

# Regulatory Framework for Thai Carbon Market

## Climate Thailand Conference 2010

Jupiter Room 14, Challenger Building,  
IMPACT Exhibition Center, Muang Thong Thani  
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## Article 12 of Kyoto Protocol

- Under Article 12 of the Kyoto Protocol, CDM is defined as having the purpose:
  1. of assisting Parties not included in Annex I in achieving sustainable development and in contributing to the ultimate objective of the Convention, and
  2. to assist Parties included in Annex I in achieving compliance with their quantified emission limitation and reduction commitments.
- Certified Emissions Reductions (CERs) can be sold to Annex I parties



# CDM Project Examples

Carbon offset  
projects in non-Annex 1  
countries :

- renewable energy
- landfill
- fuel switching
- modification of production process  
e.g. HFCs, N<sub>2</sub>O, flaring etc
- agricultural (e.g. methane reduction)
- fuel/energy efficiency
- afforestation/reforestation (not  
eligible in EU scheme)
- no nuclear or avoided deforestation



## CDM project eligibility criteria

- The project activity must be undertaken in a non-Annex I country (i.e. a developing country) that is a Party to the Kyoto Protocol;
- The participation of all participants must be voluntary and approved by the party authorising their participation (the Host Country or any Annex I Party involved in the project);
- The project activity must contribute to the goal of national "sustainable development" for the Host Country;
- The project activity must result in "real, measurable and long-term benefits" related to the mitigation of climate change; and
- The emission reductions must be "additional" to any emission reductions that would have occurred in the absence of the certified project activity.



## Additionality

- Project proponents must demonstrate that the project creates emission reductions “additional” to those that would have occurred in the absence of the project – requirement for Validation
- This requires:
  - Development or use of an approved “baseline methodology” (setting out the calculations to measure the emissions in the hypothetical baseline scenario without the project) to establish the project baseline
  - Proof that registration as a CDM project would assist the project to overcome “barriers” to the project (e.g. financial or technical barriers)



## Additionality (cont)

- The EB has established an additionality tool to assist project developers to prove additionality
- This tool requires project developers to establish that the project faced certain “barriers” including:
  - economic/financial barriers (e.g. project is not financially feasible without CER revenue)
  - investment barriers (e.g. inability to obtain debt funding without CERs)
  - technology barriers (e.g. no skilled staff available in Host Country)
  - barriers due to prevailing practice (e.g. the project activity is the “first of its kind”)
- Controversial tool: does it lead to “creative writing”?

# What is a CER?

Tradeable instrument transferable between Parties and between private entities under private contract

Compliance instrument representing entitlement to release 1 tonne CO<sub>2</sub>-e into atmosphere (for use against Kyoto targets)

Electronic accounting unit tracked and recorded through national and CDM registries

Based on 1 verified/certified tonne of CO<sub>2</sub>-e reduced below established baseline

Form of asset recognised under international (and domestic law)

Created under international law  
(Article 12 and CDM Modalities (Article 17/CP.7))

## CDM/Clean Energy : Opportunity

### FUEL SWITCHING

- Increase use of natural gas
- Increase use of gas and combined-cycle technology
- Nuclear

### RENEWAL ENERGY

- Biogas & Biomass
- Solar
- Wind

### IMPROVEMENT OF TECHNOLOGY



## CDM: Legal Framework

- No specific legislation on CDM project or sale of CERs
- Sale of CERs: Contract laws
- CERs Status: Commodity?
- CERs as Security: bankable in practice?



