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## Local stakeholder participation in CDM and new climate mitigation mechanisms – case study of a small scale hydropower project in China

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### ***Abstract***

Public participation is recognized as a key principle for effective climate governance in Article 6 of the United Nations Framework Convention on Climate Change (UNFCCC). In Warsaw 2013 the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol (CMP) decided that the Clean Development Mechanism (CDM) Executive Board should collect information on practices for local stakeholder consultation in collaboration with the Designated National Authorities (DNA) Forum and provide technical assistance for the development of guidelines for local stakeholder participation, if a country requests assistance. Learning from a case study of how local stakeholder participation is practiced in CDM in a small scale hydropower project in China, this paper identifies the strengths and weaknesses of how the concept is applied in practice. To understand the execution of both CDM policies and China's stakeholder participation policies in environment impact assessment at project level, the PDD of this project and similar projects were analyzed providing an overall impression of the stakeholder participations process and results in such projects. Afterwards, we focused on a single case, where 11 interviews and a trip to the project site was conducted. Results of the case study point to weak CDM procedures for local stakeholder consultations (LSC) and non-transparent national practices. The weaknesses of existing CDM LSC practices and procedures are not unique to the China case and highlight the need for good practice guidelines that can inspire countries to strengthen public participation in CDM and other mitigation mechanisms.

## **1. Introduction**

Public participation is recognized as a key principle for effective climate governance in Article 6 of the United Nations Framework Convention on Climate Change (UNFCCC, 1992). In various international environmental agreements (Agenda 21, the Rio Declaration on Environment and Development and the Aarhus Convention) stakeholder participation is recognized as a right and a means to ensure good governance, no violation of human rights, transparency, integrity and sustainable development. In the CDM stakeholders affected by CDM projects have a right to be consulted to influence response measures. Rules exist on global and local stakeholder consultations, yet numerous examples exist that local communities have not been adequately consulted (Santa Rita, Bajo Aguán and Olkaria) and vague rules make it impossible to infringe them. Critique has been raised the current rules on local stakeholder consultations (LSC) do not provide sufficient guidance to project participants and independent validators regarding who to consult, when and by what method (EB 69, Annex 22). Responding to the critique Parties requested the CDM Board (decision 3/CMP.9) to collaborate with the DNA Forum to provide information on LSC practices and to provide technical assistance to DNAs upon their request for the development of guidelines for local stakeholder consultation in their countries.

Unlike the CDM new climate mitigation mechanisms have more stringent stakeholder participation rules in place. The UN-REDD Programme and Forest Carbon Partnership Facility have prepared joint guidelines on stakeholder engagement in REDD+ Readiness, which include mechanisms for grievance, conflict resolution and redress (Forest Carbon Partnership, 2012). The REDD+ framework provides a useful set of established international safeguards, including effective means to access justice as a necessary component of implementing safeguards. Also, the Green Climate Fund's draft accreditation process addresses environmental and social safeguards by examining environmental and social indicators and applying rating and scoring systems. It also includes a grievance mechanism and mandatory reporting on 1 co-benefit (Green Climate Fund, 2014a, 2014b). Across the CDM and new mitigation mechanisms synergies exist for climate change focal points for CDM, REDD+, the Green Climate Fund (GCF) and Article 6 of the Convention to benefit from integrated public participation rules in national policies.

To understand the strengths and weaknesses of how the CDM rules on local stakeholder consultations (LSC) are implemented in practice, the article analyses a non-controversial case of how LSC were conducted in a small-scale run-of river hydropower project in China. The case was chosen to compare, how international CDM LSC rules interact with national regulations and policies on local stakeholder consultations such as Environmental Impact Assessments (EIA). Little empirical research exists on how the principles of public participation are conceptualized and practiced in the CDM and synergies for experiences and best practices to be informed by REDD+, the GCF and implementation of Article 6 of the UNFCCC are largely unexplored.

The article first compares the relevant rules on LSC in the CDM with public participation rules and guidelines developed in new mitigation mechanisms. Next, the case study explores how international LSC rules in the CDM are translated into national CDM policies for stakeholder participation in the case of China. The methods and approaches for stakeholder consultations in small-scale run-of-river hydropower projects are analyzed in 109 PDDs and the LSC process and participatory approach are studied specifically in the Liyutang project. The strengths and weaknesses of the LSC rules and practices are discussed to identify opportunities for strengthening the LSC process in CDM in the context of exploring synergies with new mitigation mechanisms to increase participation, transparency and effective decision-making.

