



Statement of NGOs, Activists and Citizens on the Reform of the Clean Development Mechanism

- 16 November 2009 -

NGOs, activists and citizens are very concerned about the development of the CDM over the past years and condemn its current design. On 16 November 2009, more than 80 representatives of NGOs, activists and citizens of Armenia, Bangladesh, India and Uganda gathered at a workshop in New Delhi to discuss the CDM's failure to meet both of its over-arching objectives to support climate change mitigation and sustainable development. Participants concluded that any post-2012 mechanism must strengthen the principles of sustainable development and environmental integrity. Lessons learnt from the current CDM must be recognized by improving the participation of citizens in the process, amending flawed methodologies, creating more transparency in the CDM decision making process and establishing a competent institutional set-up. The Clean Development Mechanism in its current form is unacceptable.

- I. **Poor environmental integrity:** Under the current CDM, a significant proportion of carbon credits does not represent true emission reductions and does not contribute to sustainable development. This means that under existing mechanisms, a large amount of CDM offsets inevitably lead to a net increase in global emissions, effectively weaken targets and have a severe negative social and environmental impact on citizens in CDM host countries at the same time. This harmful weakening of targets must stop.
- II. **Impossible additionality testing:** Efforts to fix the CDM within its current structure will not be successful because project-by-project additionality testing is inherently subjective and impossible to do accurately. Until the CDM is reformed or replaced, CDM methodologies using emission benchmarks to demonstrate additionality must be encouraged. A negative list should be established for project types that are likely to be non-additional. This negative list must include large hydro power plants since hydropower is a widespread technology that does not need additional support. Moreover, large hydropower projects often have high and devastating social and environmental costs, which undermine the environmental integrity of the mechanism. Also small hydro power plants can have negative impact on mountainous rivers, which have variable water stream. To date, there are 562 large hydro power projects in the CDM pipeline. With the assumption that almost all of these projects are likely to be non-additional, they could cause a net increase in global emissions of up to 1.294.045 Mt CO₂eq by 2020 if they continue to generate credits.
- III. **Contribution to sustainable development** did not happen in the vast majority of CDM projects implemented to date. On the contrary, many CDM projects cause environmental pollution and social disempowerment, displacement and degradation. Only high quality offsets that comply with criteria as laid out by the Gold Standard should qualify for CDM credits. Moreover, Annex I countries should commit to purchase a minimum quota of projects with high sustainable benefits in their portfolio.
- IV. **Transparency about CER buyers to promote sustainable development:** The Indian DNA informs at its [website](#) that *"the Project Proponents should commit a certain percentage of the CERs revenue every year (subject to a minimum of 2%) for Sustainable Development including society/community development and accordingly make monitorable action plan for the same and include in the PCN & PDD (hard copies and soft copies)"*. However, due to lack of transparency, it is to date not possible to implement this rather small first step. A central database must be made available to track the buyers of CERs of specific CDM projects. This database should in particular state the amount of CERs purchased, the market price and the name of the buyer organisation / government. CER buyers should then commit a percentage of their revenue to sustainable development projects in participation with the affected communities. At least 50% members of the DNA's CDM boards must be from outside the government, including from non government organisations. The DNAs must put up on their websites the dates of receipts of the project applications, agenda notes and minutes of the CDM board meetings, clearance letters and reasons when a project is rejected.
- V. **Stakeholder consultation process:** Although it is a key requirement in the CDM process cycle, the stakeholder consultation process is a formality that is hardly ever taken seriously by project developers and Designated Operational Entities (DOEs), this applies to both the obligatory stakeholder meetings and the 30-day public commenting period.

