



Forest Carbon Partnership Facility

Roadmap to ERPA General Conditions

FCPF Carbon Fund – Second meeting (CF2)

October 20-21, 2011

Overview

I. Discussion of critical ERPA elements

II. Roadmap to ERPA General Conditions

- Term Sheet
- General Conditions
- ERPA (commercial terms)

III. Letter of Intent

IV. Workshops/Tutorials

Discussion of critical ERPA elements

I. Critical ERPA elements

- Type of Emission Reductions
- Contract Volume
- ER-Program Cycle
- Time of payment
- Costs
- Benefit Sharing / Additional Benefits
- Events of Default / Remedies
- Allocation of Risks

Discussion of critical ERPA elements

II. Type of Emission Reductions

- Emission Reductions (ERs)
- Application of a FCPF-specific Carbon Standard/Methodology which shall be subject to modifications from time to time in accordance with related emerging international/regional rules and procedures? Who would bear additional costs related to any subsequent modifications? What happens if modifications affect ER volume/ERPA value? Shall the Trustee have a right to adjust ER volume (potentially reducing the ERPA value)?
- Risk of ERs to be convertible into international/ regional/domestic compliance assets with Buyers?

Discussion of critical ERPA elements

III. Contract Volume

- Annual Amounts (certain % of expected annually generated ERs)
 - Fixed?
 - Subject to 'sweeping'?
- Additional CERs
 - Call Option (for Buyers)?
 - Put Option (for Sellers)?
 - Right of 1st Refusal (for Buyers)?
 - Right to offer Additional CERs (for Sellers) and right to accept Additional CERs (for Buyers)?

Discussion of critical ERPA elements

IV. ER-Program Cycle

1) Validation (potentially)

- Do we require (independent) validation of ER-program?
- If yes, on which basis shall validation be exercised (e.g. Methodological Framework/'ER-program document'/(emerging) International Rules etc.)?

2) Monitoring

- Do we require the REDD Country Participant / authorized other entity to (annually/periodically) monitor generated ERs?

3) Reporting

- Do we require the REDD Country Participant / authorized other entity to (annually/periodically) report generated ERs?

4) Verification

- Do we require (annual/periodic) independent verification of reported amount of monitored ERs?

Discussion of critical ERPA elements

V. Time of payment

- Payment against verified ERs
 - following receipt of Verification Report
- But: Payment against monitored ERs also possible?
 - following receipt of ER Monitoring Report
 - In case verification is waived by Trustee for any given year
- Payment against (monitored/verified) ERs subject to additional conditionality?
- Any specific limitations/requirements for Advance Payments?
 - Certain maximum % of ERPA value?
 - Request of security/collateral (e.g. letters of credit, government guarantees, promissory notes etc.?)

Discussion of critical ERPA elements

VI. Costs

- Who shall bear the costs?
 - Costs related to the preparation of the ER-program (including methodology/ER program review/appraisal/validation/due diligence)
 - Costs related to the implementation of the ER-program (including Verification/baseline revision/supervision)?
- If costs are (in full/part) recoverable, ...
 - Shall recoverable costs be capped?
 - Shall they be deducted from payments?
 - Shall there be a Cost Recovery Discount (%) on the price to be paid per ER?

Discussion of critical ERPA elements

VII. Benefit Sharing / Additional Benefits

- *Benefit Sharing*: Arrangement between Seller and stakeholders affected by the ER-program regarding sharing of carbon finance revenues. Shall it be an integral part of the ER-program or specified in a separate Benefit Sharing Agreement?
- *Additional Benefits*: Benefits in addition to sequestration of ERs (e.g. biodiversity etc.). Shall they be an integral part of the ER-program or specified in a separate Additional Benefits Plan?
- How shall the achievement of Benefit Sharing / Additional Benefits be assessed/supervised?
- What happens if Benefit Sharing / Additional Benefits fails?
 - Shall there be remedies/action plans?

