

CIVIL SOCIETY WORKSHOP ON CDM AND CARBON MARKETS, AHMEDABAD INDIA, 18-20 APRIL 2012

STATEMENT BY PARTICIPANTS

From 18-20 April 2012, more than 80 representatives from Peoples' Movements, NGOs, academia, local authorities and concerned citizens gathered at a workshop in Ahmedabad to discuss the CDM which was agreed under the UNFCCC Kyoto Protocol. The participants submit this statement to draw attention to the several urgent and so far unaddressed concerns about the CDM.

We believe that CDM has to be put in the bigger context of the climate crisis. The economic and political issues of inequality, both within and between nations, grievously impact distribution and consumption and are at the core of the crisis of global warming. The crisis is also about a few usurping the rights and access of the vast majority of the disempowered over the commons – air, water, land, minerals and forests. Unsustainable economic development and inequitable growth based on an economy dependent on the use of fossil-fuels and extractive industries – which intensified in the last 60 years – have led to the sharp rise in carbon emissions, way beyond what the Earth can absorb. Yet, the necessary legally binding own action to cut emissions by the industrialized (Annex 1) countries of at least 50% by 2020 over 1990 levels has not yet been agreed. On the contrary, insufficient targets have been further weakened by offsetting these urgent ambitious emission cuts through the CDM.

On top of this, experience shared by workshop participants showed that the CDM in its current form has not achieved its dual objective of reducing emissions and contributing to sustainable development. Weak additionality rules have resulted in many business-as-usual projects being registered, adding to global emissions. When it comes to sustainable development, many participants reported adverse social and environmental impacts of CDM projects in their neighbourhoods, such as loss of livelihoods, displacement of people, destruction of indigenous cultures, degradation of ecosystems and human rights violations. According to reports from participants, many projects are implemented in violation of existing national and international laws. In some cases, even renewable energy projects do not benefit the communities living around them, who still live without electricity. Often, the provisions for public participation rules under the CDM and thorough environmental impact assessments have been violated.

Participants concluded that any post-2012 mechanism must assess the broader context in which the CDM functions. The purpose of the CDM in keeping temperature rises below 2°C needs to be examined and alternatives to market based mechanisms agreed. It is important to reassess which CDM project types are fit to contribute to a low carbon economy and necessarily ensure that these does not become mere market tools to ensure profit for the rich at the cost of the poor. With more than 5,000 CDM projects in the pipeline that will be operational for many years to come, participants agreed that it was essential to reassess and improve public participation in the CDM, including during the operational phase of CDM projects, and to establish grievance mechanisms that can also result in deregistration of CDM projects.

In honor to Mahatma Gandhi, founder of the workshop venue Vidjapith, participants pointed out the need for life-style change in the developed world and to adhere to the Gandhian way of life to achieve reduction of greenhouse gas emissions and sustainable development.

Without prejudice to the participants call for non-market based alternatives, they called particularly on members of the CDM Policy Dialogue Panel to hold the CDM to account and address the identified issues at their upcoming report in September 2012 and at the subsequent COP-18 in Doha.

Following key issues were identified:

- Additionality
- Eligibility of project types
- Human rights
- Sustainable development
- Public participation in the CDM process
- Grievance mechanism

ADDITIONALITY

Additionality is the proof that projects are only viable because they receive CDM support. The CDM's additionality rules have long been criticised as ineffective and merely a formality of the CDM process. The number of non-additional projects in the CDM has been estimated to be between 40-70%. Projects that are non-additional (would have been built anyway) undermine mitigation goals and the credibility of the CDM. It is vital that additionality rules successfully exclude free-riders. Despite experts and policy makers acknowledging that current CDM additionality testing is insufficient, the final CMP.7 decision text from Durban does not include a specific mandate to the CDM Executive Board to prepare a new way to test additionality. Effective ways to revise current CDM rules on additionality are needed to strengthen the environmental integrity of the CDM and to help ensure that non-additional credits generated by CDM projects are eliminated.

