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ELABORATE, DON'T RENEGOTIATE!

Sunday morning in the Maritim, and the marbled halls are all but deserted. But tucked away in a second floor meeting room behind high security, the CDM Executive board gets to work deciding the future of sustainable climate mitigation projects. Nearby, an exclusive group of hand-picked observers forego sleep and the World Cup to follow the event on closed-circuit television. Many stay awake, and are surprised to see how the Board's approach to work is unfolding.

What is clear is that the CDM Executive Board must remember that its responsibility is to elaborate, not renegotiate, the Marrakech Accords. Already we've seen how this distinction can easily be blurred. Most board members seem to imagine themselves back in a negotiating session, haggling over lines of text, attempting to do away with agreed provisions, and congratulating themselves over the successful relocation of commas. Why doesn't the EB take seriously the task of turning negotiating language into usable, meaningful provisions that preserves the intent of the accord while providing sensible guidance?

If they had, Sunday's meeting could have been quite different. Instead we saw:

An attack on environmental impact assessment language: some members seemed to argue that since their country's legislation was already so rigorous in stamping out adverse environmental impacts caused by foreign investments, reporting on these impacts by project participants could be reduced to a maximum of two lines. This is the ONLY place that the issue of a project's environmental impacts is revealed to the outside world, and yet the EB was tempted to water this down to nothing.

An attack on stakeholder participation: the already barely existent provisions for those affected by projects to have access to information and comment before projects are approved was also questioned by EB members. One of these argued that since his country doesn't have institutionalised public consultation procedures, then maybe this requirement could be deleted and made optional. Why not just delete the stakeholders altogether and be done with it? Thankfully, one EB member remembered that the Marrakech Accords were not open to revision and closed the misguided discussion.

Obfuscation on baselines: realising that there were considerable uncertainties, and incentives to make favourable assumptions in baseline definition, Parties made it clear in the Marrakech Accords that these definitions should be made in a conservative manner. However, in elaborating the Project Design Document the requirement that the choice of baseline methodology be justified was considered unnecessary. That they should be conservative was no more than a fleeting thought as the discussions closed. If the EB is supposed to be the guardian of the CDM's integrity, what do we have to look forward to from project participants themselves, who will naturally want to maximise their returns?

The draft EB rules of procedure provide another remarkable example of how the EB is altering the Marrakech Accords. The Accords state that drafts of all technical reports commissioned by the EB will be made publicly available and open to an 8-week public comment period. The EB is trying to side-step this straightforward and inclusive provision: the draft rules of procedure chose to define “technical reports” as everything except for the reports generated by all the technical panels constituted to give technical advice to the EB. Not even in the twisted linguistic logic of UN negotiating can “a report from a technical panel” be completely different from a “technical report.” Even more perplexing is that at least one (could be more—who’s to know?) non-panel, independent technical report already submitted to the EB has not been made publicly available. ECO invites readers to remember that NGO stakeholders aren’t the only ones left in the dark; 180-odd governments not represented on the EB and the many experts around the world with practical knowledge are also refused access to CDM EB documents and right to comment, while the EB loses the opportunity for valuable inputs.

In terms of public participation, the CDM rules approved at COP7 already represent a step backward from project standards set world-wide by international financial institutions and development banks. The EB has the opportunity to address this at its current meeting, working fully within their mandate. The board should:

- 1) Add public participation to its work plan as authorised by Decision 17/CP.7 paragraph 6(d)
- 2) Recommend rules for stakeholder input into CDM project reviews. At present, only Parties and the EB can initiate any reviews: the Parties agreed at COP7 that the EB should address this deficiency and prepare appropriate rules for stakeholder input in reviews. This must be made a priority.
- 3) Enable stakeholders to trigger a spot-check of a designated operational entity. The draft text in the technical paper on the accreditation of operational entities proposes that these spot-checks be triggered by other OEs or UNFCCC accredited NGOs. This proposal should be retained and expanded to include all stakeholders.

Other aspects of the draft rules of procedure don’t inspire full confidence. For example, while ECO abhors scare-mongering, one can’t help but wonder what the impact will be on accreditation teams’ impartiality when their (required) four star hotel bills and (required) business class flights are being picked up by the applying operational entity. Direct financial contact between the applicant and the accreditor is unnecessary and opens the door to inappropriate influence. Meanwhile, it wouldn’t hurt to consider ways of saving money and including southern expertise by actively engaging more local accreditors (and, indeed, OEs as well) in these activities. Or is it the idea to promote sustainable development and climate change mitigation through creation of a jobs program for high-flying northern consultants?

As Board members look forward to another day of work, ECO reminds you that you are no longer negotiators! You are sustainable development project experts! Leave your brackets and your negotiating tactics at the EB door. Should the board need reminding of this or any other point, ECO would hereby like to invite the board to invite CAN to make a presentation at the next EB meeting in July, as one of the better draft rules permits.