## **2. Comparison of rules on local stakeholder participation in the CDM with rules and guidelines in new mitigation mechanisms**

CDM rules determine the requirement to consult local stakeholders on the impacts of a CDM project in the area in which it will be developed. The process is to be conducted and documented by project participants as a precondition to validation of a project. CDM Modalities and Procedures determine two consultation processes during validation; Local stakeholders consultation (LCS), required at the project design stage and global stakeholder consultation (GSC), taking place at validation stage (CDM validation and verification standard, c 7, s 5, 14).

Ahead of the preparation of the project design document (PDD), the project developer must consult local stakeholders relevant for the proposed CDM project. In other words, people living in the local area of the project activity, must be informed of the planned activity and invited to make comments. The project developer is obliged to respond to them and show how due account was taken of the comments. The outcomes of the stakeholder consultations must be documented in the PDD (CDM validation and verification standard, c 7, s 14).

After the PDD is written, it must be made publicly available on the UNFCCC CDM website for a period of 30 days (45 days for A/R projects). During this validation period, Parties, stakeholders and UNFCCC accredited observers may make comments through the process of global stakeholder consultations. Designated Operational Entities (DOEs), which are hired as independent third-party validators, need to confirm by means of document review and interviews with local stakeholders that relevant stakeholders have been consulted through appropriate means and that comments from local stakeholders have been appropriately taken into account and included in the PDD. Yet, who the stakeholders are and what is appropriate is left for the DOEs to decide. If stakeholder comments indicate incompliance of the project activity with the CDM rules, the DOE can request further clarification. This validation process includes reviewing the PDD, visits and interviews with stakeholders, cross checking between PDD information and comments provided and resolution of stakeholder issues. DOEs must address all these issues in the validation report (CDM validation and verification standard, c 7, s 5).

Nevertheless, CDM rules for stakeholder consultations are quite general, poorly defined, regulated and document. This is mostly due to lack of clear guidance provided by the CDM Board on how to organize structure and hold a local stakeholder consultation. Therefore project developers have to find their own ways how to do it (Johl and Lador, 2012). Some countries have stricter rules on consulting local stakeholders in order to obtain a construction license or the approval of the environmental impact assessment. However, it is unclear how the international CDM rules and the national rules on local stakeholder consultation relate to each other (Carbon Market Watch, 2014).

The need to improve LSC in the CDM project cycle has been expressed in a number of submissions by a range of stakeholders (e.g. Project Developer Forum, non-governmental and civil society organizations, Designated Operational Entities, Independent Entities Association, and private individuals) (CDM call for inputs, 2011). Based on the inputs received from the calls and interaction with stakeholders at CDM round tables, the CDM Board at its eightieth meeting considered new rules and requirements related to LSC. The Board set out a new validation requirement determining that if significant changes occur in project design after initial LSC, the DOE shall provide an opinion on the validity of the comments and whether the LSC is still adequate. Furthermore, rules and requirements for processing complaints from local stakeholders submitted to the DNA after the completion of the LSC were proposed (CDM Executive Board, 2014). However, these rules leave it up to the host country DNA to decide how to address the complaints and disregard challenges faced by DNAs, who have little experience with grievance mechanisms and are likely not to have procedures in place to identify the appropriate grievance mechanism.

Most international mechanisms and financing institutions have already advanced considerably by devising a set of rules for stakeholder engagement, including grievance mechanism as a part of the respective policy framework. With regards to this, the CDM is still lacking behind considerably in providing an effective remedy for affected stakeholders.

The UN-REDD Programme jointly with Forest Carbon Partnership Facility (FCPF) prepared guidelines on stakeholder engagement in REDD+ Readiness to insure that REDD+ actions under the UN-REDD Programme uphold the rights of stakeholders and that indigenous people are meaningfully involved in decision-making processes. Activities affecting indigenous peoples are governed by the World Bank Operational Policies, which specify that the Bank provides financing only to projects receiving broad community support by indigenous peoples. Free, prior, and informed consultations are therefore a precondition. Guidelines on national readiness management arrangements and stakeholder consultation and participation are included in Readiness Preparation Proposal (R-PP) template. In the case of the FCPF, the “Common Approach to Environmental and Social Safeguards for Multiple

Delivery Partners,” includes Strategic Environmental and Social Assessment (SESA) to examine key environmental and social considerations within REDD+ readiness. Still, limited advice is provided on the operationalization, what to include in the mandatory Safeguard Information System (SIS) and on how to engage local communities in data collection and monitoring. Numerous rules mandate public participation in both mechanisms, CDM and REDD+, but experience shows that there is a gap in operationalizing the requirements and synergies between the two mechanisms remain unexplored. Sharing experience and good practices between the mechanisms could inform further rules on LSC. Mainly, REDD+ is ahead of CDM by determining impartial, accessible and fair mechanisms for grievance, conflict resolution and redress during the consultation process and throughout the implementation (Forest Carbon Partnership, 2012).

