Forest Carbon Partnership Facility

ERPA Elements & Roadmap to ERPA General Conditions

FCPF Participants Committee – Eleventh meeting (PC11)

Asuncion, Paraguay

March 28-30, 2012

Overview

1. Elements of Emission Reductions Payment Agreement (ERPA)
2. Roadmap to ERPA General Conditions

ERPA Elements - Overview

I. What is an Emission Reduction?

II. What is an ERPA?

III. ER Program Cycle

IV. How World Bank Carbon Funds Work

V. Discussion of Key ERPA Elements

What is an Emission Reduction (ER)?

- REDD+ activities under an ER Program reduce emissions from deforestation and forest degradation, conserve forests, promote the sustainable management of forests, and enhance forest carbon stocks
- Each tonne of CO_2 equivalent (tCO_2e) reduced or removed through such REDD+ activities and that would not have otherwise occurred according to the reference emission level (REL) represents one Emission Reduction (ER)
  - Depending on the methodological and pricing framework, additional benefits (non-carbon values) may be required
- Such ERs do not have to be eligible for compliance purposes under any existing or future domestic/regional/international compliance carbon market
  - E.g., the EU Emissions Trading Scheme or a potential new international climate change treaty

What is an ERPA?

- Agreement between **Seller** and **Buyer** for the sale and purchase of an agreed amount of emission reductions (ERs) generated by an ER Program during a certain time period
  - **Seller**: REDD Country Participant / authorized entity
  - **Buyer**: International Bank for Reconstruction and Development (World Bank, as trustee of the FCPF Carbon Fund)

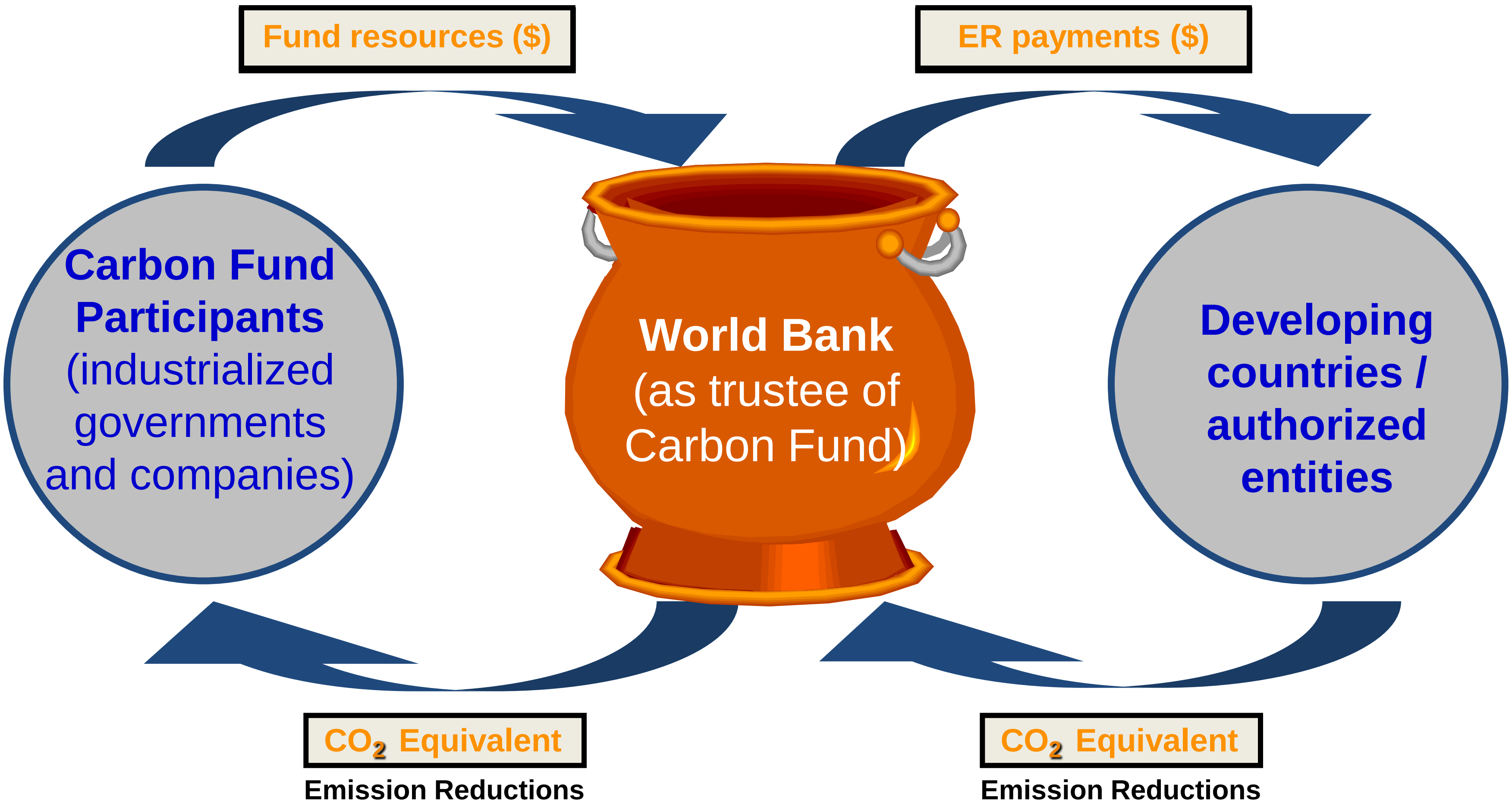
- **The purpose of an ERPA is to…**
  - Provide carbon finance to an ER Program in return for ERs
  - Determine responsibilities, rights and obligations
  - Manage/allocate risk