- a. **Consultation process with affected communities:** Although citizen groups have to be informed about an upcoming CDM project, this barely ever happens in practice. More detailed guidelines about stakeholder consultation are needed. Another problem in the stakeholder consultation process is due to the fact that citizens get the chance to voice their concerns on the basis of information provided by the project developers. This information contains entirely positive comments, reaching from the praise about employment opportunities to additional social facilities – no reason to complain! Therefore, citizens' contribution during the monitoring phase of the project is necessary. The PDDs must be translated into local languages and hard copies made available to local communities three months in advance of a public consultation. The meetings should be conducted by an independent non-governmental panel and the report of the panel should be in public domain. Recommendations should be mandatory. The MoU of various organisations involved and the financial closure agreement should be made public and made available in the local language.
 - b. **Environmental Impact Assessment (EIA):** All CDM projects should engage an independent body to undertake an 8-season EIA based on primary research. The results should be published in public domain and be translated into the local language. Moreover, any comments received must be taken into account by DOEs in the CDM public commenting period.
 - c. **30-day public commenting period:** Often, citizens do not have access to internet, do not speak English or simply do not know about it because it is only published online. It is not credible that citizens are not interested to comment on projects that directly impact their life. Moreover, it has been reported by various NGOs that submitted comments were not taken into account. The fact that nobody has commented on a project should not be accepted. The public commenting period must be prolonged to 90 days and DOEs should be held financially liable if citizens can prove that they have submitted a comment which was willingly neglected. Moreover, if a DOE fails to take a comment into account, the EB has to accept those comments as a matter of priority. Finally, there should be a possibility to be informed about the beginning of the public commenting period. A mailing list should be established where people can subscribe to be notified according to country, region and methodology.
- VI. **Citizens' contribution during the monitoring phase of the project.** Not all social and environmental impacts of projects can be foreseen at the time when citizens have the actual opportunity to provide their input since this often happens before the construction of the project has even started. Also the manner of construction of the project often leads to additional impacts. Therefore, citizens should receive the opportunity for official comments also during the monitoring phase of the project. While this would ensure the participation of citizens in the process, it would also give an incentive to project developers to implement the project in a sustainable manner and to fulfill the promises that were made to citizens during the meetings with the project developers. If during the implementation, the project is found to violate the agreed plans and rights of the affected and the environment, than the project should be disqualified from getting the CDM credits. Companies and DOEs involved in these projects should be added to a black list and disqualify from participating in the CDM process.
- VII. **Review of registered projects:** A significant amount of CDM projects are not implemented in the way they were promised. In fact, many CDM projects are not sustainable and harmful to the livelihood and public health of local communities. A provision must be introduced to review CDM projects in a credible and transparent way even after registration.
- VIII. **The performance of Designated Operational Entities (DOEs)** so far is alarming. While the Executive Board has finally reacted to the poor performance of some DOEs with suspensions, a wider set of sanctions is needed. For example, a DOE should be suspended automatically if it has failed three times to meet a key requirement of the CDM; a spot check at the DOE should be triggered automatically if two reviews have been requested by the Board; financial penalties for DOEs should be introduced if they fail to meet requirements (such as failing to take into account public comments). Finally, to avoid the current conflict of interests that DOEs are serving the Board but are paid by the project participants, DOEs should be selected and paid by the UNFCCC Secretariat. To cover these costs, the UNFCCC Secretariat should directly charge the project participants a validation fee.
- IX. **Code of conduct for the CDM Executive Board:** A credible code of conduct is a key requisite to achieve the changes in needed. Executive Board members must take independent, un-biased decisions and must not abuse their role by aggressively promoting projects that benefit their home

countries, as reported by The New York Times (NYT, April 7, 2009). The code of conduct which was adopted in May 2009 does not provide the requirements needed but merely states that each Board member will “*exercise personal discretion in deciding whether s/he has a real or perceived conflict.*” This means everyone can make up his or her own definition of conflict of interest. Parties must take action and must either adopt a code of conduct for the Board or request the Board to take up specific elements in its code of conduct.