## CDM/Clean Energy: Privileges

### **Project Implementing Entity (PIE)**

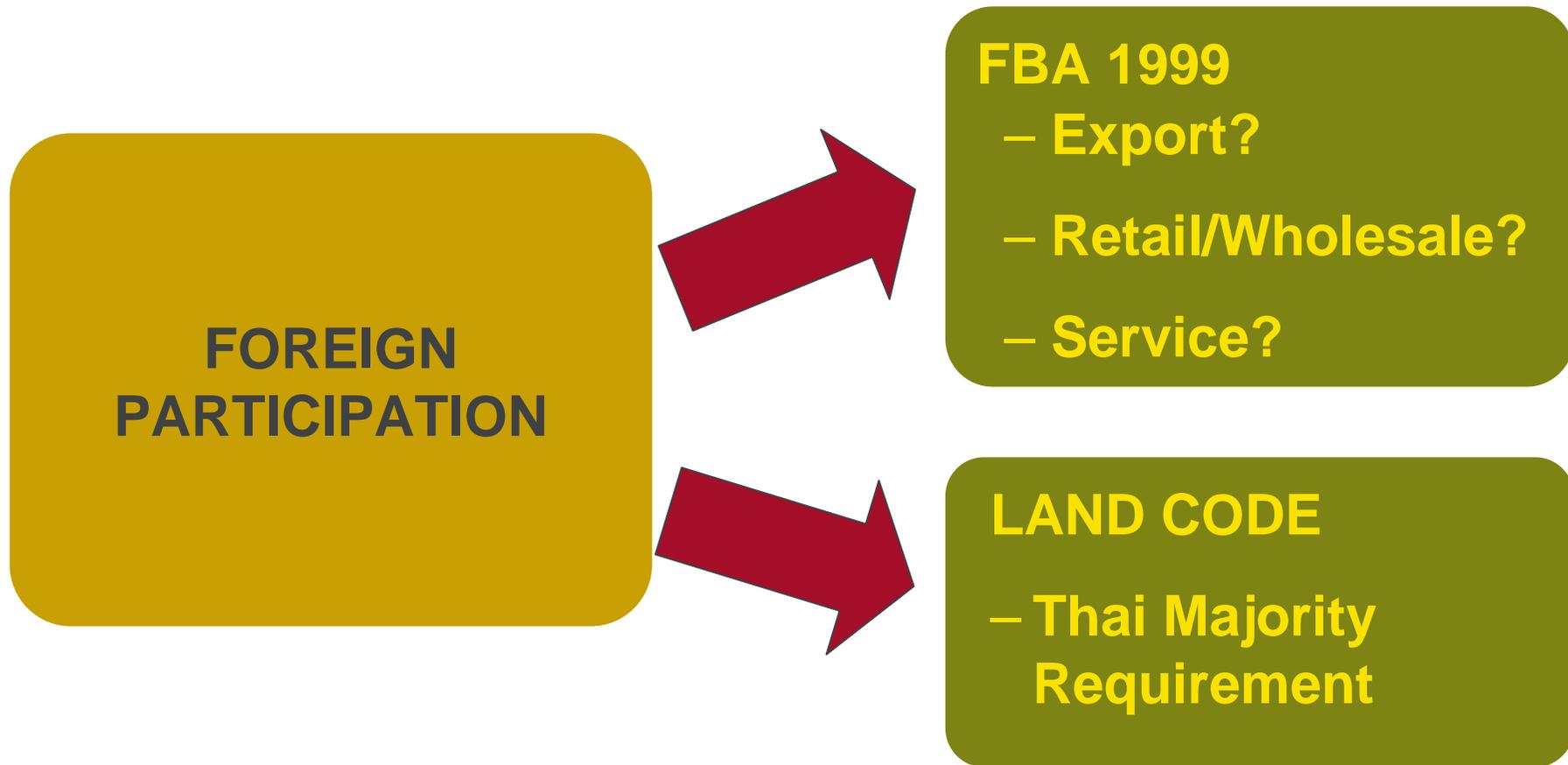
- BOI Promotion : Notification No. 2/2553
- CERs is “by-product”?
- CERs sale proceed as taxable income?



## Other activities eligible for BOI promotion in connection with energy

- 1.18 Manufacture of alcohol or fuel from agricultural products including scrap, garbage and/or waste (include ethanol)
- 4.2.3 Manufacture of energy-conserving machinery or equipment or manufacture of machinery or equipment which uses alternative energy
- 4.14 Manufacture of machinery and vehicle that use Natural Gas
- 7.1.9 Gas separation plants
- 7.17 Energy service companies (ESCO)
- 7.1.1 Electrical plant using renewable energy

# CDM/PIE: Other Legal Issues (1)



## CDM/PIE : Legal Issues (2)



### TAXATION

- Sale price is subject to VAT
- Sale Proceed is part of corporate assessable income
- Sale contract should not subject to stamp duty



## CDM: Trends & Probabilities

- BOI Clarifications on CERs status
- Revenue Department's position/ Ruling
- New legal regime to facility the status of PIE (e.g. foreign participation, reporting and monitoring plan for CDM projects, measure to ensure measurable greenhouse gas emission reduction is sustainable and real, supervising authority, protecting data/technical issues)
- Government funding scheme

# Q & A

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