ER Program Cycle

- Various steps/processes an ER Program has to go through before it generates verified ERs

- An ER Program Cycle may include the following steps/processes:
  - Independent ex ante evaluation of an ER Program based on certain ER Program-related documentation ('**Validation**' in the CDM/VCS context)
  - Collection and recording by the Seller of all relevant data related to the generation of ERs under the ER Program in accordance with an MRV system ('**Monitoring**')
  - Submission of reports by the Seller to the Buyer on the amount of monitored ERs generated under the ER Program during the preceding reporting period in accordance with MRV system ('**Reporting**')
  - Independent ex post assessment of the reports to verify the actual amount of generated ERs in accordance with MRV system ('**Verification**')

How World Bank Carbon Funds Work



Discussion of Key ERPA Elements (1)

I. Contract ER Volume

- The amount of ERs that the Seller is obligated to generate and transfer to the Buyer and that the Buyer is obligated to pay for
- The Contract ER Volume may only reflect certain % of the amount of ERs that is estimated to be generated by the ER Program over the term of the ERPA, allowing the Seller to sell additional ER volume to other interested entities

II. Additional ERs

- Buyer may be allowed to purchase additional ERs, i.e., ERs generated by the ER Program in excess of Contract ER Volume

III. Price

- Each ERPA specifies the price to be paid per transferred ER
- The pricing formula shall follow the policy guidance on pricing methodologies for ERPAs to be adopted by the PC

Discussion of Key ERPA Elements (2)

IV. Transfer of ERs

- Transfer relates to ERs only (not to land or territories)
- Transfer includes all rights/titles/interests attached to such ERs
  - E.g., future ER types to which such ERs may be converted to

V. Payment for ERs

- Performance-based, i.e., payment to be made by Buyer upon transfer of ERs by Seller
- Advance payment(s), i.e. prior to ER transfers, are possible
  - Advance payment(s) may be capped at certain % of ERPA value
  - Disbursements may be linked to certain milestones
  - Security may be required, e.g., letters of credit/bank or government guarantees
- Buyer may deduct from payments certain costs/unrecovered advance payment(s)

Discussion of Key ERPA Elements (3)

VI. Benefit Sharing

- Obligation of the Seller to share all or part of its revenues received under the ERPA with other stakeholders affected by the ER Program

VII. Additional Benefits

- Benefits related and additional to the ERs generated by an ER Program (e.g., livelihoods, biodiversity)
- Additional Benefits could be addressed:
  - As part of the ER Program design; and/or
  - In a further Annex to the ERPA ('Additional Benefits Plan')

Discussion of Key ERPA Elements (4)

VIII. Costs

- Costs related to the **preparation** of an ER Program
  - E.g., for methodology/review/appraisal/validation/due diligence
- Costs related to the **implementation** of an ER Program
  - E.g., for verification/supervision
- If not borne by Buyer/Seller alone, costs can be shared by:
  - Cost caps (for each set of costs)
  - Cost recovery discounts (applied to annual payments)

Discussion of Key ERPA Elements (5)

IX. Events of Default

- What constitutes an Event of Default?
  - For **Seller**, e.g.
    - ✓ Failure to transfer annual ER amounts as specified in 'ER Transfer Schedule' (Transfer Failure)
    - ✓ Material delay in project/program development
    - ✓ Failure to comply with 'Environmental and Social Safeguard Plans' or anti-corruption policies
    - ✓ Other material breach of ERPA
  - For **Buyer**, e.g.
    - ✓ Failure to make payment when due
    - ✓ Other material breach of ERPA
- Issuance of Default Notice allowing for certain cure period

