

**CDM Executive Board**

UNFCCC Secretariat  
Martin Luther King Strasse 8  
P.O. Box 260124  
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Germany

**Subject: effective means for public participation**

7 May 2010

Dear Mr Mahlung,

I am writing to you on behalf of CDM Watch, representing civil society affected by CDM projects, to highlight significant concerns about effective means for public participation under the current CDM procedures.

Paragraph 7 of decision 2/CMP.5 clearly requests the Executive Board, as its highest priority, to continue to significantly improve transparency, consistency and impartiality in its work. Paragraph 8 moreover requests the Board to enhance the communication between the Board and stakeholders.

Within this spirit, CDM Watch has engaged with a wide range of civil society actors with the aim to coordinate public participation. However, a significant number of obstacles within the CDM procedures seriously hinder any effective means for public participation in a manner consistent with the UNFCCC and Kyoto Protocol and general principles of international law.

In order to increase and maintain the legitimacy of the CDM and the Executive Board's decisions as part of international climate change mitigation effort, improvements to public participation in the CDM are essential.

Therefore I urge you to add this topic on the agenda of the forthcoming CDM Executive Board meeting within the Board's work on enhancing communication with stakeholders.

Of particular importance and imminent in the short-term are the following procedural changes:

1. Set up an email notification system
2. Increase public commenting period on PDDs during validation from 30 to 60 days
3. Ensure that all supporting documents are uploaded prior to the start of the public commenting period
4. Increase public commenting period on new methodologies from 15 to 45 days
5. Require translation of the PDD into the language(s) of the host country

In the following 3 pages, you will find specific rationales for these requested changes. I trust that you address these issues at your earliest convenience and will instruct the secretariat to carry out the appropriate procedural changes as a matter of priority.

Sincerely,



Eva Filzmoser

## **1. Set up an email notification system**

The current CDM procedures do not foresee any active notification system. Normal citizens, even those keenly interested in a particular proposed CDM project, do not check the CDM website on a daily basis. The new RSS feed possibility does not bring any improvement to the situation as the large majority of stakeholders does not know how to use RSS. Email notification on the contrary would be the appropriate means to provide access to the information about:

- Requests for registration
- Requests for renewal of crediting period
- Start of the 30/45 day public commenting period of projects
- Start of the 15 day public commenting period for new methodologies

## **2. Increase public commenting period on PDDs during validation from 30 to 60 days**

The thirty days currently provided for public comment on PDDs in the validation phase is unreasonably short, and serves to frustrate rather than “promote and facilitate” public participation as the UNFCCC requires. PDDs are full of technical jargon and describe very complex projects to answer complicated questions. It is simply not reasonable to expect citizens and NGOs to be able to digest and understand PDDs and provide meaningful comments in such a short period of time.

Furthermore, to say that interested persons actually have thirty days to comment assumes that they receive notice on day one of the comment period. Due to the lack of email notification, this is practically impossible. On the contrary, citizens often find that the validation period is over once they realize that the project was submitted.

Beyond extending the period 60 days, there are other measures that the Board might also consider to alleviate problems in the short term:

- In recognition that some types of projects tend to be more controversial and present more significant potential environmental or community risks, longer comment periods could be designated for larger projects or those using particular categories of technologies.
- It might be an acceptable compromise, at least temporarily, to provide for automatic thirty-day extensions of the comment period upon receipt of a timely request.

## **3. Ensure that all supporting documents are uploaded prior to the start of the public commenting period**

Meaningful public comment on PDDs is extremely hamstrung by the unavailability of supporting documentation, such as IRR analysis spreadsheets and the environmental impact assessments. While this documentation may be required for the Board’s review of validation, it is typically not provided during the public commenting period. Without this documentation, public review and comments on the crucial issues of additionality and public participation in environmental analysis is limited to the summary information provided in the PDD itself and thus rather superficial.

To “promote and facilitate” public participation, the supporting documentation should be required to be available along with the PDD at the start of the public comment period. Not only would this enhance the legitimacy of the CDM procedurally, but it would be a

boon to DOEs by ensuring that the supporting information is provided at the outset, rather than having to be sought later when it may be omitted from validation submissions.

#### **4. Increase public commenting period on new methodologies from 15 to 45 days**

The current time provided for public comment on new methodologies, 15 days, is unreasonable and is inadequate to promote and facilitate meaningful public participation as the UNFCCC and principles of international law require.

New methodologies are technically complex and are growing in complexity over time. As a result, they often take up to several years to proceed from initiation to adoption. Fifteen days is simply not a reasonable period for public review because it is inadequate time for individuals or NGOs to get acquainted with the materials and issues relevant to new methodologies. Given their complexity and technical and programmatic nature, forty-five days is the minimum appropriate time period. Since the methodology will largely influence the quality of the respective projects, it is of utmost importance that civil society has a realistic opportunity to scrutinize the environmental integrity of CDM methodologies.

#### **5. Require translation of the PDD into the language(s) of the host country**

It is simply not possible for project area residents to participate meaningfully in a public process if it is conducted in a language they do not understand, or if the key documents are inaccessible. If PDDs are not available in a language understood by project area residents, they have no reasonable opportunity for public participation. This encompasses both the translation itself and the actual accessibility of the document. Since many project area residents do not have readily available internet access, provision of the PDD on the internet alone constitutes denial of access. Not only are these faults in the validation phase public participation process contrary to the direction of the UNFCCC to encourage the widest possible public participation, but they also may violate human rights where the proposed CDM project threatens serious environmental or community disruption.

Given the importance of public participation rights, even if one were to balance these rights against the cost and inconvenience to project developers in translating and making PDDs available in hardcopy in project area communities, in churches, libraries, schools, or other appropriate points of community gathering, the outcome of such balancing is obvious. If public participation on the CDM project level is rendered so ineffective by failure to provide a reasonable opportunity to project area residents to review PDDs in an understandable language, the procedural legitimacy of the CDM should be subject to serious question.