilleries) to get the carbon benefits that make their projects financially viable to be implemented. So, that ways even the prohibited option should be a candidate for the alternatives to the project activity.

The request for this clarification is rather far-reaching than the particular context of India. If distilleries in India are forced to adopt ZED through adoption of certain technologies, or ZED criteria are made stricter, which imposes certain extra costs to them without opening a revenue stream then they are less likely to immediately adopt it (as was the case for several extension of CREP deadline) or likely to adopt these guidelines on paper or pursue them half-heartedly (as is the case with official compliance/non-compliance information - currently officially only 43% of distilleries have 100% compliance, unofficially this figure is likely to be much less). So, if CREP that was adopted much later than Nov 11, 2001 is not interpreted in the right spirit of EB 22, Annex 3 then it incapacitates distilleries in India from developing stricter ZED projects as CDM. Whereas, such the same project can be very well developed as a CDM project in neighboring states that have not enforced such a mandate.

So, we believe that as per EB 22, Annex 3, CREP should not be taken into consideration at the time of baseline assessment as it came after Nov 11, 2001 (it came on in March 2003) and can be interpreted as E- policy and if CREP is so interpreted it sets a right precedence from host parties (government agencies, etc.) to promote and adopt E- policies/ regulations without having the concern of incapacitating project developers in the country from developing their financially additional emission reduction project as CDM projects.

An early response would be extremely helpful as the project activity is at the final stages of CDM validation. Looking forward to clarification on the matter!

Recommendation by the SSC WG:

Please use the space below to provide amendments/change (in your expert view, if necessary).

Please refer to paragraph 35 of the meeting report of the SSC WG 22
(http://cdm.unfccc.int/Panels/ssc_wg).

Answer to authors of query by the SSC WG:

Please use the space below to provide answer to the authors of the above query.

The small-scale working group of the CDM Executive Board would like to thank the author for the submission.

With regard to the consideration of national and/or sectoral policies and circumstances in assessment of baseline scenarios, the SSC WG clarified that the policies described by the submission did not qualify as “E-” (as defined in EB 22 annex 3) and consequently have to be taken into account in the assessment of the baseline scenario.



Signature of SSC WG Chair

(Hugh Sealy)

Date: 24/09/2009



Signature of SSC WG Vice-Chair

(Peer Stiansen)

Date: 24/09/2009

Information to be completed by the secretariat

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