A grievance mechanism is included in a number of other operating entities of the UNFCCC, such as in the draft operational guidelines of the Green Climate Fund (GCF). The fund defines an environmental and social management system and foresees extensive stakeholder participation in the design, development and implementation stages. It provides a grievance mechanism and requires assessment and management of social risks and impacts. Until the GCF develops its own environmental and social safeguards, it was agreed to follow the Adaption Fund’s experience and base them on performance standards of the International Finance Corporation .The fund’s environmental and social safeguards are to be consistent with international best practices and standards and seek to draw from experience and lessons learned from relevant institutions (Green Climate Fund, 2014a; Schalatek and Nakhooda, 2013).

The focus on importance of local stakeholder consultations in climate actions is already grounded in the United Nations Framework Convention on Climate Change, more specifically in Article 6, which calls on Parties to develop and implement educational, training and public awareness programmes on climate change and its effects as well public access to information on, and public participation in, the development of adequate responses. As a step to address this, Parties to the Kyoto Protocol adopted in Warsaw decision 3/CMP.9, which requests the CDM Board to work with DNAs and provide technical assistance and develop guidelines for LSC to countries that request assistance. Together with political pressure to reform other mechanisms, such REDD+, this provides a good opportunity to build on existing best practice guidelines and strengthen and clarify the requirements for stakeholder involvement and grievance mechanism in the time leading up to COP 21.

## **2. Methods and materials**

To examine the national practices of stakeholder participation in CDM in the case of China, the CDM policies developed by the Chinese government (Measures for the operation and management of CDM, 2005) were analyzed. The case methodology consists of: (1) An

assessment of CDM policies in China and analysis of 109 PDDs for small scale run-of-river hydropower (SSRRHP) projects that registered before Apr. 2010, for learning about national stakeholder participation practices and; (2) The study of Liyutang CDM hydropower project, where we identify key stakeholders and assess stakeholder participation approaches.

An evaluation guideline for assessment of stakeholder participation processes was developed as shown in Table 1, inspired by Rowe and Frewer (2000). The CDM policies were analyzed by coding, according to the guidelines in Table 1. If text related to indicators in table 1, it was coded with the relevant indicators. We then analyzed 109 SSRRHP PDDs to get an overview of the stakeholder participation situation. The stakeholder participation section in each PDD was evaluated according to the guidelines developed in Table 1. The result is summarized in section 3.3. The results reveal how the rules and goals of stakeholder participation in CDM policies are implemented in small scale hydropower projects by means of documentation.

**Table 1: Guidelines for stakeholder participation process analysis**

Stakeholder participation process	Guidelines	Assessment indicators	Delimitation
Stakeholders	Who are considered as stakeholders ?	<ol style="list-style-type: none"> <li>1. Local resident;</li> <li>2. Local government;</li> <li>3. Related bank;</li> <li>4. Related power company;</li> <li>5. Social organization;</li> <li>6. Related enterprise;</li> <li>7. Expert</li> </ol>	NGOs are recorded as social organization. Related enterprise does not include bank, power company, project owner and social organizations.
	Are they representative	It is assessed by the variation of following participant attributes: <ol style="list-style-type: none"> <li>1. Age;</li> <li>2. Education level;</li> <li>3. Occupation;</li> <li>4. Gender;</li> <li>5. Nation.</li> </ol>	
Participatory approach	What method is used to involve stakeholders?	<ol style="list-style-type: none"> <li>1. Survey;</li> <li>2. Government or expert consultation;</li> <li>3. Consultation meeting</li> <li>4. Comments invitation</li> </ol>	Visiting or interview which is recorded in questionnaires is considered as survey. The questionnaires are in paper forms and should be handed to related stakeholders in person. Consultation meeting, meeting (without explanation), public meeting and symposium are all considered as consultation meeting. These meetings should be taken place at the appropriate place where a large amount of affected population can be reached. Comments invitation means publish project information and invite for public's comments via E-mail, phone, letter, <i>etc.</i>
	Is the task well	Whether the following three components are	If a survey is conducted, public participation mechanism and discussion