ELIGIBILITY OF PROJECT TYPES

With the exception of excluding a few of project types (e.g. nuclear projects), the CDM has been designed to be a technology-neutral mechanism. This means that any type of technology is eligible under the CDM, including project types that use or promote the use of fossil fuels. Given the climate imperative and the mitigation gap we are facing, it makes little sense to support inherently 'climate dangerous' technologies and practices, even if those practices are deemed to be slightly more efficient than business-as-usual. We are no longer in a situation where we can afford to support small changes at the margin. One of the main challenges of the CDM is how it can contribute to a rapid shift to a low carbon economy.

Project types that lead to technological lock-in of very large amounts of emissions are inherently not additional and those that lead to loss of biodiversity need to be excluded, such as fossil fuel power plants, in particular coal power plants, large hydro projects and monoculture plantations. Specifically, procedures should be made simple and attainable for small community based GHG reduction projects.

HUMAN RIGHTS

In 2011 the CDM Executive Board registered two projects, despite evidence of human rights abuses in both cases. The CDM Executive Board says that it has no mandate to address the issue of human rights and that the responsibility for ensuring sustainable development lies with the host country. However, the United Nations Charter, which is applicable to the UN and includes all its bodies (and therefore also the CDM Executive Board explicitly states that the purpose of the United Nations is *"To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character and in promoting and encouraging respect for human rights and for fundamental freedoms..."*. Article 55c states that *"the United Nations shall promote universal respect for, and observance of, human rights and fundamental freedoms for all without distinction"*. Also the Cancun Agreements (Decision 1/CP.16 paragraph 8) specifically state that *"Parties should in all climate change related actions fully respect human rights"*. The CDM Executive Board and implementing countries must ensure that CDM projects uphold human rights, including those prescribed

under several *International Declarations such as the UN Declaration on the Rights of Indigenous Peoples, and recommendations of other human rights bodies.*

SUSTAINABLE DEVELOPMENT

The CDM has two principal objectives – achieving cost-effective emission reductions without leakage and achieving sustainable development in the host countries. Nonetheless, some CDM projects have caused social and environmental harm. Unlike other provisions under the CDM, the assessment of whether a CDM project contributes to sustainable development is the prerogative of the host country government and is not supervised by the CDM Executive Board.

- There is substantial concern over the benefits of CDM projects as laid out in Article 12 of the Kyoto Protocol (to assist Parties not included in Annex I in achieving sustainable development). Therefore guidance is needed on indicators for the assessment of sustainable development benefits. An in-depth review of sustainable development indicators of Designated National Authorities needs to be conducted.
- The letter of approval (LoA) must be accompanied by a publicly available final environmental impact assessment (EIA) report that complies with national EIA rules and a complete report of a public hearings under CDM and EIA processes documenting the stakeholder consultation and the minutes of the Board decision agreeing on the projects.
- Assess the feasibility of international standards and guidance for Designated National Authorities that define sustainable development co-benefit indicators as well as social and environmental safeguards for CDM projects
- Assess the feasibility of a tool to assist project developers in describing sustainable development co-benefit indicators and social and environmental safeguards in the PDD
- Assess the feasibility of reporting and verification standards to monitor and verify claims made in the PDD or indicators to ensure realisation of the stated sustainability benefits of CDM projects.
- If CDM projects impact natural resources, such as water and minerals, local communities must be adequately compensated. Sustainable development criteria included in the PDD must be monitored using latest technology including high resolution satellite data.
- Ensure that Designated National Authorities are independent of host country agencies that grant environmental clearance to the project.
- The PIN submitted by the project developer to the host country must be accompanied by a detailed note on how the project is contributing to the welfare of the local communities and ensuring that the project is in no adverse way affecting such communities.
- The host country will put in place a participatory and transparent mechanism that will pre-verify whether the claims made in the PIN are true. Based on the pre-verification, the PIN will be either approved or rejected. In case, the project is approved, the developer will be asked to prepare a sustainable development activity list. The approval letter given by the host country and the CDM EB must stipulate that the project's non-compliance in this regard will lead to cancellation of the project.

