



REPUBLIC OF KENYA

**KENYA NATIONAL GUIDELINES ON
THE CLEAN DEVELOPMENT
MECHANISM (CDM)**

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KENYA GOVERNMENT GUIDELINES ON THE CLEAN DEVELOPMENT MECHANISM (CDM) OF KYOTO PROTOCOL TO THE UNFCCC

1) Background

Currently, there is concern about man's activities that are causing alterations to global climate patterns. One of the most serious concerns involves the emission into the atmosphere of greenhouse gases (ghgs), so called because they let through short wave solar radiation to heat the earth's surface while they trap the out-going long wave terrestrial radiation, thus raising the temperature of the atmosphere with potential for significant changes in the climate.

Carbon Dioxide (CO₂) is the main greenhouse gas that is causing the greatest concern on account of its abundance and long life-span in the atmosphere and the alarming rate at which its concentration is increasing as a result of fossil fuel burning and deforestation. Other important greenhouse gases that are influencing climate change are methane and nitrous oxide. Because of the potential impacts of climate change on the environment as a result of the increasing concentration of greenhouse gases in the atmosphere, the world community established the Intergovernmental Panel on Climate Change (IPCC) in 1988. The responsibility of the IPCC is to undertake an assessment of the science, adaptation and mitigation options in relation to climate change and advise the Conference of the Parties (COP) of the United Nations Framework Convention on Climate Change (UNFCCC). As a result of the first IPCC assessment report on climate change, the United Nations General Assembly established the Intergovernmental Negotiating Committee (INC) for the United Nations Framework Convention on Climate Change with the mandate to negotiate a convention containing appropriate commitments in time for signature at the United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro in 1992.

The Convention came into force at the First Session of the Conference of the Parties (COP 1) held in Berlin in 1995 after it was ratified by more than 150 countries. Kenya ratified the UNFCCC in 1994. The ultimate objective of the UNFCCC as cited in Article 2, states inter alia, *"to achieve stabilization of greenhouse gas concentrations in the atmosphere to a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time-frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner."*¹ When the Convention was ratified in 1995, it was recognised that the general commitments for Annex I Parties (industrialised countries) were not adequate in terms of targets and time-frame for achieving them. In response to this, negotiations commenced immediately and culminated with the signing of the Kyoto Protocol at the Third Conference of the Parties (COP 3) to the UNFCCC in 1997 in Kyoto. The Protocol defines three flexibility mechanisms to help Annex I Parties (industrialised countries) meet their targets as follows:

- a) The Clean Development Mechanism (CDM), which allows for the creation of Certified Emission Reductions (CERs) through investments in non-Annex I Parties (developing countries);

¹ UNFCCC Text

- b) Joint Implementation (JI), which involves the creation of emission reduction units derived from investments *between* Annex I Parties;
- c) International Emission Trading (IET) system, which allows a country that exceeds its emission reduction target to sell the excess to one that has not achieved its target, through the international transfer of national allotments of emission permits.

To enter into force, the Protocol requires ratification by at least 55 countries that are Parties to the UNFCCC, with developed countries representing at least 55 per cent of the total carbon dioxide emissions of all developed nations in 1990.

2) *Rationale*

Climate Change is a problem of global dimensions and therefore requires a global solution. The international community must cooperate in order to arrive at a legally binding international agreement to ensure the damage being done to the atmosphere is reversed if humanity is to survive. The current climate change negotiations are for this purpose. However, such a system can only work if it is perceived to be equitable by all the participants. In this regard, Kenya needs to be effectively involved in the negotiations. This calls for national capacity building in all matters pertaining to CDM. In fact, Kenya could benefit significantly particularly through CDM projects, as they can offer new sources of financing for sustainable development and poverty reduction. Consequently, it would be in the national interest if appropriate policy decisions are taken to facilitate concerted efforts towards proactive involvement in CDM activities.

3) *Objective*

The objective of these guidelines is to assist national policy makers to have a firm grip and a balanced approach on the underlying issues relating to the CDM so as to enable them to make decisions which are in the best national interest during the negotiations and implementation of CDM projects.

4) *Concept of the CDM*

The concept of the CDM is based on the premise that non-Annex I Parties will benefit from project activities resulting in certified emission reduction and that Annex I Parties may use the certified emission reductions accruing from such project activities to contribute to compliance with their emission reductions commitments.

According to Article 12 para 2 of the Kyoto Protocol, the purpose of the CDM shall be *“to assist Parties not included in Annex I in achieving sustainable development and in contributing to the ultimate objective of the Convention, and to assist Parties included in Annex I in achieving compliance with their quantified emission limitation and reduction commitments under Article 3”*.²

² The Kyoto Protocol Text

5) Guidelines for CDM Projects

In order to ensure that CDM projects are environmentally effective and lead to sustainable development as well, they must be based on principles of equitable allocations and be directed to projects focused on non-greenhouse gas (ghg) emitting technologies especially on non-carbon renewable energy technologies. Consequently, for developing countries like Kenya to derive maximum benefits from CDM projects, a number of issues must be taken into account, including but not limited to:

5.1) Project Criteria

All CDM projects must satisfy the following requirements:

- a) Demonstrate firm and tangible contribution to sustainable development;
- b) Be supportive to and consistent with national development priorities and be pegged to poverty reduction;
- c) The technologies transferred must be locally appropriate and environmentally friendly especially, and demonstrate energy efficiency. Necessary precautions must be in place to avoid dumping of substandard technologies;
- d) Contribute to the enhancement of national institutional and human capacity building.
- e) Activities that generate maximum economic, social and environmental benefits should be accorded highest priority;
- f) Address community needs and priorities through effective public participation in project design, planning and implementation in order to ensure equitable distribution of sustainable development benefits.
- g) Contribute to global efforts to achieve stabilization of greenhouse gas concentrations in the atmosphere;
- h) The CDM financial inflows must be over and above the existing Official Development Assistance (ODA);
- i) Consistent with the objectives of the concurrent environmental conventions, including the Convention on Biological Diversity, the Ramsar Convention on Wetlands, and the Convention to Combat Desertification, Agenda 21, as well as with local and national environmental management laws;

5.2) Share of Proceeds

The sharing of proceeds from CDM activities is a crucial issue of interest to Kenya like any other Party to the UNFCCC. However, the share of proceeds shall be based on a formula to be agreed on by the international community under the auspices of the Conference of the Parties / Meeting of the Parties (COP/MOP). The proceeds to be shared will include the emission reduction or offset credits. CDM projects must include a nominal levy (*adaptation levy*) of the savings accruing to the investing country Party, the percentage of which will be determined by COP/MOP.

5.3) Methodological Issues

The methodological issues that deal with operationalization of CDM projects at the national level should take the following into consideration:

5.3.1) Baselines

Baselines need to be developed on a project-by-project basis during the initial phases of CDM. Sectoral baseline arrangements should be avoided as they could result in “free-riding” projects that claim emission reductions, which either would have happened anyway, or claim reductions that in reality do not accrue. Moreover, any project proposed under CDM must result in lower emissions than the current business-as-usual scenario. The prevailing business-as-usual scenario will serve as the basis for determining the level of CERs accruing from project implementation.

5.3.2) Project Validation

Every CDM project must be thoroughly assessed to determine whether the proposed actions conforms to the criteria identified in (5.1) above before it is validated by the CDM National Clearing House (NCH).

5.3.3) Verification and Certification

Verification and Certification will take place at two levels. At the international level, a body designated by the COP/MOP will perform certification and verification of all CDM projects. Nationally, the National Climate Change Focal Point (NCCFP) will appoint a panel of local experts to verify the CERUs accruing from all CDM projects.

5.3.4) Project Monitoring and Evaluation (M&E)

Once a CDM project implementation gets underway, a mechanism for regular monitoring and evaluation (M&E) will be developed. The purpose of M&E is to ensure that the project implementation conforms to the set criteria throughout the project life cycle.

5.3.5) Project Financing

The financing arrangement will be agreed upon by a host entity and the Annex I Party investor. Once an agreement has been reached, the project proposal will be submitted to the respective governments for approval and any other necessary action.

5.3.6) Land Use, Land Use Change and Forestry (LULUCF)

There are still far too many scientific uncertainties associated with carbon sequestration by forests and land use changes. These uncertainties are compounded by the lack of capacity to quantify these changes in Kenya. CDM forestry projects are long-term by nature and it would be difficult to deny Kenyans the use of forest products and services reserved for CDM when the Kenyans need them. Moreover, there is minimum or no technology transfer in the afforestation programmes as stated in the CDM.

While the demand for forestry products is growing nationally and internationally against a background of dwindling forestry resource base, there is no doubt about the need for

forestry projects in Kenya. Forestry projects should continue within other frameworks such as the UN Convention on Biodiversity and the UN Convention to Combat Desertification as well as through other bilateral or multilateral arrangements. Decisions on LULUCF projects under CDM should be suspended until scientific uncertainties and other outstanding issues are resolved at the COP/MOP level.

6) BENEFITS

In elaborating the contents of CDM projects based on the stated purpose of CDM (Art.12.2, Kyoto Protocol) and in accordance with agreed criteria, the following potential benefits will accrue to Kenya:

- ◆ Job creation;
- ◆ Poverty reduction;
- ◆ Increased investment capital, over and above ODA;
- ◆ Enhanced diffusion of environmentally cleaner technologies.

7) INSTITUTIONAL FRAMEWORK

To ensure efficient flow and subsequent processing of CDM project proposals, the following institutions are envisaged:

7.1) National Climate Change Focal Point (NCCFP)

Role:

- Defining the national policy on the CDM;
- Liaison with the UNFCCC Secretariat;
- Appointment of members of the NCH and the Expert Panel;
- Approval of CDM projects.

7.2) The CDM National Clearing House (NCH)

Composition:

The composition of the NCH will be drawn from the following institutions:

- ◆ Public sector institutions;
- ◆ Private sector institutions;
- ◆ NGOs and Civil Society Organisations and
- ◆ Academia.

Role:

The NCH will be responsible to the NCCFP for:

- Setting the criteria for CDM Projects;
- Processing of CDM project proposals;
- Monitoring and Evaluation of all CDM projects;
- Verification and recommendation of CDM project proposals for approval/disapproval by the NCCFP;
- Liaison with stakeholders;
- Promotion of CDM projects;
- Coordination of all CDM project activities;

- Advising the Government, through the Focal Point, on all issues pertaining to the CDM;
- Development of a national database for CDM projects.

Tenure:

The term of office of the NCH will be determined by the nature and time span of individual projects.

8) *POTENTIAL CDM PROJECTS*

In implementing the Kyoto Protocol, particularly the CDM, projects which aim to address the following areas should be accorded priority:

- (a) Energy efficiency e.g. low-cost energy efficient housing;
- (b) Renewable energy sources e.g. solar and wind energy;
- (c) Geothermal energy;
- (d) Energy generation through biogas;
- (e) Sustainable public infrastructure projects e.g. environmentally friendly public transport systems.