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	explained to the stakeholders?	introduced to the public: 1. Project description; 2. Public participation mechanism explained; 3. Discussion issue explained.	issue are considered as already explained by the survey itself.
	Are stakeholders involved early before the first draft?	It is judged whether public participation takes place before the first draft of the project design document is finished.	
	Is the process organized independently?	It is assessed by the conductor of the public participation process. It can be categorized into: 1. Stakeholder who holds a real stake in the project; 2. Neutral third-party;	Stakeholder who holds a real stake in the project include project owner, employees of project entity and project developer. Third-party includes EIA institution, government, NGOs, DOE and other unspecified third-parties.
	Is the process transparent?	Transparency in the following 3 categorizes will be assessed: 1. Invitation published; 2. Participation process transparency; 3. Result publish	Invitation publish includes publish of survey, consultation or meeting time, place, topics. etc. online or at visible sites. Result published means that the result of the consultation is available online or at visible sites.
Decision-making	How are stakeholders' views incorporated into decisions	It is assessed by whether the project design is revised according to public's comments.	Public's view is considered as taking into decision only if negative comments from public are received, and accordingly solutions are taken into project plan by the project owner.

A case study was conducted of the Liyutang CDM hydropower project in Chongqing to obtain real world information. For feasibility reasons existing contacts of the authors were used first to get in contact with some of the stakeholders. Then a snowball sampling method was used to trace additional stakeholders. In addition to a trip to the project site, 11 interviews were conducted in Chongqing and Beijing in China. Interviews were conducted in Mandarin. Note that due to feasible reasons, some of the interviewees are not directly related to the specific case study, but a person who holds similar position in similar projects. Most of the interviewees preferred not to be referenced publically and therefore all of the contributors are kept anonymous. The insecurity of the interviewees may lead to a bias in favor of safe information instead of critical comments. Another limitation of this study is that it was not feasible to follow a project for several years. This study took place in 2009-2010, which was four years after the PDD was approved by China's government and two years after the project registered with the CDM Executive Board (EB). At that time the majority of project construction had finished and the interviews thus reflect stakeholders' opinion in this certain point of time.

### **3. Case study of local stakeholder consultations in CDM in China**

#### **3.1 Background on stakeholder participation in China**

Any attempt to analyze stakeholder participation needs to depart from an understanding of the complexity of China's social problems, the unique historical, cultural and practical barriers for public participation. While western countries focus upon the role of individuals in society, the idea that the individual is subordinate to the interest of the state is still present in China. Especially after Mao's leading years, when the whole nation had to be united to survive, the Chinese public has become used to top-down decision-making procedures and consider this as the best way to treat national affairs. Only limited participation is being implemented in China mainly due to the assumption that the public lacks the knowledge and capacity to participate in decision making. Given the fact that the experts are usually believed to have the best professional and technical knowledge, an expert-oriented approach in China remains mainstream when making plans. In contradiction to western opinions that individuals who live on the land know the local situation the best, it is more common in China to rather to seek the opinions of experts. Moreover, Buckley (Buckley 2007) pointed out that locals do not dare to "say something". This can be reflected in many old Chinese parables, such as "The first bird which flies out will be shot first" from Ming dynasty; "The biggest trees suffer the wind most"; "The fattest pig is butchered first" etc. These parables are treated as the precious experience concluded by Chinese ancestors, which is deeply rooted in Chinese people's mind.

The rights of Chinese people to participate in public affairs are written in the constitution of China and other legislation. However, these laws have the same failure in common: the lack of operational and procedural details (Hong and Luan 1999). Another reason for poor stakeholder participation is the lack of active NGOs in public's life. Gu point out that, NGOs are controversial in China. Due to different understandings of NGOs and blurred government attitude, there is still a long way to go for NGOs to act as their overseas counterparts (Gu and Sheate 2005). This background indicates that significant barriers against effective stakeholder participation exist in China.

#### **3.2 Stakeholder participation policies in China**

Two procedures should be followed to implement a CDM project in China. One is to comply with the CDM application and implementation regulations published by Chinese government: "Measures for the operation and management of CDM". In this document there are no requirements on stakeholder participation. The other procedure is to implement the project under the existing project implementation framework as a normal project, regardless if it is a CDM projects or not. Here several permissions, plans and applications are needed for the approval of project implementation. We only focus on the policy documentation involving "stakeholder participation". According to "Construction project Environmental Impact Assessment (EIA) categorized management catalogue", EIA is one of the procedures that all projects involving construction needs to comply with (Construction project EIA categorized

management catalogue, 2008). Stakeholder participation is a mandatory requirement and should follow “Provisional measure for EIA public participation” (referred as EIAPP), which is the first and probably the only national formal documents in China including detailed requirements on public participation. Considerations on how to choose stakeholders representatively are described. The EIA measures for public participation clearly ask the project owner to introduce the task, stakeholder participation mechanism and expected discussion issues to the public. Several stakeholder participation mechanisms with guidelines are described in the document and recommended, including survey, expert consultation, symposium, argumentation meeting, and public hearing. It provides a good platform for the project owner or its authorized EIA institution to organize stakeholder participation at any stage. Transparency is highly demanded but how much public opinion should be taken into consideration is not clearly identified.

