



Bogota D.C., September 23th, 2013

CDM Executive Board

UNFCCC

Bonn

Germany

**Ref: Response to Request for review - Request for registration 7822 Bonyic Hydroelectric Project**

Dear CDM Executive Board:

As response to your communication received on last August 26<sup>th</sup>, 2013, we are sending the response to request for review for: request for registration of "Bonyic Hydroelectric Project", in the framework of its validation process:

**Request 1 .**

The DOE shall further explain how the continuing and real actions taken by the project participant to secure the CDM status for the project activity were validated by means of reliable evidence. In particular, the DOE shall explain how the "Minute of the PP board" dated 04/08/2008 and the "Local stakeholder consultation" dated 11/03/2010 are considered as real actions in line with paragraph 6 (b) of EB 62 Annex 13, considering that without this evidence the time gap between the "Contract with CDM developer" and "Global stakeholder consultation" is more than 2 years. Please refer to EB 62 Annex 13 paragraph 6(b), paragraph 8(b). Please refer to EB 62 Annex 13 paragraph 6(b), paragraph 8(b).

**Response:**

In the VR was included a new evidence in order to validate that continuous and real actions were taken to secure CDM status for the project in parallel with its implementation: Contract signed between MGM Innova Consulting and HET, signed on November 16<sup>th</sup>/2009 with the purpose of support the developing of BHP as a CDM project. This evidence warrants there is less than 2 years of a gap between the documented evidence; hence ICONTEC concluded that continuing and real actions were taken to secure CDM status for the project activity.

**Request 2.**

The DOE shall further validate the suitability of the barrier due to project location. In particular, the DOE is requested to further justify: (a) that the barrier is in line with VVM

version 01.2 paragraph 116 and guidelines 4 of the "Guidelines for Objective Demonstration and Assessment of Barriers" (EB 50 Annex 13), given that it is not clear whether the additional expenses incurred by the PP (25% of CER revenue in cash paid to the indigenous community) to compensate the local indigenous community could be translated into financial terms and can therefore be assessed with an investment analysis; and (b) how the CDM will help to alleviate the barrier caused by the Naso Teribe community's internal crisis. In doing so, the DOE shall clearly explain how barrier due to project location would prevent the implementation of the proposed project activity from being carried out if the project activity was not registered as a CDM activity. Please refer to VVM version 01.2 paragraph 116 and EB 50 Annex 13.

**Responses:**

- (a) ICONTEC confirmed (as it was explained in the VR) that special local circumstances became major obstacles in project development, which affected the process of obtaining financing for the project and proceeding with its implementation. In fact, the DOE verified, through the review of meetings minutes and performing direct interviews with Naso Teribe community members (including a meeting with the Naso King, Tito Santana), that at the time of the consultation process, the indigenous people living in the surrounding areas, belonging to the Naso Teribe community, were in the midst of a prolonged leadership crisis, caused by historical and political factors, as well as by family feuds and personal interests. This resulted in problems and delays in carrying out the stakeholder process and in reaching an agreement between the project participant and the Naso Teribe people with respect to the project-derived benefits that would be acceptable to the community in exchange for the BHP's development. Thus, as from the analysed documents and the direct interviews mentioned above, it is clear to the DOE that the community appreciates the environmental and CDM derived benefits the project would entail, and that these became a key factor in the mitigation of the barriers arising from project location. This was consolidated in the Compensation and benefit agreement between the HET and the Naso people for the construction of Bonyic hydroelectric project, which in Section 5 states: "*HET is committed to transfer 25% of the profits it will receive in cash regarding the transfer or sale of CERs ..... HET will keep the authorities of the Naso people informed in writing of any sale or transfer of CERs*". It should be noted that potential CDM revenues cannot be translated into financial terms, since the Agreement signed with the Naso people was not a goal itself, but rather a mean to develop the BHP<sup>1</sup>.
- (b) In order to assess how this barrier due to project location would prevent the implementation of BHP even if the project activity was not registered as a CDM activity, ICONTEC reviewed the reports issued by Dobbo Yala Foundation and the letter sent by IDB to HET; all these documents confirmed the existence of a leadership crisis in the Naso Teribe Community. Notwithstanding this, IDB recognized that BHP is indeed eligible under Bank's financial policies. However, in view of their leadership crisis, the Bank decided to withdraw its offer to finance the project. In this

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<sup>1</sup> In accordance with the VVM, version 01.2 paragraph 108 (b) the intention of the investment analysis is to provide evidence that the proposed CDM project activity would not be economically or financially feasible, without the revenue from the sale of certified emission reductions (CERs).

context, the agreement signed between Naso Teribe Community and HET becomes relevant and important since it encourages the indigenous community to overcome its internal crisis so as to benefit from the CDM. Based on these documental evidences, ICONTEC concluded that CDM status alleviates the barrier due to project location.

