



October 5, 2016

UNFCCC Secretariat
P.O. Box 260124
D-53153 Bonn
Germany

Re: Comments on the Rules, Modalities, and Procedures for the SDM

Dear UNFCCC Secretariat:

We appreciate this opportunity to comment on the rules, modalities, and procedures for the sustainable development mechanism (SDM) created under Article 6 of the Paris Agreement. The goal of our comments is to highlight the importance of introducing adequate safeguards to ensure that human rights will be respected throughout the implementation and operation of SDM-funded projects, and to review the merits and shortfalls of existing safeguards for similar mechanisms. Some of the ideas and material incorporated below draw from *Climate Change and Human Rights*, a report we collaborated with the United Nations Environment Program to draft and publish in 2015. Our specific recommendations for the SDM are set forth in Section III, “Conclusion.”

I. The Importance of Incorporating Human Rights Safeguards Into the SDM

Both the United Nations Framework Convention on Climate Change (UNFCCC) and the UN Human Rights Council (UNHRC) have expressly recognized the importance of respecting human rights in the context of actions undertaken to mitigate and adapt to climate change. The Preamble to the Paris Agreement explicitly recognizes that “Parties should, when taking action to address climate change, respect, promote, and consider their respective obligations on human rights.” Similar language appears in Article 8 of the Cancun Agreements,¹ as well as UNHRC Resolutions 18/22 and 26/27.²

It is now well documented that certain types of mitigation projects undertaken to reduce or sequester greenhouse gas emissions can adversely affect human rights. The most egregious violations have occurred in the context of:

¹ Article 8 recognizes that Parties “should, in all climate change-related actions, fully respect human rights as enunciated in the outcome of the sixteenth session of the Conference of the Parties to the Convention.” UNFCCC Decision 1/CP.16, *The Cancun Agreements*, UN Doc. FCCC/COP/2010/7/Add.1 (March 15, 2011).

² UNHRC Res. 18/22, *Human Rights and Climate Change*, A/HRC/Res/18/22 (Oct. 17, 2011); UNHRC Res. 26/27, *Human Rights and Climate Change*, A/HRC/Res/26/27 (July 15, 2014).

1. **Hydroelectric projects**, which often lead to displacement of local people and the destruction of ecosystems upon which they depend, and can also harm the health and livelihoods of people living downstream from the project by reducing river flows.³
2. **Biofuels policies and projects**, which can contribute to food shortages and price shocks, additional water stress and scarcity, widespread deforestation, and displacement of indigenous peoples and small-scale farmers through land acquisitions.⁴ According to a 2008 Oxfam Report, the “scramble to supply” biofuels like palm oil, which was partly driven by EU biofuel targets, exacerbated the food price crises, brought “30 million people into poverty,” and put 60 million indigenous people at risk.⁵ The International Civil Aviation Organization (ICAO) Agreement on Aviation and Climate Change will likely increase the demand for biofuels even further, as it directs states to accelerate the use of sustainable alternative fuels for aviation.⁶ Numerous adverse impacts on local stakeholders and human rights violations have also been documented in the context of specific biofuel projects.⁷

Many of these projects have been funded through the UNFCCC Clean Development Mechanism (CDM) and other climate finance mechanisms.⁸ Concerns have also been raised about the potential effect of the Reducing Emissions from Deforestation and Forest Degradation (REDD/REDD+) program on indigenous groups and local stakeholders—specifically, that: (i) there may not be sufficient opportunities for input and consent from the people whose lives and livelihoods are affected by REDD/REDD+ projects; (ii) the commodification of forest carbon sequestration services will lead to land grabs that will displace people who lack adequate legal protections and land tenure; and (iii) the payments for those sequestration services will not be equitably distributed among local stakeholders.⁹

³ See e.g., IFC Compliance Advisor Ombudsman, Complaint, Guatemala / Real LRIF-01/Coban (Oct. 29, 2014) (complaint submitted to IFC alleging social and environmental harms from Santa Rita dam); ECONOMIC, SOCIAL & CULTURAL RIGHTS AND CLIMATE CHANGE: A LEGAL REFERENCE GUIDE 68-69 (Sébastien Jodoin & Katherine Lofts eds., CISDL, GEM & ASAP 2013).

