

Side event at COP20: How lessons learned from the CDM can inform the design of climate finance

2 December 2014, Lima, Peru

As the climate negotiations kicked off in Lima, Carbon Market Watch along with Center for International Development Law (CIEL) and Interamerican Association for Environmental Defense (AIDA) organized a joint side event as a part of the COP20.

The event, entitled “How lessons learned from the CDM can inform the design of climate finance”, opened the floor to discussion on the current and future role of Clean Development Mechanism (CDM) in the context of sustainable development and the safeguards therein. The event was opened by Carbon Market Watch Director Eva Filzmoser, who welcomed the opportunity to discuss the role of mitigation mechanisms in providing sustainable development benefits and the drawbacks needed to be tackled in the future climate financing. The speakers then presented their experience and views on the CDM and indulged in debate on how to improve this long standing mechanism.

In the aftermath of registration of an infamous CDM project of Santa Rita in Guatemala, Maximo Ba Tiul - Representative of Peoples' Council of Tezulutlan shared his experience with the project on the ground and the violations and struggles the local communities are faced with. The chair of the CDM Board Hugh Sealey underlined the progress made in the social safeguards system of the CDM and the steps still considered ahead. Andrea Rodriguez from AIDA identified the need for higher standards and mandatory measurement in the social safeguard system of the Green Climate Fund as crucial components to help prevent harm and facilitate stakeholder participation. David Estrin from International Bar Association Task Force on Climate Change Justice and Human Rights stressed that universal rules on safeguards are needed, as national and international legal regimes often fail to protect affected communities. This was backed by Niranjali Amerasinghe from CIEL, who argued for safeguards at the UNFCCC level and the CDM to introduce the necessary instruments to provide remedy to negatively affected communities.

Below is a more detailed summary of the presentations:

Maximo Ba Tiul, Community representative, Consejo de Pueblos de Tezulutlán

Maximo Ba Tiul presented the many issues of the Santa Rita Hydroelectric Plant - a registered CDM project in the Dolores River in Guatemala. He underlined that despite many regulations - the Guatemalan Agreement on Identity and Rights of Indigenous Peoples, International Labour Organization Indigenous and Tribal Peoples Convention (169), ratified by Guatemala in 1996, and the Modalities and Procedures of the CDM – which safeguard communities’ rights to consultation, communities in his region were not properly consulted and the public rejection of the project was widely disregarded. He brought forward the struggles of his community in the face of human right violations taking place since 2010, including severe repression and killings. Through his experience Maximo illustrated the shortcomings of the CDM safeguard system and underscored that in the case of Santa Rita not only human rights but also right to private property and right to development were

violated. Respectively, he inquired whether “we have standards in the CDM to protect human rights or are we only protecting private interests?”

Hugh Sealey, Chair of the CDM Board

The Chair of the CDM Board shared his concern about the events taking place in the case of Santa Rita, and underscored the improvements adopted by the CDM Board at the 81st meeting in November regarding stakeholder consultations. According to adopted regulations, local stakeholder consultations are to be conducted in accordance with national regulations, and complaints to Designated National Authorities (DNA) are accepted after local stakeholder consultation and during the validation. On the other hand, whether a stakeholder can appeal against decision of Executive Board regarding registration on rejection of the project is still under negotiations.

He stressed that further improvements are considered by the Board in 2015, which would provide more details on how to conduct local stakeholder consultations (e.g. which stakeholders to consult, by what means) and how to address stakeholder comments received after registration of project activity. Hugh Sealey accentuated the importance of DNAs in the CDM project, as they sign the project and determine whether it contributes to sustainable development.

Andrea Rodriguez, AIDA

Andrea Rodriguez presented the GCF and underlined the importance of safeguards to help prevent harm, provide guidelines, promote country ownership and provide a space for stakeholder participation. She explained that GCF approved guidelines for a “fit-for-purpose” accreditation approach and temporarily adopted the Performance standards of International Finance Corporation (IFC). With regards to this she expressed her concern with insufficiency of IFC standards to prevent damage on the ground expressing that “we are afraid that that might happen in the three years GCF is using IFC performance standards”. While GCF has created a redress mechanism, Andrea Rodriguez highlighted that GCF must adopt highest standards possible on the basis of best practice, which must comply with international law, ensure coherence with UN organizations and national law. According to her it is fundamental that safeguards are mandatory measured to ensure they are effective.

David Estrin, International Bar Association Task Force on Climate Change Justice and Human Rights

Underlining that climate change effects least resourced people, David Estrin expressed his concern with mechanisms in charge of fighting climate change at the same time negatively affecting these people. By presenting the report “Achieving Justice and Human Rights in an Era of Climate Disruption” he brought forward the challenges of national and international legal regimes which often fail to provide remedies to affected communities. He stressed that universal rules on safeguards are needed, so that means and causes are integrated in national systems. He underlined the need for International tribunal for UN programmes and forums for people to approach to protect their rights. As institutional

mechanisms are out there, David Esterin asserted that we need to look at them and learn from the lessons.

Niranjali Amerasinghe, CIEL

Niranjali began by pointing out that “all countries have climate obligations but also human rights obligations.” She highlighted the importance to respect safeguards incorporated to the Cancun agreement and headlined that REDD+ program went further to implement those. Niranjali underlined that while REDD, GCF and World Bank include safeguard systems, CDM does not and only provides a scarce language on local stakeholder consultations. She argued that safeguards should be ensured at the UNFCCC level in order to achieve coherence between different mitigation and financing mechanisms (e.g. REDD and GCF). Niranjali draw attention to the letter of 28 UN Special Rapporteurs calling for a human right language in the new climate treaty and stressed the importance of ensuring human rights in all climate actions. With regards to this, she underlined the importance for CDM to introduce the necessary instruments on providing remedy to negatively affected communities by determining that “if complaints are logged, their obligation is to not only to hear them but halt the process or even deregister the project.”