- X. **Transparency in the decision making process by the CDM Executive Board:** To date, NGO representatives are not invited to the CDM Designated National Authorities Forum and the annual CDM Joint Coordination Workshop. This should not be accepted as all accredited observers to the UNFCCC require an equal role in informal gatherings and meeting.
- XI. **Fundamentally flawed methodologies** need to be recognized as such and immediately amended or banned from the CDM:
- a. **Methodology AM0001 for HFC-23 destruction:** HFC-23 is an unwanted by-product in the production of HCFC-22, a refrigerant and temporary substitute to CFCs. The HFC-23 has a Global Warming Potential 11'700 times higher than CO₂. CDM projects for the destruction of HFC-23 in HCFC-22 plants have resulted in huge windfall profits for HCFC-22 plants as well as a perverse incentive to artificially stimulate the production of HCFC-2 as it is very cheap to install a destruction facility. Currently, there are 20 of these projects registered as CDM projects and would continue to pump 1.107.391 Mt CO₂eq by 2020 cheap and environmental harmful offsets into the carbon market. These provisions were adopted at a point in time when HCFCs were only phased out by 2040 under the Montreal Protocol. However, Parties to the Montreal Protocol decided in 2007 to accelerate this phase out considerably. In the light of the accelerated phase out and technological progress in the sector, the current provisions are not adequate anymore. The Swiss non-governmental organization Noe21 submitted a request for revision of the methodology AM0001 to the Executive Board in December 2007. Since the CDM Executive Board has so far neglected to act, Parties must request the Board to revise the methodology AM0001 in light of these developments. Until such a revision is effective, the current methodology must be put on hold in order to avoid that new projects are registered or the crediting period is renewed based on this outdated methodology.
 - b. **Methodology AM0021 for N₂O destruction in new adipic acid plants.** The Board is currently discussing the inclusion of new adipic acid production facilities under CDM. This case is very similar to the destruction of HFC-23: the revenues from CERs can exceed the costs of adipic acid production. As a result of these incentives, all registered CDM projects run far above their capacity, while the production is going down in plants with abatement in Singapore and Annex I countries. This ongoing carbon leakage already results in the issuance of millions of CERs without any real emission reductions. The four projects currently register expect to “reduce” 396.576 Mt CO₂eq by 2020. The crediting of new plants would only increase this carbon leakage. Such N₂O destruction plants should not be eligible under the CDM and the methodology for existing plants must be revised to address the ongoing carbon leakage.
 - c. **Methodology ACM0013 for improving the performance of coal based energy:** These CDM projects can replace the implementation of new renewable energy projects and enable fast-growing economies to leap-frog the dirty energy sources that are the primary cause of climate change. Subsidizing coal will undermine the very goals of the CDM by enabling significant emissions of CO₂ and methane from coal mining and combustion. Moreover, the CDM modalities and procedures do not address other air pollutants in technologies used to reduce the emissions of a coal fired plant in developing countries. These air pollutants include flue gas desulfurizers (FGD), selective catalytic reducers (SCR), and low-NO_x burners which are severely harmful for human health. Thus, construction of supercritical plants funded by the CDM may allow (or implicitly encourage) operators to meet CO₂ emissions standards through increased emissions of other pollutants. In total there are 15 of these projects in the pipeline and claim to reduce 147.613 Mt CO₂eq by 2020.
 - d. **Methodology AM0025 for avoided methane emissions from alternative waste treatment:** the CDM is funding incinerators and landfill gas collection projects which are counterproductive both in terms of environmental integrity and sustainable development. There are a number of problems on the methodology side, including the facile assumption that all biogenic emissions are climate neutral, which artificially lowers the CO₂ emissions from waste-to-energy below their true levels. The alternative scenarios usually fail to envision alternative treatment for organics (such as

composting) or high-recycling scenarios, both of which are plausible and preferable from a GHG emissions perspective. And the methodology does not take into account the embedded energy loss (and associated GHG emissions) of destroying materials which can be recycled. At the same time, these projects compete directly with informal sector recycling, which provides livelihoods to many of the world's poorest people. In total there are 55 of these projects in the pipeline and claim to reduce 99.083 Mt CO₂eq by 2020.

- XII. **The surplus of Kyoto AAUs represents an extreme threat** to the integrity of the post-2012 climate regime, including any flexible mechanism design. The surplus of Assigned Amount Units (AAUs) under the Kyoto Protocol amounts to about 7.5-10 Gt CO₂eq, or roughly one third of current emissions reduction targets pledged by Annex 1 countries. Therefore, no new "hot air" surplus must at all cost, be avoided after the next commitment period.
- XIII. **Unacceptable CDM project activities:** Finally, as repeatedly stressed by many NGOs, the inclusion of nuclear power and carbon capture and storage is unacceptable. Also the inclusion of LULUCF project types beyond the existing afforestation and reforestation category, the possible inclusion of REDD and the inclusion of forests in exhaustion as CDM project activities are unacceptable. Moreover, tourism and aviation which are major contributors to carbon emissions shouldn't be allowed to participate in the CDM mechanism. As regards existing project activities the following should be excluded from the CDM: waste incineration, large hydropower, coal, unsustainable or chemical-treated biofuels, unsustainable or chemical-treated biomass/biochar, ocean fertilization and other forms of geoengineering, any project requiring resettlement or which deprives indigenous people of their customary use of land. Any CDM project which is in direct conflict with the informal sector should not qualify. All CDM projects should be inclusive, taken into consideration the needs of informal sector workers, such as waste pickers. To ensure the diffusion of clean technologies necessary for combating climate change, these technologies should be kept either entirely outside the preview of Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) or a provision of "compulsory licensing" clause, as done in case of essential drugs, needs to be included.

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