⁴ See e.g., FAO, CLIMATE CHANGE ADAPTATION AND MITIGATION: CHALLENGES AND OPPORTUNITIES IN THE FOOD SECTOR 7 (2012); UNDP, HUMAN DEVELOPMENT REPORT 2007/2008, FIGHTING CLIMATE CHANGE: HUMAN SOLIDARITY IN A DIVIDED WORLD 143 (2007); INTERNATIONAL COUNCIL ON HUMAN RIGHTS, CLIMATE CHANGE AND HUMAN RIGHTS: A ROUGH GUIDE 33-36 (2008), at 33-36; Olivier De Schutter, Special Rapporteur on the Right to Food, *Building Resilience: A Human Rights Framework for World Food and Nutrition Security*, ¶ 31, UN Doc A/HRC/9/23 (2008).

⁵ OXFAM, CLIMATE WRONGS AND HUMAN RIGHTS: PUTTING PEOPLE AT THE HEART OF CLIMATE-CHANGE POLICY 15-16 (2008).

⁶ ICAO Assembly Resolution A37-19: Consolidated Statement of Continuing ICAO Policies and Practices Related to Environmental Protection – Climate Change (Oct. 2010), Para 23(g).

⁷ See e.g., ACCOUNTABILITY COUNSEL, FUELING HUMAN RIGHTS DISASTERS: AN EXAMINATION OF THE U.S. OVERSEAS PRIVATE INVESTMENT CORPORATION’S INVESTMENT IN BUCHANAN RENEWABLES (2014); ACTIONAID, FEELING THE BIOFUELS PRESSURE: HUMAN RIGHTS ABUSES IN GUATEMALA (2013); CENTER FOR HUMAN RIGHTS AND GLOBAL JUSTICE, FOREIGN LAND DEALS AND HUMAN RIGHTS: CASE STUDIES ON AGRICULTURAL AND BIOFUEL INVESTMENT (NYU School of Law 2010).

⁸ See e.g., Jeanette Schade and Wolfgang Obergassel, *Human Rights and the Clean Development Mechanism*, 27 CAMBRIDGE REVIEW OF INTERNATIONAL AFFAIRS 717 (2014).

⁹ Arturo Balderas Torres & Margaret Skutsch, *Challenges for Pro-Poor Benefit Sharing Schemes in the Implementaiton of REDD+ in Mexico*, TECHNICAL SERIES: FOREST GOVERNANCE AND ECONOMICS, No. 2 (IUCN 2014); Cristiane Faustino and Fabrina Furtado, *The Green Economy, Forest Peoples and Territories: Rights Violations in the State of Acre* (Platforma de Dirietos Humanos, Econômicos, Sociais, Culturais e Ambientais 2014);

On a more general level, there are concerns about the distributional consequences of mitigation policies. Carbon pricing schemes, for example, can have a disproportionate effect on indigenous peoples, the poor, and other vulnerable groups, who may suffer greater hardship due to the increased price of energy, fuel, and goods. The commoditization of carbon emissions rights could also contribute to, rather than alleviate, existing economic disparities between and within countries. These concerns may be alleviated through proper regulatory design, such as by including relief from increased costs or encouraging distributional equity in project siting decisions, and through the incorporation of appropriate human rights safeguards into the SDM.

II. Learning from Existing Human Rights Safeguards

All of the major climate finance mechanisms incorporate rules aimed at protecting the rights of affected stakeholders, but they vary in terms of the degree and adequacy of the protection afforded. As discussed below, the safeguards adopted by the Green Climate Fund (GCF) and the Adaptation Fund provide the most comprehensive protection and should be considered as a model for the SDM. It is worth reviewing all of the mechanisms in order to understand their merits and shortfalls.