Discussion of Key ERPA Elements (6)

X. Remedies

- In case of a **Seller** Event of Default:
  - Reduction of Contract Volume
  - Termination
  - Cost recovery
  - Liquidated damages (only in case of an intentional breach)
- In case of a **Buyer** Event of Default:
  - Termination
  - Default interest
  - Liquidated damages (only in case of an intentional breach)

XI. Dispute Resolution and Governing Law

- UNCITRAL Arbitration
- English law

Overview

1. Elements of Emission Reductions Payment Agreement (ERPA)
2. Roadmap to ERPA General Conditions

Roadmap to ERPA General Conditions - Overview

I. **Process of Endorsing the ERPA General Conditions**
   - Term Sheet
   - ERPA General Conditions

II. **Process of Entering into FCPF ERPAs**
   - Letter of Intent
   - FCPF ERPA

III. **Time Schedule for Legal Documentation**

IV. **Workshops/Tutorials**

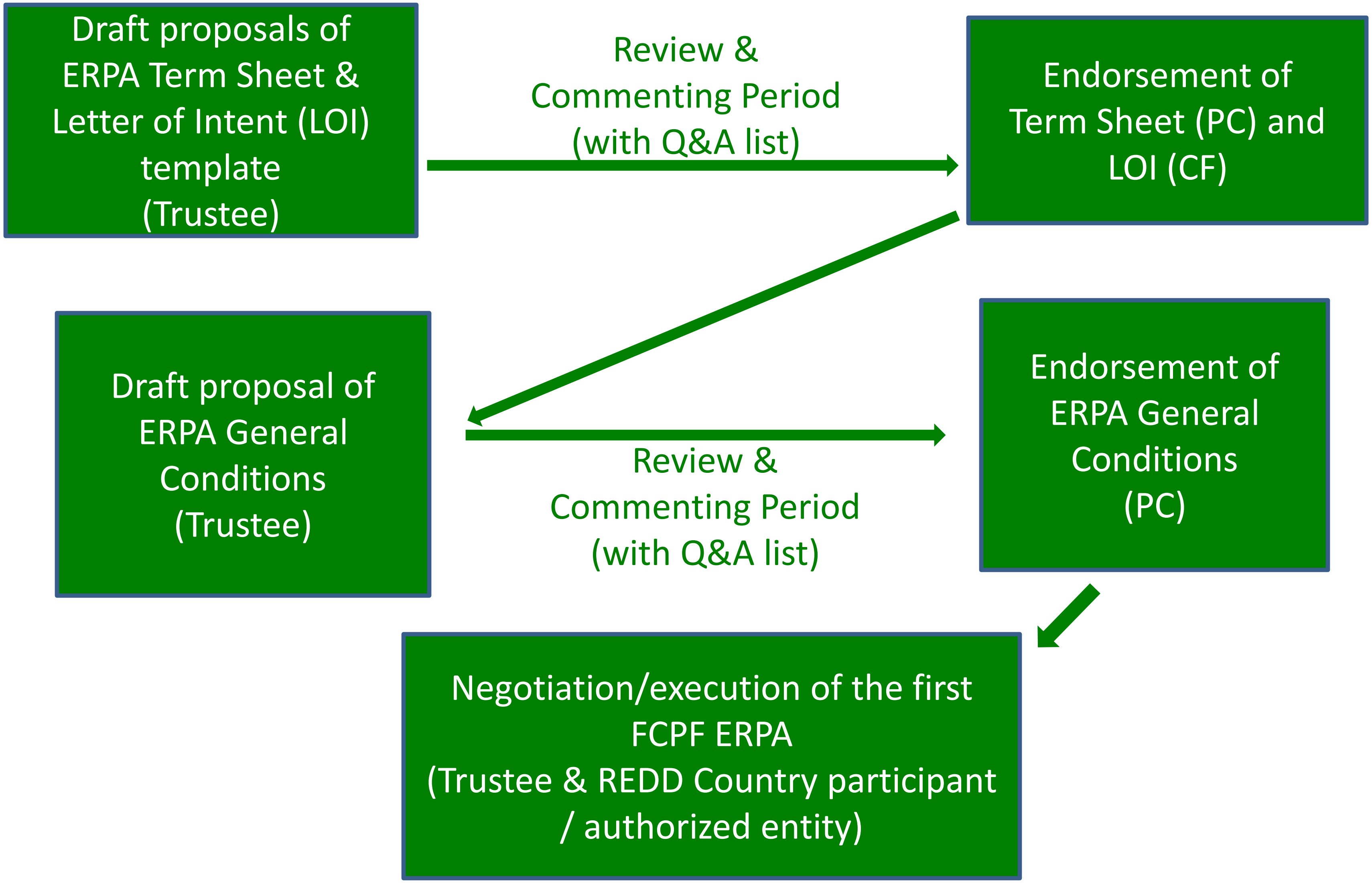
Process of Endorsing ERPA General Conditions