### 3.3 LSC practices in small-scale run-of-river hydropower projects

We examined 109 PDDs to learn about the Chinese CDM local stakeholder participation practices. 69% of the projects (75) clearly state that the environmental assessment section is written as a summary of their EIA reports. Only 8% (9) contain information regarding public participation. All of them have just one paragraph or a sentence stating that public participation has been conducted during the EIA process, with no further information on how and when. In the stakeholders’ comments section in PDDs, 9 projects explained that public participation taken during EIA is part of the context in stakeholders’ comments. 7 projects said that in addition to public participation conducted during EIA, they also conducted extra public participation for the purpose of CDM application. The other 93 projects have not clarified if their public participation is only conducted during EIA or an extra public participation is conducted for CDM application. This leaves the first question to the readers: When is public participation taking place? Is it during EIA or CDM application? The low rate of discussions on CDM project design and GHG reduction further raise the doubts, as to how the CDM LSC rules are being followed. .

**Table 2: Evaluation results of stakeholder participation in small scale hydropower CDM projects**

Guideline	Indicator	Percentage of PDDs coded with corresponding indicator
Stakeholder Representative	Stakeholders are chosen representatively according to age, education level, occupation, gender and nation.	80%
What mechanism is used to get stakeholders	Survey	93%
	Consultation meeting	40%
	Invitation for comments	16.5%

involved?	Government and expert consultation	6.4%
Is the task well explained to the stakeholders?	Project description and discussion issue are well explained.	90%
	Public participation mechanism is well explained.	53%
Early involvement	Stakeholders are involved before the first draft is done.	0%
Independence	Stakeholder participation is conducted by an independent third-party	9%
Transparency	Stakeholder participation invitation is published.	40%
	Stakeholder participation process is transparent.	1%
	Stakeholder participation results are published.	0%
Decision making	Project design is revised according to the negative comments received in stakeholder participation process	8%

A wide range of stakeholders were consulted, including local residents, local government, project employee, experts, social organization, enterprise, power company and bank. More than half of the projects conduct LSC more than once. Thus more than one participation mechanism can be used in one project. Following recommendations in China's EIA, a survey is the most preferred way to involve public participation (Table 2). It is considered as the most accessible and cost-efficient way (Rowe and Frewer 2000). A consultation meeting is considered more effective on reaching meaningful results, which can be further cooperated into decision (Rowe and Frewer 2000). It is used in less than half of the projects. Generally the tasks of stakeholder participations are well explained to the stakeholders. But with a lack of requirements in policies, early involvement and independence were badly performed (Table 2). The late involvement of CDM stakeholders makes it impossible for them to have any major influence on project plans. Most LSC are conducted by people, who were chosen by the project owner. This may lead LSC to the benefits of the project owner. Transparency is another issue. Out of all the projects, only 1 project invited media to record the process. There are hardly any results published to the public. The result of stakeholder participation is very interesting. In ca. 12%-50% projects, local residents' have positive comments on increasing employment opportunity, improving infrastructure, income and energy resource. In a little more than 20% of projects, local stakeholders have negative concerns regarding compensation, environmental impacts on land, water, noise and nature conservation. Among those, the project owner took stakeholders' negative comments into consideration and actually revised the project in less than 8% of projects. Thus it is hard to say that

stakeholders' comments are well taken into account, both because of the low ratio of negative concern, and the lack of policy to mandate the project owner to take negative comments into consideration.

From the policy and PDDs study, it seems that government officers make the rules and act as a mediator in the process, to guarantee that the stakeholder participation process goes on well under regulations and laws. The Project owner produces the project plan and controlled the stakeholder participation process. Local residents participate in the local stakeholder consultations, but with limited comments and contributions.