PUBLIC PARTICIPATION IN THE CDM PROCESS

Although it is a key requirement in the CDM process cycle, the stakeholder consultation process has so far been only a mere formality. It is hardly ever properly implemented by project developers and validated by Designated Operational Entities (DOEs). It is common practice that communities impacted by CDM projects are not informed about CDM projects or given an accurate account of expected impacts. Moreover, civil society is not informed about the short 30-day public commenting period that is only announced online and is not translated into the local language.

Good governance is essential. This also includes the participation of civil society at CDM stakeholder meetings, including at meetings of the DNA forum. As more than 5,000 projects are currently in the pipeline and will be operational for many years to come, stakeholder involvement in the CDM must be improved by inter alia:

- Modalities and procedures to establish means for stakeholder involvement during the implementation of a CDM project activity by introducing multiple possibilities for local stakeholder to raise concerns from design, construction throughout the life of the CDM project.
- Requirements for project developers to dismantle and decommission CDM projects after their lifetime is needed, such as in the case of wind mills.
- Modalities and procedures to improve stakeholder involvement at local and global levels incorporating, inter alia, provisions for:
 - Guidelines for project developers on how to announce and conduct local stakeholder consultations
 - Guidelines for Designated Operational Entities on how to validate local stakeholder consultations
 - Improved automated notification systems for all public participation procedures that are time sensitive
- Participation of civil society representatives at all stakeholder meetings including at meetings of the DNA Forum.
- The right of free, prior and informed consent must be adhered to and visible.
- Transparency on accounting of corporate social responsibility (CSR) allocation of CERs.
- A transparent accountability mechanism is needed by host countries such as India that ask project developers to use a percentage of the CER revenue for sustainable development contribution at the community level.

GRIEVANCE MECHANISM

Finally, there is no opportunity for civil society to raise concerns while a project is operational. At the international level, CDM has been criticised for its inability to address the concerns of affected stakeholders when required procedures have not been properly followed or when applicable sustainable development criteria are not met. It is therefore essential that project-affected peoples and communities and civil society groups have the right to appeal decisions by the CDM Executive Board and more broadly the right to seek recourse when CDM project activities cause harm to communities and the environment at any point during the project cycle.

Robust grievance mechanisms both, at international as well as national and local level will ensure that those who may be negatively impacted by CDM project activities can raise their concerns and have them addressed in a timely manner. Such grievance mechanisms are proven tools in helping institutions minimize harm to communities and ecosystems by protecting existing rights, obligations and standards. By facilitating transparency and stakeholder participation, grievance mechanisms also help ensure that CDM policies and projects are legitimate and effective, and promote sustainable development. Further, any grievance mechanism, including the appeals procedure currently under negotiation, should address and remedy situations before disputes escalate or create conflict between stakeholders and project participants. If national laws are violated, the Designated National Authority (DNA) must be responsible to revoke letter of approval. Members of civil society must be entitled to report abuses of national law to the responsible local authorities. These local authorities must be responsible to report to the DNA. If there is reasonable doubt, such as a court order, that a CDM project violates laws, the CDM project must be suspended. Further, there must be a mechanism to deregister a CDM project and its CERs if it is found that the project is not meeting its objectives.

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The Participating Organisations:

Aga Khan Rural Support Programme	International Rivers
Anekal rehabilitation education and development centre	Janjagruti
Axar Env consultancy	Janvikas
Bhoomiputra	Living Farms
Brakish Water	Matu Jansangthan
Bright Social Welfare Organization	MESS
CEAD	NFFPFW
Center for Science & Environment New Delhi	Paryavaran Mitra
CDM Watch	Paryavaran Vikas Kendra
Chairmen of GPCB	Principal Sir L.A. Shah Law collage
Citizens Concern for Dams and Development	SAPA Regional Secretariat
College Development Council , Manipur University	South Asia Peace Alliance
DNA news	SPWD, Delhi
Econet	VC, Gujarat Vidhyapith
GAIA	Vikalp
Gujarat Forum on CDM	Vivekanand Research & Training Institute
Guruarjan Dev Institute of Development studies	Water Initiatives Odisha
Indian Geomatics Research Institute	Forum for Nature protection
	Clean Energy Nepal
	Nature Conservation and Development Foundation
	Winrock International

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