

To the CDM Executive Board
Martin Luther King Strasse 8
P. O. Box 260124
D-53153

Re: Request to support due implementation of CDM rules re #3237: Barro Blanco Hydroelectric Project

16 July 2015

Dear Mr Schneider, Dear Mr Buendia,

We, the April 10 Movement for the Defense of the Tabasara River (M-10), Alianza para la Conservacion y el Desarrollo (ACD) and Asociacion Ambientalista de Chiriqui (ASAMCHI), are writing to inform you about the decision of the Panamanian government to temporarily suspend the project Barro Blanco Hydroelectric Power Plant, in the Tabasara River, Panama (project number 3237). The decision was taken because of breaches of the national environmental impact assessment requirements, including shortcomings in the agreement with the locally affected indigenous communities.

In light of the recent decision that the CDM local stakeholder consultations are to be conducted “in accordance with applicable national regulations, if any.”¹, we hereby ask the CDM Board to take action, including to coordinate with ongoing investigations, react to the suspension decision of the Panamanian government, and suspend the project upon finding non-compliance with the current CDM rules and procedures.

Let us first provide you with the most recent developments surrounding the Barro Blanco hydroelectric project: In 2008, the Autoridad Nacional del Ambiente (ANAM), granted approval to the project under the mandatory condition of an agreement between GENISA, the developer of the Barro Blanco hydroelectric project in Panama, and the indigenous Ngöbe-Buglé communities, who will be affected by the dam as it would flood their territory, homes, schools, as well as religious, archaeological, and cultural sites. On 19 January 2015, following the continued protests of the affected indigenous communities, the President of Panama, Juan Carlos Varela, designated a high-level commission headed by Vice-President Isabel de Saint Malo to start a dialogue with a special commission of the Ngöbe-Buglé.

Recognizing the lack of agreement with the affected Ngöbe-Buglé communities², ANAM issued a temporary suspension of the construction work of the Barro Blanco hydroelectric dam on 9 February 2015. During the dialogue that held 11 meetings and extended until 18 May 2015, the government recognized in several occasions that the company GENISA has failed to reach an agreement with the Ngöbe-Buglé indigenous peoples.

In May 2015, following a complaint filed by M-10, who are representing the indigenous Ngöbe-Buglé peoples, a report³ was published by the Independent Complaints Mechanism (ICM) of the German and

¹ CDM-EB81-A04, CDM validation and verification standard, 146d

² Please see ANAM’s suspension decision in Annex 1, para. 1 page 3

³ <https://www.deginvest.de/International-financing/DEG/Die-DEG/Verantwortung/Beschwerdemanagement/Barro-Blanco/>

Dutch development banks (DEG and FMO), who are amongst the banks financing the project. This report concluded that the banks violated their own policies by failing to adequately assess the risks to indigenous rights and the environment before approving a US\$50 million loan to GENISA. The ICM found that the “lenders [FMO and DEG] should have sought greater clarity on whether there was consent to the project from the appropriate indigenous authorities prior to project approval.”⁴

Currently, the situation is more than critical as a decision on the future of the 95% complete hydro dam is being negotiated. Indigenous communities continue to defend their rights, blocking access to the site and demanding the cancellation of the project.

Against the newly clarified CDM consultation rules that need to be in line with national laws, this is a critical time for the CDM Board to take action to ensure due implementation of the CDM rules. This is especially important because the Barro Blanco project was registered under the CDM in 2011, despite repeated concerns that were communicated to the Board via two letters submitted by local representatives sent on 9 February 2011 and 24 March 2011.⁵ The findings from these two submissions strongly suggest that the CDM local stakeholder consultation rules were not met.

There are several ways the CDM Board could act that would encourage the due implementation of existing standards and rules. For example:

- Coordinate with financing banks and demand information about the ongoing investigations and findings.
- Launch a separate investigation to ensure compliance with the current CDM rules and procedures on local stakeholder consultation and consider options in case of non-compliance, such as a suspension of the project.
- Follow up with the national authorities, enquire about the project status and about whether the government considers withdrawing the letter of approval following their acknowledgment of flaws and mishandling.
- Consider options to address concerns that may lay outside of the CDM Board’s mandate by including recommendations in your annual report to the CMP towards establishing a CDM grievance mechanism, taking into account the need to operationalize the COP decision 1/CP.16, namely that “Parties should, in all climate change-related actions, fully respect Human Rights⁶”.

We remain at your disposal for further information and look forward to your response,

Yours sincerely,

Rubén González, Alianza para la Conservacion y el Desarrollo (ACD)

Goejet Miranda, April 10 Movement for the Defense of the Tabasara River (M-10)

Oscar Sogandares, Asociacion Ambientalista de Chiriqui (ASAMCHI)

⁴ *Ibid.*

⁵ Please see the letters in Annex 2 and 3

⁶ <http://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf>