

CIVIL SOCIETY WORKSHOP  
PUNE, MAHARASHTRA, INDIA

# LAND RIGHTS AND CARBON MARKETS IN INDIA 20-22 FEBRUARY 2014



## Background briefing:

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### Introduction

India is a country heavily dependent on its agriculture and consequently on its common lands. Experiences made with the Clean Development Mechanism (CDM) have shown that implemented projects do not always respect land rights. This in turn puts a heavy burden on a large majority of the rural population, many of which live under the poverty line and are dependent on access to common lands.

An increasing focus of climate mitigation activities in sectors that are typically dependent on common lands, such as forests and agricultural areas, adds further pressure to this challenge. Countries around the world are currently discussing how to combat climate change with the aim to adopt an international agreement in 2015.

Although the international carbon market does not allow projects in the agricultural and forestry sectors for a number of reasons, the voluntary carbon market is currently developing methodologies to account for emission savings in these sectors. However, experience with climate mitigation activities in India has shown that it is becoming increasingly difficult for local communities to defend their individual as well as community rights to use common lands for their everyday survival.

At the occasion of this workshop, we will have the opportunity to share information and discuss recent developments around the potential inclusion of these new sectors in carbon markets. While outlining potential strategies for collective action against illegal land grabbing, this workshop will also explore the political impacts of land based carbon market initiatives, including what effect the Clean Development Mechanism (CDM) and

other mechanisms can have on land rights for marginalised groups & women. This short briefing paper shall provide a short background on the topics that will be covered at this upcoming workshop in particular:

- Political developments on international and regional carbon markets
- Sustainable forest management activities (REDD+)
- Agriculture and forest carbon market projects
- Biodiversity offsetting mechanism
- Public participation procedure
- Environmental impacts

More information can be found here: <http://carbonmarketwatch.org/publication-types/workshops/>

## **1. Political developments on international and regional carbon markets**

Carbon markets have been established with the aim to promote cost-effective climate mitigation. With over 7000 projects registered to date, the Clean Development Mechanism (CDM) has become the most important offsetting mechanism. The CDM has a dual purpose: it was designed to bring sustainable development to developing countries and to enable emission reductions in the most cost-effective way for industrialised countries. India has a major role to play in the CDM with the highest number of registered CDM project activities, after China.

However, the CDM is in a precarious situation, as demand for its Certified Emissions Reductions (CERs) is very low and is projected to remain low until 2020, if countries do not increase their mitigation pledges. Because of the lack in demand and the oversupply, prices have dropped over 90% in the last year and a half and are now at around 0.4 Euro. This also impacts the quality of offsets. At such low prices, it is safe to say that it is not possible to implement new projects that are additional.

A reform to address the manifold problems of the CDM, including issues related to public participation is currently being discussed. But countries have been stonewalling against stricter rules.

While the international carbon market is not doing very well, new national and regional carbon markets, such as emissions trading schemes and offsetting programmes, are being developed in many parts of the world, including Japan, California, China and South Korea. Current pilot schemes are also being implemented in India, in Gujarat, Tamil Nadu and Maharashtra.

## **2. Sustainable forest management activities (REDD+)**

The abbreviation REDD+ stands for Reducing Emissions from Deforestation and Forest Degradation “plus” Conservation. This contains the sustainable management of forests and enhancement of forest carbon stocks in developing countries. REDD+ is based on the idea to develop policies and financial investments to ensure that forest conservation becomes economically more attractive than forest destruction. Payments for forest protection are made by developed countries to developing countries and are tied to performances in deforestation reductions. These forest conservation projects are excluded under the CDM as there is an inherent risk that forest offsets credits do not represent real emission reductions for example due to leakage and problems with additionality.

Other than the CDM, core safeguards for the protection of the environment as well as the local population are implemented under REDD+. In a positive momentum, mandatory human rights and environmental safeguards have been introduced at the last climate change conference in Warsaw. These safeguards recognize the obligation to fully respect human rights and set an important precedent for future discussions.

### 3. Agriculture and forest carbon market projects

For a number of reasons, including the difficulties to measure emissions in land use activities and the fact that land based emissions reductions are only temporary, the agriculture and forestry sector have not been included in the CDM. However, experience showed that the right to land is by no means always respected when CDM projects are implemented. This is largely due to the absence of safeguards in the current CDM system.

Although agricultural activities are not allowed under the CDM, the voluntary markets are currently developing methodologies to account for emission savings in the agriculture and forest sector. While carbon offset projects implemented by small scale farmers and small landholders are not a problem, threats to the rights to land could potentially occur, if large industries were allowed to implement similar activities through the carbon market.

### 4. Biodiversity offsetting mechanism

Biodiversity is defined as the variety of plant and animal life in the world or in a particular habitat; a high level of which is usually considered to be important or desirable. The idea of biodiversity offsetting is based on the concept of maintaining biodiversity levels and allowing development at the same time, without net loss of ecosystems. Put plainly, damaging a habitat by building a street or constructing a factory for example can be compensated by creating a new habitat in another area, preventing an overall loss of biodiversity this way. However, putting a price on ecosystems and exchange without overall net loss is difficult for various reasons. Every habitat is unique and cannot easily be replaced by another one due to interconnectedness and complexity of biodiversity. Furthermore, ecosystems also have social values and bring cultural benefits to local communities. Increasing international interest in biodiversity offsetting puts new pressure on unique ecosystems, which cannot only be protected by a pricing system, as a price cannot reflect their actual value.

### 5. Public participation procedures

Public participation procedures are understood to provide civil society members, and in particular people and communities that are directly affected by climate mitigation projects to raise concerns about a planned project activity and to provide input. The right to be consulted is of utmost importance. In the CDM, the stakeholder consultation process is considered one of the key elements and corner stones in its project cycle. However, in practice, the procedure is composed of very weak rules.

However, a key problem is not only the lack of enforcement of international rules but the fact that it is up to governments to agree on these rules in international processes. As such, it is necessary to improve national rules. In an attempt to face and resolve these issues, at the COP19 in November 2014 the Executive Board has been asked to collaborate with national governments in CDM host countries to collect information on practices for local stakeholder consultations and to provide technical assistance to develop guidelines. Given that there are no mandatory elements in this decision, it will be necessary for civil society members to remind their government to make use of this unique possibility.

### 6. Environmental impacts

The measurement of environmental impacts of every climate mitigation project seems natural. However, as is the case with public participation procedures the requirements for environmental impact assessments (EIA) at the international level only require that national rules are fulfilled. It is therefore important that national EIA rules are improved.

The same concept applies for the fulfilment of sustainable development criteria of CDM projects. Arguing that an international sustainability assessment process would violate national sovereignty, host countries retain the right to define their own sustainability criteria. Even in the few countries that have well developed sustainability requirements, these requirements are undermined by the lack of monitoring, reporting, and verification of claimed sustainability benefits. Experience shows that for these reasons, the majority of offsets are from projects with arguably little or no sustainable benefits and sometimes even negative impacts.

Addressing this problem, the Executive Board developed a guiding tool to monitor sustainable development benefits of CDM project activities. At COP 19 in Warsaw, the CDM Executive Board was asked to develop guiding tools to assist Designated National Authorities (DNAs) in monitoring the sustainable development benefits of CDM project activities.

## 7. Social safeguards

Social safeguards are a key requirement to ensure that human rights are respected when implementing CDM projects. However, the CDM rules do not refer to human rights directly and methodologies only set out technical requirements in relation to emission limits. Even though numerous CDM projects can be connected to negative influences on the environment as well as to human rights violations, there is currently no system available for affected individuals or communities to institute proceedings that safeguard their rights. Affected communities are not protected in a sufficient or appropriate way.

In contrast to the CDM, REDD+ already contains core safeguards requiring that projects do not harm the environment or the local population. This mechanism has a human rights approach that is in line with the Cancun Agreement, which explicitly recognizes that UNFCCC parties are obliged to fully respect human rights. In addition to this, it was decided at COP19 in Warsaw to enforce mandatory environmental and human rights safeguards in REDD+. This includes both, a system to monitor as well as to report and verify carbon emissions.

The reform of the fundamental rules of the CDM is currently under way and will continue at the climate negotiations in June. This will be a crucial opportunity to establish safeguards in order to protect local communities from negative impacts, that includes land grabbing and human rights violations.

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