### **3.4 Liyutang CDM hydropower project**

To further investigate stakeholder participation in a concrete case, we investigated "Liyutang CDM hydropower project". It is located in Kai County, Chongqing, China. The power station is placed next to Liyutang reservoir, which was built as the irrigation and drinking water reservoir for Kai County, from 2003 to 2008. Both of the two projects are run by Liyutang Company. The power station project activity started in July, 2006 (Ecosecurity Inc. 2008). At the time when the author investigated the project site (2010), the majority of the construction is finished and the power station is stepping into operation and maintenance period. The application process started from late 2006. It was validated in 2007 and registered in 2008.

Local residents live in small villages about 100m higher above the reservoir. Each village consists of ca. 40 families. They mainly make their living from agriculture, planting in the mountains around the reservoir (Local-resident 2010). The hydropower station is built upon the reservoir, which was already in the construction face when the power station was planned. Thus local residents who live there were already relocated and compensated by the reservoir project. No new immigrants were caused by the hydropower project.

#### **The local stakeholder consultation process**

As a normal construction project in China, the application of the project followed the hydropower project application procedures. At the beginning of project application, the project owner wrote a formal project plan and sent it to government for approval. After it was approved, the project owner hired authorized documentation compiling institutions<sup>1</sup> to investigate and write further detailed application documents. Those documents were sent to government for approval again. In this process the majority of participatory approaches involve government and expert consultations (Private-project-owner 2010, Government-officer 2010, Public-project-developer 2010). There were two documents which were prepared in cooperation with local residents (EIA and project construction land-use and immigration relocation report). First, the project owner reached agreements with local residents under supervision of local government. Afterwards, authorized documentation compiling institutions were invited for composing corresponding documents according to the

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<sup>1</sup> Several documents are needed for a project application. These documents can only be compiled by institutions which are authorized by the government.

reached agreements. Thus for the preparation of these two documents, local resident surveys were conducted (Private-project-owner 2010, Government-officer 2010, Public-project-developer 2010).

For economic reasons and the unknown project approval result from China's government, the CDM application was not conducted until the last minute, when the project almost had approval results from China's government (PDD-consultant 2010, PDD-consultant&CER-buyer 2010). So the normal project application procedure was conducted separately before CDM application process.

Once the project steps into the CDM application process, the PDD was the first document to be compiled. When compiling the PDD, stakeholder comments were required to be filled out. According to the project owner and the PDD consultant's choice, local resident survey was the only approach used for stakeholder participation to get information from the local resident (PDD-consultant 2010, PDD-consultant&CER-buyer 2010). When the PDD was done, the project owner and PDD consultant together reported it to China's DNA and its related expert to get approval letter from China's DNA. Here the EIA requirements for government and expert consultation were used as participatory approach (PDD-consultant 2010, China-DNA 2010). No stakeholder participation was required for getting approval letter from Annex-I party, which is Sweden's DNA for the Liyutang project. After 2 approval letters were obtained, the PDD had to be validated. This job was carried out by the DOE, in cooperation with the PDD consultant, CER buyer, local government and local residents. The local resident survey was used in the validations phase. Again, it was DOE and project owner's choice to use local resident survey rather than other forms of stakeholder participatory approach (DOE 2010, PDD-consultant 2010, PDD-consultant&CER-buyer 2010). Finally, all of the documents were sent to the CDM Executive Board EB for registration.

### ***Participatory approach***

In this case, government and expert consultation was the means to get documentation approved from government, while stakeholder survey and comment invitation were used to involve local residents. The most important decisions were made through government and expert consultation. This participatory approach is originally from a typical Chinese government working procedure. Once documentation is sent to province government, an expert group must be formed for consultation. The experts are chosen by government from an expert library, which is established by province level government. It consists of professors, senior engineers and senior researchers from universities, scientific research institutions etc. They will express their opinions on the projects based on professional knowledge, references and experimental results. Based on the information provided by the expert team, the government department can make decisions on whether the documents should be revised, approved or rejected (Government-officer 2010).

Evaluated by the guidelines presented in Table 1, Government and expert consultation is a well-organized participation process. All of the participants are aware of what they are discussing. Government representatives and experts are involved early in the project plan draft phase and have a chance to provide their opinions for decision-making. Government leadership insures that the expert participation process would not be biased to the advantage of the project owner or any other market player, but maintaining a neutral position, where participants are free to provide their opinions. But the lack of transparency could cause a barrier between government and the stakeholders who are not presented, especially local citizens.