(a) Clean Development Mechanism

The CDM modalities and procedures contain rules that require stakeholder consultation (LSC) and global stakeholder consultation (GSC) prior to the validation of a CDM project.¹⁰ These include rules directing the project participants and coordinating/managing entities to inform the public about the proposed CDM project, invite comments from local and global stakeholders, and explain how these comments were considered in the decision-making process.¹¹

These rules are expressed in relatively general terms, lacking definite criteria for what constitutes adequate stakeholder consultation. Moreover, the rules do not require the consent of local stakeholders, nor do they outline any substantive requirements to promote the well-being of local people or the protection of rights (e.g., requirements for equitable distribution of project benefits). Nor is there any framework for prioritizing projects that will have beneficial impacts on the poor and other vulnerable groups, and their local environments. And although the project participants may include commitments to address stakeholder comments in the CDM project (e.g., commitments for job creation, mitigation of environmental harms, or compensation for land), there are no rules for monitoring the status or completion of those commitments. Finally, there are no provisions for stakeholders wishing to raise concerns about a project after it has been validated and registered, nor is there a grievance mechanism for individuals and communities who have been harmed by CDM projects.

ALED DILWYN FISHER, A HUMAN RIGHTS-BASED APPROACH TO THE ENVIRONMENT AND CLIMATE CHANGE: GI-ESCR PRACTITIONER'S GUIDE 11 (2014).

¹⁰ UNFCCC Decision 3/CMP.1, *Modalities and procedures for a clean development mechanism as defined in Article 12 of the Kyoto Protocol*, UN Doc. FCCC/KP/CMP/2005/8/Add.1 (March 30, 2006); UNFCCC, *CDM Standards*, <http://cdm.unfccc.int/Reference/Standards/index.html> (last visited Oct. 13, 2015).

¹¹ *Id.*

As a result of these procedural deficiencies, Carbon Market Watch concluded that many CDM projects have been registered “despite insufficient local stakeholder consultation, strong local opposition and clear evidence that projects cause harm to the local populations and/or ecosystems.”¹²

The Executive Board of the CDM has taken steps to improve stakeholder consultation for CDM projects. For example, at its seventieth meeting in 2012, the Board issued a decision directing Designated Operational Entities (DOEs) to assess whether LSC is still adequate when significant changes occur in the project design after the initial LSC.¹³ And in November 2016, the Board adopted a new rule requesting that the UNFCCC secretariat forward any CDM stakeholder comments pertaining to human rights issues be forwarded to the relevant human rights bodies within the UN system and the host government.¹⁴ Still, there are additional changes that could be made to the CDM rule and regulations “to increase the participation of stakeholders in, and the transparency, clarity, and effectiveness of,” the local and global stakeholder consultation processes.¹⁵

The lack of adequate provisions for stakeholder consultation in this context reflects a failure on the part of governments to protect and promote both substantive and procedural human rights. As noted above, there are some egregious examples of CDM projects that have resulted in the violation of human rights through displacement and the destruction of livelihoods. Better safeguards are needed to ensure that such violations do not occur in the context of SDM projects.

(b) REDD+

The Cancun Agreements included a set of safeguards that serve as guidance for forest activities aimed at mitigating climate change.¹⁶ These included some provisions that are relevant to the protection of human rights—e.g., that projects should demonstrate “respect for the knowledge and rights of indigenous peoples and members of local communities” and that they should include the “full and effective participation of relevant stakeholders, in particular indigenous peoples and local communities.”¹⁷ But these guidelines are expressed in very general, non-binding terms, and they do not explicitly require consent from those who live in the forests or utilize the forest resources that will be affected by REDD+ projects. They also do not contain language about the equitable distribution of benefits from forestry projects, which may not be a human right in of itself, but which has implications for the effective enjoyment of human rights for those who live in forests and depend on forest resources.¹⁸

¹² Carbon Market Watch, *Social and Environmental Accountability of Climate Finance Instruments*, 3 (Sept. 2015).