### Request 3

The DOE shall further explain how it has validated the investment barrier. In particular, the DOE is requested to further clarify: (i) how the information provided to substantiate the investment barrier complies with Guideline 1 of the "Guidelines for Objective Demonstration and Assessment of Barriers" (EB 50 Annex 13); (ii) whether the claim that the financing of the project was assured only due to the benefit of CDM is substantiated with independent sources of data as required by the VVM version 01.2, paragraph 117, (iii) how the barrier is project-specific given that the limitations for providing the guarantee asked by the banks is related to the PP's statutory limitations; and (iv) that the investment barrier presented is in line with the additionalitly tool paragraph 51. In doing so, the DOE shall clearly explain how the barrier identified is realistic and credible and how it would prevent the implementation of the proposed project activity from being carried out if the project activity was not registered as a CDM activity. Please refer to VVM version 01.2 paragraph 117 and EB 50 Annex 13.

### Responses:

- (i) In 2006, as a result of a public tender conducted by Santander Bank, supported by HET, the Banco Centroamericano de Integración Económica (CABEI –Central American Bank of Economic Integration) as a lender of record, together with Corporación Interamericana para el Financiamiento de Infraestructura (CIFI –Inter American Corporation for Infrastructure Financing), with Santander Bank as lead arranger, were selected as project financing entities. Nevertheless, in November 2008, EPM (Empresas Públicas de Medellín), as principal shareholder of the HET society, was unable to provide the guarantee required by the banks due to EPM statutory limitations regarding the guarantees it can furnish. These limitations constituted a significant obstacle in negotiations with potential lenders. In order to assess the compliance of the Guideline 1 (EB 50 Annex 3, paragraph 4) regarding to this statutory limitation of EPM, ICONTEC reviewed the Colombian regulations, as well as EPM's Code of good governance and financial balance for 2008 with the aim of verifying the lack of access to capital. ICONTEC verified that, given the nature of the company, an industrial and commercial enterprise of the Colombian state, as EPM, cannot provide a guaranty for the total amount of the loan as requested by CIFI-CABEI on November 2008. Based on the above description, and on ICONTEC's local and sectoral expertise, ICONTEC confirmed that the investment barrier is real, preventing not only the project's implementation but also the alternative scenario undertaken by the BHP as a hydroelectric power plant without being registered as a CDM project activity. Likewise, the identified barrier would not prevent the alternative scenario i.e.; the continuation of the current situation (no project activity and/or other alternatives undertaken).
- (ii) ICONTEC enhanced the VR explanation about the independent sources reviewed in order to assess the argument presented by the PP that EPM's decision to provide the initial funding through a loan to HET was based in large measure on

EPM's strong corporate commitment to promote climate change mitigation and adaptation actions, mentioning the following:

- On February 15th, 2012, the Embassy of the Federal Republic of Germany, the Colombian Congress and the Colombian Society of Press and Media awarded EPM the Baron Alexander von Humboldt Environmental Merit Order for its specific actions regarding rational and efficient use of water and energy, biodiversity, waste management, control of emissions and climate change, communication and environmental awareness, social management, research and development.
  - Since June 14th/2006, EPM has participated in the United Nations Global Pact. The UN Global Compact is a strategic policy initiative for businesses that are committed to aligning their operations and strategies with ten universally accepted principles in the areas of human rights, labour, environment and anti-corruption<sup>2</sup>
- (iii) As it was explained in Response (i), this investment barrier is project specific since the guaranty asked by the Bank to the HET's principal shareholder could not be provided due to the nature of the organization (industrial and commercial enterprise of the Colombian state); the investment barrier was only overcome when EPM decided to grant the loan to HET taking into account that BHP is a project that reduces the GHG emissions.
- (iv) Since the alternative of developing BHP is undertaken and operated by HET (a private entity in Panama), ICONTEC reviewed similar hydroelectric power plants, between 16.32 MW to 48.96 MW ( $\pm 50\%$  of the BHP installed capacity) developed in Panama and connected to the Panamanian electrical grid (the information publicly available in the CND Website<sup>3</sup>) and found that there are only 7 hydropower plants operating in Panama; all 7 differ from the proposed project activity. Taking into account that the Bonyic hydroelectric plant has an installed capacity of 32.64 MW, and will be developed and implemented after the privatization of the electricity sector in Panama (that took place in 1997-1998) there is no plant with similar characteristics in Panama. The only two plants that could be considered to some extent similar are the Mendre hydroelectric project (19.76 MW) and Pedregalito I (20 MW), both registered as CDM project activities. However, those plants were not developed in a comparable environment in terms of project location. As mentioned above, BHP is developed in a sensitive social and biophysical environment which makes the project unique in terms of the environment in which it is developed.

Please review our commentaries and do not hesitate to contact us to clarify any point.

Best Regards,

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<sup>2</sup> See <http://unglobalcompact.org/AboutTheGC/index.html> and <http://unglobalcompact.org/participant/3319-Empresas-Publicas-de-Medellin>

<sup>3</sup> <http://www.cnd.com.pa/informes.php?cat=5>



A handwritten signature in black ink, appearing to read 'Mónica Vivas', with a small 'M' at the end.

Mónica Vivas.

Conformity Assessment Director

ICONTEC