Process	Legal Document	Purpose
Endorsement of ERPA General Conditions (GCs)	**Step 1:** ERPA Term Sheet **Step 2:** ERPA GCs	PC participants agree on certain cornerstones of the ERPA General Conditions (in the form of general terms and procedures) PC participants endorse ERPA GCs that are applicable to all FCPF ERPA

Process of Entering into FCPF ERPAs

Process	Legal Document	Purpose
Entering into FCPF ERPAs	**Step 1:** Letter of Intent (LOI)	Legally-binding agreement between Trustee and REDD Country Participant / authorized entity which includes provisions that shall guide the ERPA negotiation process (e.g. a period to negotiate an ERPA in good faith on basis of exclusivity) and is based on an LOI template that has been previously agreed upon with Carbon Fund Participants
	Step 2: FCPF ERPA (incl. endorsed ERPA GCs)	Legally-binding agreement between Trustee and REDD Country Participant / authorized entity on the sale & purchase of ERs generated by a specific ER Program

Roadmap to
ERPA General Conditions & FCPF ERPA execution



Time Schedule for Legal Documentation (1)

Legal Document	Process	Proposed deadline
ERPA Term Sheet	Circulation of draft proposal of ERPA Term Sheet to PC	Prior to PC13 (October 2012), e.g. September 2012
	Review & Commenting Period (w/ conference calls)	Following receipt of draft proposal; e.g. 3 weeks
	Preparation of Q&A and revised draft ERPA Term Sheet	Following Review and Commenting Period, e.g. beginning of October 2012
	Circulation of revised draft ERPA Term Sheet / Q&A	Prior to PC13 (October 2012)
	Presentation of (revised) draft ERPA Term Sheet	PC13 (October 2013)
	Endorsement of ERPA Term Sheet by PC (by no-objection)	Following PC13 (October 2012)

Time Schedule for Legal Documentation (2)

Legal Document	Process	Proposed deadline
ERPA General Conditions (GCs)	Circulation of draft proposal of ERPA GCs to PC	Prior to PC14 (March 2013)
	Review & Commenting Period (w/ conference calls)	Following receipt of draft proposal; e.g. 3 weeks
	Preparation of Q&A and revised draft ERPA GCs	Following Review and Commenting Period, e.g. beginning of March 2013
	Circulation of revised draft ERPA GCs / Q&A	Prior to PC14 (March 2013)
	Endorsement of ERPA GCs by PC	At PC14 (March 2013)

Time Schedule for Legal Documentation (3)

Legal Document	Process	Proposed deadline
Letter of Intent (LOI)	Circulation of draft proposal of LOI to CF	Prior to CF5 (October 2012), e.g. September 2012
	Review & Commenting Period (w/ conference calls)	Following receipt of draft proposal; e.g. 3 weeks
	Preparation of Q&A and revised draft LOI	Following Review and Commenting Period, e.g. beginning of October 2012
	Circulation of revised draft LOI / Q&A	Prior to CF5 (October 2012)
	Presentation of (revised) draft LOI	At CF5 (October 2012)
	Endorsement of LOI by CF (by no-objection)	Following CF5 (October 2012)

Time Schedule for Legal Documentation (4)

Legal Document	Process	Proposed deadline
FCPF ERPA	Negotiation of the first FCPF ERPA (based on the endorsed ERPA GCs)	Following PC14 (March 2013)

Workshops / Tutorials

- Trustee may offer workshops / tutorials to explain to PC/PA members (in particular REDD Country Participants) basic concepts of carbon finance transactions, pricing, elements of proposed Term Sheet/ERPA General Conditions/Commercial Terms/Annexes
- Designed to enable PC/PA members to make fully informed decision
- Process:
  - Trustee may offer workshops/tutorials for all PC/PA members and/or specific REDD Country Participants immediately prior to PC12 (June 2012), PC13 (October 2012) and/or PC14 (March 2013) (with PC/PA members/REDD Country Participants present) or between such PC meetings (e.g. by video- or telephone conference)