¹³ CDM EB 70 Report, para 91. The Board also adopted a decision to improve the global stakeholder consultation through further action. See EB 70 Report, para 90(a)(b)(d), and (e).

¹⁴ CDM EB 87 Report, para 52.

¹⁵ *Concept Note: Improving Stakeholder Consultation Processes*, Version 01.0, CDM-EB86-AA-A15, at Para. 6 (2015).

¹⁶ Cancun Agreements, (2011), *supra* note 1, at Appendix I.

¹⁷ *Id.* at p. 2(c),(d).

¹⁸ See Thomas Sikor et al., *REDD-plus, forest people’s rights, and nested climate governance*, 20 GLOBAL ENVIRONMENTAL CHANGE 423 (2010).

A variety of proposed standards and guidance documents have been introduced in this context. Two notable examples include the REDD+ Social & Environmental Standards,¹⁹ and the Joint Guidelines from UN-REDD Programme and the Forest Carbon Partnership Facility.²⁰ These standards provide a more comprehensive framework for protecting the rights of indigenous peoples and other local stakeholders, and ensuring an equitable distribution of benefits from REDD+ projects, but they are not binding on member states or other project stakeholders.

That said, projects that are funded through the World Bank's Forest Carbon Partnership Facility (FCPF) are required to comply with World Bank safeguard policies.²¹ These include ten social and environmental safeguards addressing the following issues: (i) environmental assessment, (ii) natural habitats, (iii) pest management, (iv) physical and cultural resources, (v) involuntary settlement, (vi), indigenous peoples, (vii) forests; (viii) dam safety; (ix) projects on international waterways; and (x) projects in disputed areas.²² The World Bank provides two mechanisms for enforcing and remedying violations of these standards: first, a person may submit a complaint to the Grievance Redress Service (GRS) when they believe a bank-funded project has caused or will cause them harm.²³ Second, if the aggrieved party is unable to resolve the issue through the GRS, it may submit a complaint to the World Bank's independent Inspection Panel to request a determination of whether harm has occurred as a direct result of World Bank non-compliance with its policies and procedures.²⁴

The World Bank safeguards were updated in August 2016 to expand social protections,²⁵ for example, by requiring free, prior and informed consent (FPIC) of indigenous peoples and traditional local communities in certain circumstances,²⁶ and by introducing new labor and working condition protections.²⁷ These new safeguards must be fully implemented by 2018.

While the World Bank has strengthened certain aspects of its safeguard policy through the new revisions, it has also relaxed certain procedural requirements – particularly those related to due diligence and disclosure – in order to introduce greater flexibility for project proponents. Some NGOs have expressed concern that the improvements to the policy “have been largely undermined by the replacement of clear-time bound requirements with vague language, loopholes, flexible principles and reliance upon ‘borrower systems’ instead of Bank safeguards

¹⁹ *REDD+ Social & Environmental Standards*, Version 2, Sept. 10, 2012.

²⁰ *Forest Carbon Partnership and UN-REDD Programme, Guidelines on Stakeholder Engagement in REDD+ Readiness* (2012).

²¹ Alternatively, for projects undertaken in accordance with the FCPF's “Common Approach”, projects must achieve “substantial equivalence” with the World Bank safeguard policies. For a more detailed discussion of this issue, see ALYSSA JOHL & YVES LADOR, *A HUMAN RIGHTS-BASED APPROACH TO CLIMATE FINANCE* (Friedrich Ebert Stiftung 2012).

²² The World Bank's standards are derived from the IFC's standards, and thus there are significant overlaps. World Bank, *World Bank Performance Standards*, <http://go.worldbank.org/BZ9RCBSRB0>.