Two LSC were conducted in the normal project application procedure. During the “project construction land-use and immigration relocation report” compiling phase, the local residents were supposed to reach agreements with project owner regarding compensation issues. It is supposed to be the first and probably the only time that all local residents participated. For most of the projects, more complicated measures are taken at this process, including visiting and interviews with each local resident separately for several times (Private-project-owner 2010, Public-project-developer 2010). However, for this specific project, the agreement regarding land occupation and compensation issue were already reached during the reservoir project. In addition, the record of the participatory process is not publicly available. Thus the details of how the first local resident survey was conducted are unclear. The 2<sup>nd</sup> local resident survey was conducted during EIA assessment. It was organized by an EIA authorized compiling institution. Similar to the first local resident survey, there is no easy accessible public available record describing the process. However, according to the interviewed project owner and public developer, the consultation in this step is mostly conducted by questionnaires in paper forms, which are sent out to the related stakeholders. The questionnaires were collected after stakeholders had filled out the answers (Private-project-owner 2010, Public-project-developer 2010). This was confirmed by the local residents (Local-resident 2010). After the EIA LSC, two additional LSC were held during the CDM application process. One is a questionnaire survey, where questionnaires were sent out to a sample of local stakeholders, including 60 local residents, 9 local government officers and 5 other undefined stakeholders. The other participatory approach was a comment invitation, where a public announcement was made available in the villages, and asked for input or comments from the local stakeholders. In generally, all participants support the project. Only one interviewee expressed his/her concern about noise pollution, which will be mitigated by the methods described in the EIA. Due to the few negative comments and description, it is hard to tell whether the two stakeholder participation surveys conducted for CDM application add any extra values to the project design. Evaluated by guidelines provided in Table 1, all four local resident surveys involving local residents were transparent with well-explained project introduction. But independence and early involvement were lacking. The CDM stakeholders only participated in the latter two surveys. They entered the project too late after project design was already finished, which makes it impossible to put their opinions into decisions at all. For PDD LSC, participants’ lists were most likely provided by the project

owner or project developer (Private-project-owner 2010, Public-project-developer 2010). It means that the project owner could choose local residents who had less opponent opinions instead of critical representatives. In addition, these surveys were conducted by project developer. It very possibly leads the LSC to the direction in favor of project owner, where citizen might not freely express their opinions.

#### **4. Discussion**

The case study demonstrates how the host country has its own national regulations, laws and culturally appropriate ways of conducting public participation, which take precedence over international CDM rules following the principle of Parties sovereign rights. The preference for expert consultations over the early involvement of local residents, the absence of active civil society organizations and the lack of operational and procedural details in peoples' rights to public participation for CDM projects are examples of national practice, for how the LSC rules are implemented in China. In the context of proposals for improved international regulation on LSC (EB69, Annex 22), the case indicates a number of general issues to be addressed to strengthen national public participation in the CDM and find synergies with other mitigation mechanisms:

- Define the scope of the CDM LSC process in relation to EIA requirements
- Define minimum requirements for who are the stakeholders to be consulted and support civil society participation
- Specify the means of participation, when and how consultations take place
- Explore synergies with other mitigation mechanisms to establish a grievance mechanism for conflict resolution applicable to CDM projects

##### *Define the scope of the CDM LSC process in relation to EIA requirements*

The Chinese practice is to use the EIA requirements for public participation as the basis for CDM LSC requirements. All CDM projects involving construction must follow normal procedures for government approval, which require an EIA. The EIA requirements describe government approval procedures and public participation mechanisms such as survey for local resident participation and comments invitation, which were both used in the case study project. In the assessment of LSC practices the majority of projects (93 out of 109) are unclear, whether the LSC process was conducted as part of the EIA process prior to the PDD being written, or whether stakeholder consultations were carried out specifically for the CDM project. Only in a few projects (7) it is stated that the LSC process was additional to the EIA process. To avoid duplication of efforts guidance is needed, when and how the EIA process may be combined with the CDM LSC process and in what situations specific CDM LSC are needed. For instance, CDM projects that do not involve construction are not required to implement an EIA but would still need to conduct a LSC process according to CDM requirements.

*Define minimum requirements for who are the stakeholders to be consulted*

The project owner/developer provides the list of stakeholders to be consulted. This constitutes a risk that only stakeholders, who are positive towards the CDM project will be consulted. The Liyutang hydropower project is a non-controversial case, where only one resident had a negative complaint about noise, which the EIA would take into consideration. In controversial projects where conflicts exist between the project owner/developer and local residents, a common problem is that not all the affected stakeholders are consulted. Strengthened LSC rules to define the minimum group of stakeholders to be consulted would ensure a neutral starting point including all potentially affected members of the public, local authorities, a DNA representative and representatives of local civil society (EB69, Annex 22). As few NGOs are active in Chinese public life, a mandatory requirement to consult a local civil organization is a challenge. However, the self-organization of citizens as a community-based stakeholder to deliberate with other stakeholders could raise their power in decision-making and represent their concerns better than surveys of individual citizens. To empower civil society awareness-raising is needed that instead of believing the expert, citizens are seen as capable and knowledgeable of local impacts and people's right to participate is fully considered.