Discussion of critical ERPA elements

VIII. Events of Default / Remedies

- What shall constitute an Event of Default?
 - E.g. failure to transfer minimum amount of ERs? Failure to achieve Benefit Sharing / Additional Benefits?
 - Current carbon finance practice also includes events such as non-compliance with Safeguards or other Bank policies (e.g. anti-corruption policies), violation of material ERPA terms etc.
- How shall Events of Default be remedied?
 - Action plans?
 - ERPA termination?
 - Cost recovery?
 - Liquidated damages (in case of Intentional Breach)?

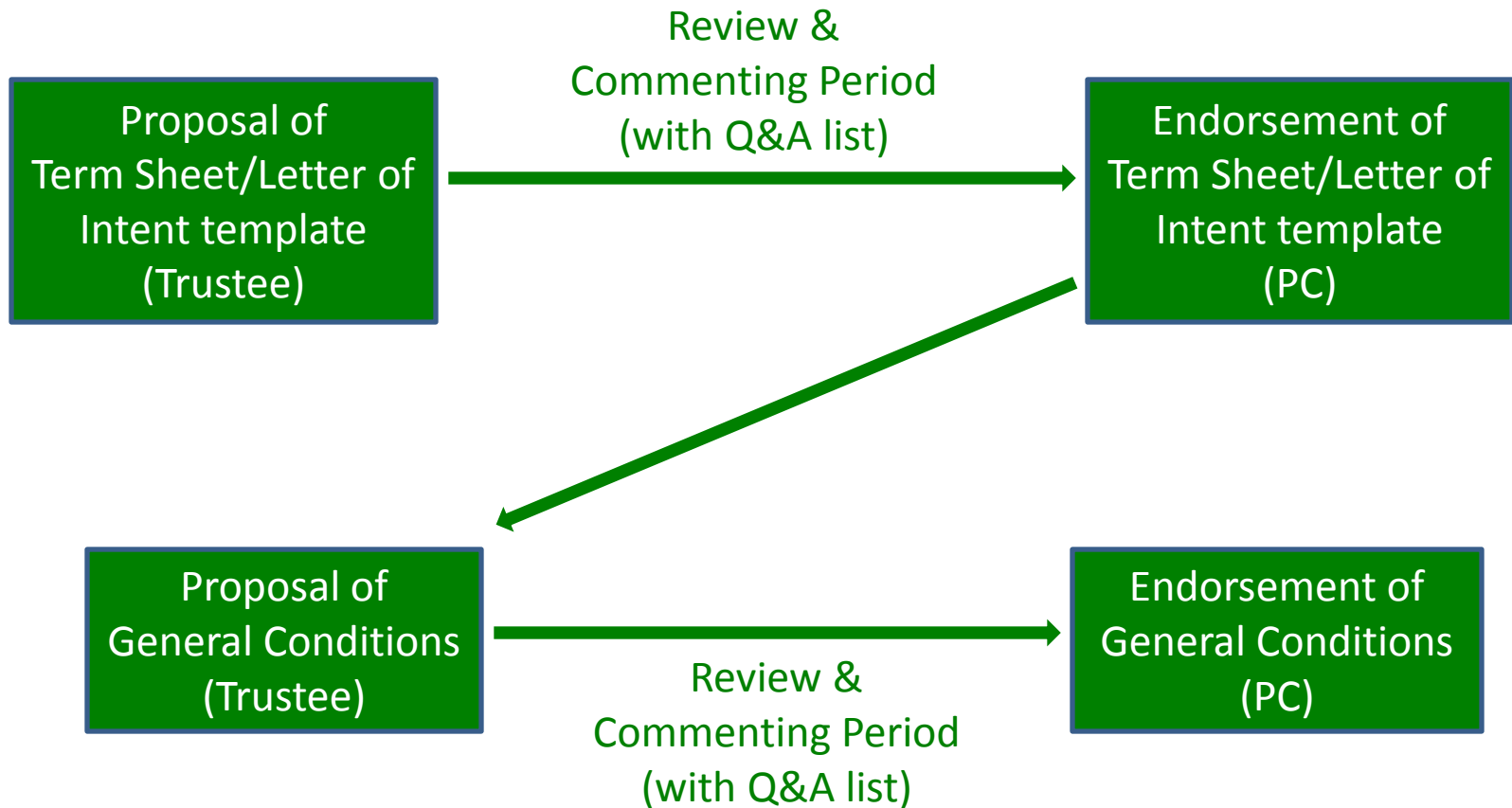
Discussion of critical ERPA elements

IX. Allocation of Risks

Risks	ERPA
ER-program risk	Seller?
Political risk	Seller?
Int'l/domestic/regional compliance regime risk	Buyer?
Transaction cost risk	Shared?
Market risk	Shared?
Force Majeure	Shared?

Roadmap to ERPA General Conditions

I. Roadmap chart



Roadmap to ERPA General Conditions

II. Term Sheet

- Includes core elements of ERPA General Conditions
 - E.g. Type of ER, Transfer & Payment, Conditions Precedent, Validation, Monitoring, Reporting, Verification, Representations & Warranties, Costs/Taxes, Covenants, Force Majeure, Safeguards, Events of Default, Remedies, Governing Law, Dispute Resolution
- Intended to serve as guidance for drafting General Conditions
- Process:
 - Trustee proposes Term Sheet prior to PC11 (March 2012)
 - Trustee explains proposed Term Sheet at PC11
 - Following PC11, PC members/observers have certain time period to review/comment on proposed Term Sheet (Review & Commenting Period)
 - Trustee prepares a Q&A list and answers all comments/questions received
 - Following Review & Commenting Period, PC members endorse Term Sheet by no-objection

Roadmap to ERPA General Conditions

III. ERPA General Conditions

- Applicable to all FCPF ERPAs
- Terms should not be negotiable (unless specific nature of ER-program requires modifications)
- Process:
 - Trustee proposes General Conditions prior to PC12 (June 2012)
 - PC members/observers have certain time period to review/comment on proposed General Conditions (Review & Commenting Period)
