





# The Clean Development Mechanism – Lessons Learned From the Perspective of a Project Developer

Martin W. Gitlin
Chief Legal Officer, AgCert International plc
EPRI Greenhouse Gas Offset Policy Dialogue Workshop
26 June 2008, Washington, DC

## ##AgCert

#### **AgCert - Making a Measurable Difference**







#### Over 700 operating sites in 92 CDM Project Activities

- Millions of tonnes of GHG reduction current steady state approximately 1.5 Million tCO<sub>2</sub>e annually
- Renewable energy
- Reduced odor
- Reduced disease
- Reduced risk of water contamination
- All 3<sup>rd</sup> party verified
- International projects approved and issued credits by United Nations under Kyoto mechanisms

#### **AgCert** AgCert: a Pioneer in GHG Project Development



- First to Address Agricultural Sector at Scale
- One of first to develop its own large scale methodology (AM-00016)
- First to "bundle" multiple sites into larger Project Activities
   precursor to Programmatic CDM
- First CDM project developer to go public and only one to achieve full listing on LSE (as opposed to AIM)
- One of first to prove the market for CERs by entering into fixed price forward sales contracts with buyers.
- First major CDM project developer to enter insolvency (Irish "examinership")
- First to successfully emerge from insolvency proceeding
  - Acquisition by AES Climate Solutions as of 18 June 2008



#### **CDM Lessons Learned**



- CDM was designed as a "Market Based" mechanism
  - Relies on private capital flows to achieve public good
  - For such a system to work, it must properly balance sometimes competing objectives:
    - Environmental "purity" the pursuit of the perfect
    - The realities of attracting capital
  - This requires that the system be designed with integrity that, despite the Herculean efforts of the stakeholders and the Executive Board and Secretariat, has at times been lacking in the CDM



# **Lessons Learned (Cont'd)**



- System Must Have Integrity:
  - Environmental Integrity
    - Reductions must be real, measurable, additional and permanent
      - But don't get interminably bogged down in minutiae
      - Delays in CDM methodology approval chilled project development
      - Pick an answer and stick with it
  - Procedural Integrity
    - Process for creating Offsets must engender confidence
    - Transparency
      - Input from all stakeholders accepted and taken into consideration
      - Decision makers should be accountable and agendas clear and consistent
    - Consistency
      - Rules in place when investment decision made should apply for the life of that investment
    - Follows rule of laws/principles of natural justice
      - Results not arbitrary or capricious or abuse of discretion
      - Realistic opportunities to challenge/appeal decisions



# **Lessons Learned (Cont'd)**



- Distributional Integrity
  - Concern with "winners" winning too much
  - "If players are making a lot of money, there must be something wrong with the system".
  - Mistrust of markets and corporations
    - Market failures led to the "externality" of GHG emissions, so how can those same markets be trusted to solve the GHG emission problem.
  - Example: HFC CDM Projects
    - Early movers made significant investments, many at risk, and have reaped large returns
    - Question of whether HFCs were being manufactured in order to destroy them and reap huge financial rewards.
    - Issue boils down to regulation of additionality, not market failures



### **Conclusions**



- The great must not be the enemy of the good, and the perfect must not become the enemy of the great.
- Balance must be maintained between the conditions required to attract private capital and those required to ensure the optimal environmental outcome.