*Specify the means of participation, when and how consultations take place*

Three stakeholder participation approaches were used in the case study project: survey for local residents, comments invitation and government and expert consultation. The former two was transparent and participated by most stakeholders, including local residents. The last one was carried out behind the doors with limited stakeholders involved. Most decisions were made during government and expert consultation and the local residents were involved late with little scope to influence the project design. In 20% of the 109 projects stakeholders made negative comments but in only 8% of the projects the LSC process lead to revisions of the PDD based on the comments received. This indicates a need to specify, how the public's opinion should be taken into account during project design and more generally throughout implementation. It also reflects the weakness that local stakeholders, especially CDM stakeholders are not involved at an early stage. Proposed improvements to the CDM LSC rules have been made to define the start time of the first round of LSCs to be followed up with a second round of LSCs on how the first comments are taken into consideration (EB69, Annex 22). The improvements would ensure a more robust process for LSC but they were not adopted by the EB due to concerns of negative impacts for projects developers that transaction costs would be raised and flexibility reduced. Further refinement of the proposals was requested and the strengthened rules are now considered in the process of revising the CDM modalities and procedures. To ensure the implementation of improved CDM rules

there is a need to develop good practice guidance on how the international requirements shall interact with national practices and regulation.

*Explore synergies with other mitigation mechanisms to establish a grievance mechanism applicable to CDM projects*

The case study shows that there are no national rules in place to address the need for independent conflict resolution in CDM projects. To ensure that potential negative impacts that occur during project implementation are addressed, a grievance mechanism is needed taking into account emerging initiatives for a grievance mechanism for the GCF and best practices and other established UNFCCC safeguards for REDD+ and the UN-REDD's Social and Environmental Principles and Criteria. Increased coordination and identification of synergies with other mechanisms is needed to avoid double efforts, save costs and provide a consistent framework for stakeholder participation.

## **5. Conclusions and recommendations**

The CDM has a number of existing rules on how to conduct and validate local stakeholder consultation. Yet, numerous projects in the past years have come under criticism for disregarding these rules in the process and hampering the social integrity of projects, often leading to dispute and conflict. The comparison with the REDD+ and GCF policy frameworks suggests that the shortcomings are not only caused by vague CDM rules on local stakeholder consultation but are mainly the result of:

- the deliberate choice of participating stakeholders, which are likely to be favorable to the project owner/developer;
- not building on existing civil society participatory structures;
- not realizing benefits promised or even threatening critical stakeholders;
- the lack of remedy that leaves affected communities without an option to raise concerns once a CDM project is registered.

The experience of CDM points to the lack of good practice guidance and public participation in CDM. Considering the type and number of CDM projects that are likely to bring upon adverse effects for local peoples, it is of key importance to lean on existing experience in employing rules and procedures. To improve the impact of CDM project activities, and for that matter, all climate mitigation activities best practice guidance on how to implement existing rules is needed. But beyond that, the CDM needs to catch up with policy frameworks of mechanisms that are not based on offsetting but look beyond the CO<sub>2</sub> reduction to other non-carbon benefits. Creating synergies with other mechanisms, by drawing from their experience and best practices, would inform development of a strong framework for national

and international mitigation mechanisms. This would command assembling large network of civil society organizations and project partners, various national best practices about local stakeholder consultation and how to engage local communities in data collection and monitoring of co-benefits and social safeguards in the CDM, REDD+ and other mitigation mechanisms.

The ongoing CDM reform process offers a crucial opportunity to develop this policy framework, including a robust public participation process throughout the implementation of the CDM project activity, a grievance mechanisms to address potential adverse impacts of CDM project activities and a safeguard system that includes the monitoring of sustainable development benefits. A more precise set of rules, validation and reporting requirements would in turn provide a better and wider involvement from local communities and local stakeholders.

The reform process would abate the shortcomings of the current system, which enables project approval despite negligence for human rights dimension and non CO2 benefits. Firmer framework is not only to facilitate good climate governance and strengthen legitimacy of CDM projects but also attract innovative financing instruments that are based on public trust and acceptance as a key driver for sustainable investments. With the 2015 international climate change agreement under development increased focus and understanding is thus important to ensure effective participation of civil society in the decision making process at international level as well as at national government level.

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