 - Trustee prepares a Q&A list and answers all comments/questions received
 - Following Review & Commenting Period, PC members endorse General Conditions at PC12

Roadmap to ERPA General Conditions

IV. ERPA Template (commercial terms)

- ERPA template identifies commercial terms
 - E.g. unit price per ER (following adopted Pricing Approach), Contract ER volume, Advance Payment, Additional ERs (Call/Put Option/Right of 1st Refusal), Cost caps, Term
- Terms are negotiable
- Process:
 - Trustee presents ERPA template together with the General Conditions at PC12 (June 2012)
 - Following the endorsement of the General Conditions by the PC, Trustee will start negotiating ERPAs on the basis of the ERPA template and the General Conditions

Letter of Intent

- Legally-binding agreement between Trustee and REDD Country Participant / authorized other entity
- Includes provisions that shall guide the ERPA negotiation process
 - E.g. Intention of parties, period to negotiate an ERPA in good faith on basis of exclusivity (Exclusivity Period), cost recovery in case of early termination of negotiation process, Governing Law, Dispute Resolution
- Process:
 - Trustee proposes Letter of Intent template prior to PC11 (March 2012)
 - Trustee explains proposed Letter of Intent template at PC11
 - Following PC11, PC members/observers have certain time period to review/comment on proposed Letter of Intent template (Review & Commenting Period)
 - Trustee prepares a Q&A list and answers all comments/questions received
 - Following Review & Commenting Period, PC members endorse Letter of Intent template by no-objection

Workshops / Tutorials

- Trustee may offer workshops / tutorials to explain to PC members (in particular REDD Country Participants) basic concepts of carbon finance transactions, pricing, elements of proposed Term Sheet/General Conditions
- Shall enable PC members to make fully informed decision
- Process:
 - Trustee may offer workshops/tutorials for all PC members and/or specific REDD Country Participants prior to PC meetings (with PC members /REDD Country Participants present) or between PC meetings (e.g. by video- or telephone conference)