

August 31, 2000

To the Parties of the United Nations Framework on Climate Change,

We are writing the Parties to express our serious concern about the lack of public participation and notification and benefit-sharing guarantees for directly affected local communities in Joint Implementation and the Clean Development Mechanism.

Given the current trends in the Kyoto Protocol negotiations, the procedures to design and approve JI and CDM projects will lack transparency and accountability. As a result, projects may pose various serious environmental and social risks. Such an outcome would be inconsistent with the Protocol goals — to address an environmental problem and to foster sustainable development.

We urge the Parties to make additions to the rules so that the general public and directly affected local communities can have meaningful input into project design, implementation, and crediting. The Rio Declaration, Agenda 21, and the recent Aarhus Convention recognize that the pillars of environmental responsibility and sustainable development are: 1) public access to information, 2) meaningful public participation in decision-making, and 3) access to justice, including redress and remedy. Agenda 21 states this eloquently:

One of the fundamental prerequisites for the achievement of sustainable development is broad public participation in decision-making...This includes the need of individuals, groups, and organizations to participate in environmental impact assessment procedures and to know about and participate in decisions, particularly those which potentially affect communities in which they live and work. (Agenda 21, Chapter 23.2)

The Parties should not repeat the same mistakes made by the World Bank, the International Finance Corporation, and the Export Credit Agencies.¹ These institutions have already learned the hard lessons of excluding public participation from projects, and are in the process of strengthening and amplifying public participation policies. One current World Bank document states: "Experience has shown a strong link between project sustainability and effective public consultation."²

Public participation in projects would foster at least three environmental and social objectives including:

- 1) Helping minimize the negative impacts of projects because citizens and NGOs with expertise in different project types would have opportunities to influence project design and sustainability;
- 2) Tapping local knowledge, provide timely notice, and enhance the benefits flowing to indigenous and other local people by enabling project developers to better recognize community needs, and;³
- 3) Increasing the likelihood that projects provide real, measurable emissions reductions because informed citizens and NGOs could identify problems with baseline methodology and additionality data.⁴

At the same time, public participation would provide at least three types of economic benefits including:

- 1) Helping to ensure that the same basic environmental and social issues were properly addressed in projects in all countries, which would help promote a fairer playing field for competition between countries vying for limited investment funds;
- 2) Reducing the financial risks of projects by achieving local public support and avoiding costly political opposition, legal action, or local unrest, and;⁵
- 3) Providing direct costs savings by providing local knowledge that could help identify cost-effective mitigation measures.⁶ The International Finance Corporation has formally recognized the role of public participation in providing some of these benefits.⁷

For these benefits to be realized, however, public participation and local benefit sharing policies must be mandatory, credible, allow for informed input, and must ensure that the views of the general public and directly affected local communities are incorporated into project-related decisions. They must also improve upon policies of participation that already exist at the international level.

In light of these concerns, we ask the Parties to add the following to the draft Mechanisms text (UNFCCC/SB/2000/4):

- 1) **Require Environmental Impact Assessments for JI/CDM projects** as part of project validation/registration. The assessments could be standardized according to project type and size. The assessment process needs to also require ample notification and meaningful consultations with directly affected local communities and the general public.
[Relevant paragraphs include JI Para. 33-36 /CDM Para. 54-58]
- 2) **Require public notice and public comment, with particular consideration given to local communities that will be directly impacted, on any issues the public finds relevant prior to project registration and project certification.** Require the Executive Board to take these comments into full consideration when making its decisions.
[Relevant paragraphs include JI Para. 23(b), 72, 95, 100, 101 /CDM Para. 44(b), 92, 106, 112]
- 3) **Establish a Project Standards and Criteria Advisory Committee** that will develop technical environmental and social standards for projects, such as those found in the IFC's *Pollution Prevention and Abatement Handbook*. **Require the Committee to have extensive consultations with the general public and technical experts.** The standards should be reviewed and adopted by the Conference of the Parties.
[Relevant paragraphs include JI Para. 6(b), 18, 19 /CDM Para. 8(a), 44(a-c)].
- 4) **Establish a Standing Panel to the Executive Board whose responsibility it is to hear appeals from the public and from Parties regarding project decisions.** Give the general public the right to appeal decisions regarding project registration, project certification/issuance of credits, and accreditation of operational entities. Give citizens directly affected by projects the right to make appeals to the Standing Panel at any point in the project cycle.

[Relevant paragraphs include JI Para. 2, 3, 8, 9, 11, 72(a.iv), 74, 95, 100, 101, 108(d) /CDM Para. 2, 4, 5, 22, 23, 26, 92(a.iv), 94, 106, 112]

We refer you to the Climate Action Network's recommendations on *Public Participation in the CDM and JI*, and CAN's draft *Line-by-Line Comments: Public Participation in JI and the CDM* for more specific information and additional recommendations. These texts are available at: www.climatenetwork.org.

We look forward to working with you at the Lyon climate negotiations in September.

Sincerely,

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¹ See, for example, BRUCE RICH, "Export Credit Agencies: The Need for more Rigorous, Common Policies, Procedures and Guidelines to Further Sustainable Development." Memorandum, Export Credit Agencies International NGO campaign. www.eca-watch.org/guidelinesdoc.html (1998).

² WORLD BANK, ENVIRONMENTAL ASSESSMENT SOURCEBOOK, UPDATE NUMBER 26: PUBLIC CONSULTATION IN THE EA PROCESS: A STRATEGIC APPROACH, (May 1999). Pg. 1.

³ This point has been made by the International Finance Corporation in INTERNATIONAL FINANCE CORPORATION, DOING BETTER BUSINESS THROUGH EFFECTIVE PUBLIC CONSULTATION AND DISCLOSURE: A GOOD PRACTICE MANUAL (1998) page A7.

⁴ The current draft of the Mechanisms text does have an option of text requiring public comment on the additionality of projects, but not on their environmental or social impacts. See United Nations, FCCC/SB/2000/4 (July 28, 2000) in JI Para. 36 /CDM Para. 58.

⁵ This point has been made by the International Finance Corporation in: IFC *supra* note 3.

⁶ Ibid.

⁷ Ibid.