

*Workshop on Improving the Regional Distribution of
CDM Projects in Asia and the Pacific*

Key Legal Issues in Carbon Transactions

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General Risk Factors

Counterpart Risk

- Credit Risk / Default Risk
- Country Risks (political, social)
- Capacity Uncertainties

Project Risk

- Legal / Regulatory / Ownership Risk
- Environmental and Social Safeguards Risks / Reputational Risks
- Cost overruns / Delays / Force Majeure
- Project Underperformance

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CDM Specific Risk Factors

CDM Project Specific Risk

- Incorrect Emission Reduction Estimates
- Competition for CERs / Delivery Risks
- Baseline Risk
- Registration Risk (including Delays)

CDM Regulatory Risks

- Host Country Regulatory Risks
- Eligibility of CERs for Compliance (e.g. large hydro)
- Amendment or Discontinuance of CDM

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Addressing General Risk Factors

Counterpart Risk

- CPs: Project Finance / Collateral / Bank or Corporate Guarantee
- Financial Reporting Obligations
- Payment on Delivery

Project Risk

- CPs: Authorizations / Project Approvals / Safeguards Management Plans
- Progress Reports / Safeguards Monitoring Reports
- Project Operation Covenants (Financial, O&M, Insurance, Compliance, Legal Title)

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Addressing CDM Project Specific Risks

- CPs: Nomination as Focal Point / Validation / Registration / Compliance Report (e.g. WCD)
- Support for the Registration Process / Withholding CDM Costs
- Project Activity Monitoring Reports / Verification & Certification Reports
- Delivery Schedule with Frontloading / Compensation / Reduced Offtake Mechanism
- Termination Payment

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Addressing CDM Regulatory Risks

- Price Adjustments Termination
- Reduced Off-take
- Avoid Contentious Sectors (e.g. HFC, Large Hydro, Palm Oil)
- Prioritize Least Developed Countries
- Accreditation under Voluntary Standard

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