

CDM Executive Board Call for Inputs on the Policy Dialogue

Submission by Focus on the Global South on behalf of

National Forum of Forest Peoples and Forest Workers, New Delhi, India
North Eastern Society for Preservation of Nature and Wildlife, Siliguri, India
South Asia Network on Dams, Rivers & People, New Delhi, India

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Our Organisations welcomes the opportunity to respond to the CDM Executive Board's call for public inputs on the CDM policy dialogue, despite our experience of having the vast majority of our comments submitted on PDDs being ignored. We comment on the importance of a wide scope of public participation in the CDM Policy Dialogue, particularly that of project-affected communities. We also provide views on transparency, public participation in the CDM process and accountability.

Discussions about the future of the flexible mechanisms should be firmly grounded in an analysis of their performance so far. The CDM has largely failed to meet its dual objectives of supporting cost-effective climate change mitigation in Annex 1 countries and sustainable development in non-Annex 1 countries.

1. Structure of dialogue

The panel is asked to ensure a wide and representative range of inputs and views in its work and the preparation of its report through the effective engagement of representatives, including from governmental, intergovernmental, business, environmental, research and other communities. The panel members are particularly asked to engage with these representatives through submissions, workshops, hearings, visits and working groups.

We are particularly concerned that no representative of local communities has been invited to participate at the panel. Therefore it is essential that local communities are consulted and invited to participate at the CDM policy dialogue at workshops, hearing and working groups and that local communities are consulted when deciding upon potential visits to CDM projects. At a minimum, this requires that workshops and hearings are held in host countries, notices of meetings are given well in advance, and translation of documents, as well as simultaneous translation at the meetings is provided.

We strongly urge the work of the panel to be conducted in an independent and transparent manner. To this end, the report of the panel should be made public without modification.

2. Public participation

Although it is a key requirement in the CDM cycle, the public participation process is a formality and hardly ever seriously implemented by project developers and validated by Designated Operational Entities (DOEs). Most PDDs describe vague and cursory efforts to establish public consultations, usually in the form of the distribution of surveys. Our study [The Indian CDM](#) documents a number of examples of inadequate stakeholder meetings. The description in the PDD of the public consultation often does not match with that of local community members.

To address these shortcomings, the CDM Board should clearly define a public consultation process similar to the one defined by the World Commission on Dams. Clear criteria should be established. The public hearing should be conducted by a credible independence agency that has expertise in such matters and the minutes of the meeting should be annexed to the PDD.

3. Grievance Mechanism

At the international level, the CDM has been criticized for its inability to provide affected stakeholders with recourse where required procedures have not been properly followed. It is therefore essential that project-affected peoples and communities and civil society groups that have the capacity to monitor and review proposed CDM project activities have the right to appeal decisions by the CDM Executive Board. Any appeals procedure should address and remedy situations before disputes become aggravated and create conflict amongst stakeholders and project participants. A workshop should be organised including representatives from all relevant stakeholders to discuss how an effective grievance mechanism can be established.

As problems can arise even after the registration of a project, a monitoring committee should be established with adequate representation (50%) from affected communities. This committee should have the ability to address and remedy problems.

4. Global stakeholder consultations

The Board should increase access to information for the global stakeholder consultation period and enhance transparency of the validation process after the end of public commenting period. In many cases, projects are validated without any feedback from local stakeholders and affected communities due to the limited timeframe, language restrictions, and limited access to a computer and Internet. Although many parts of the UNFCCC website are available in other main languages such as Spanish and French, the CDM page is only available in English. This limits the amount of participation of stakeholders in any given project. Therefore, all key documents, i.e. PDDs, the CDM webpage, validation reports, etc., should be translated into the host country language. The CDM should also accept as valid all comments for CDM projects submitted in all the main languages recognized by the UN.

In addition, the public comment period should not be limited to just 30 days but rather kept open for the entire period of validation, so that affected stakeholders can provide timely and accurate feedback during the validation process. Stakeholders that comment on CDM projects should receive a statement on how their comment has been taken into account. In addition, civil society representatives should be included at all stakeholder meetings including at meetings of the DNA Forum.

5. Sustainable development

Sustainable development is the oft forgotten objective of the CDM; we have visited a wide range of CDM project types throughout India and have documented numerous adverse social and environmental impacts (see [The Indian CDM](#)). While PDDs often state that there will be job generation, we have found the opposite – local communities members often lose their livelihoods and land due to the construction of the CDM project. Other impacts we've documented include, soil contamination, water and air pollution, unfulfilled promises from project developers, and inadequate compensation.

Therefore, sustainable development co-benefit indicators and a 'do no harm' assessment must be established for CDM projects to avoid negative impacts to local communities and environments in the host country. The Board should require that all projects meet international best practices and standards for environmental protection, public participation and indigenous rights before host and buyer countries issue approvals for these projects to participate in the CDM. Clear criteria should be established to monitor and verify sustainable development claims made in the PDD, to ensure such claims are actually realized.

Another way to ensure that local communities benefit from the CDM is to require that a portion of the credits generated should be granted to them.

6. Human rights

CDM projects that violate human rights should not be eligible for registration, and currently registered projects that violate human rights should be suspended. Our study, [*The Indian CDM*](#) is filled with examples of projects, which have violated human rights. The CDM Executive Board has stated that it has no mandate to investigate human rights abuses and that any matters related to the sustainable development of the project are determined by the government that hosts the project. 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 UN 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: “*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: “*Parties should in all climate change related actions fully respect human rights.*” Panel members should clarify that the UN Charter fundamentally requires the Board to ensure that CDM projects uphold human rights.

7. Accountability of DOEs

Our investigations show that there is a major disconnect between information contained in PDDs and the reality on the ground. It is the task of the Designated Operational Entity (DOE) to review and verify the PDD. But it seems that validators mostly rely on the project developer’s explanation without doing any fact checking. Given that DOEs are paid directly by project developers there is an inherent conflict of interest to verify in favour of the project developer. This results in a number of adverse impacts for project-affected communities, sustainability and the climate. To ensure the independence of DOEs, the UNFCCC Secretariat (or a sub-body like the CDM Accreditation Panel) should select a DOE for any audit required for a CDM project.

In the short-term, the CDM must be radically improved. Beyond 2012, its goal of providing finance for clean development in developing countries should be met through fund-based rather than offsets-based approaches.

About the Organisations

National Forum of Forest Peoples and Forest Workers (NFFPFW) supports forest communities fighting for their rights in India.

North Eastern Society for Preservation of Nature and Wildlife (NESPON) works with forest communities in eastern India to conserve the forests and other natural resources in order to protect the livelihood of people dependent on these resources.

South Asia Network on Dams, Rivers and People (SANDRP) is a network of organisations and individuals working on issues related to the water sector, with a special focus on dams.

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