²³ World Bank, *Grievance Redress Service*, <http://www.worldbank.org/en/projects-operations/products-and-services/grievance-redress-service>.

²⁴ World Bank, *Inspection Panel*, <http://ewebapps.worldbank.org/apps/ip/Pages/Home.aspx>.

²⁵ World Bank, *Environmental and Social Framework* (Aug. 4, 2016).

²⁶ *Id.* at ESS7.

²⁷ *Id.* at ESS2.

to determine what social and environmental standards a project must meet.”²⁸ The new safeguard policy has also been criticized for failing to explicitly recognize human rights obligations in the revised policy.²⁹ This is a significant omission, given the many human rights abuses that have been documented in the context of World Bank projects. A 2015 report of the UN Special Rapporteur on Extreme Poverty and Human Rights concluded that “the existing approach taken by the Bank to human rights is incoherent, counterproductive and unsustainable” and “[f]or most purposes, the World Bank is a human rights-free zone.”³⁰ A safeguard policy that explicitly acknowledges and incorporates human rights obligations in the SDM would be an important step towards avoiding duplication of this situation.

(c) Green Climate Fund

In 2014, the GCF Board decided to adopt, on an interim basis, the International Finance Corporation’s (IFC’s) environmental and social performance standards for GCF-funded projects.³¹ The IFC safeguards include eight performance standards addressing the following issues: (i) assessment and management of social and environmental risks and impacts; (ii) labor and working conditions; (iii) resource efficiency and pollution prevention; (iv) community health; (v) safety and security; (vi) land acquisition and involuntary resettlement; (vii) biodiversity conservation and sustainable management of living natural resources; (viii) full respect of rights of indigenous people and protection of cultural heritage.

The IFC standards are explicitly tied to human rights obligations,³² they recognize that businesses as well as government actors have an obligation to respect human rights,³³ and they specify that additional due diligence on human rights-related matters may be needed for certain high risk projects.³⁴ They also contain specific requirements aimed at protecting human rights—for example, they specify that, in the context of land acquisition projects, project proponents should “avoid/minimize displacement,” “avoid forced eviction,” and “improve or restore livelihoods and standards of living.”³⁵ They also require FPIC for indigenous peoples under specified circumstances.³⁶

These substantive provisions are complemented by several procedural mechanisms. First, the Board has created a Monitoring and Accountability Framework which requires accredited entities to assess their compliance with the GCF environmental and social safeguards and submit periodic reports to the GCF secretariat.³⁷ The Board has also created an “Independent Redress

²⁸ *Press Release, NGO Response to the World Bank’s Proposed Environmental and Social Framework: Proposed World Bank Standards Represent Dangerous Set-Back to Key Environmental and Social Protections* (July 22, 2016). See also Human Rights Watch, *World Bank: Dangerous Rollback in Environmental, Social Protections* (Aug. 4, 2015); Philip Alston, *Report of the Special Rapporteur on Extreme Poverty and Human Rights*, UN Doc. A/70/274 (Aug. 4, 2015).

²⁹ *Id.*

³⁰ *Report of the Special Rapporteur on Extreme Poverty and Human Rights*, UN Report A/70/274 (Aug. 4, 2015).

³¹ See Decisions of the Board – Green Climate Fund, GCF/B.07/11, Annex III, June 19, 2014.

³² IFC PS1: Assessment and Management of Environmental and Social Risks and Impacts.

³³ *Id.*

³⁴ *Id.* at FN. 12.

³⁵ IFC PS5: Land Acquisition and Involuntary Resettlement.

³⁶ IFC PS7: Indigenous Peoples.

³⁷ Decisions of the Board – Green Climate Fund, Initial Monitoring and Accountability Framework for Accredited Entities, GCF/B.11/10, Nov. 6, 2016.

Mechanism” to receive complaints related to the operation of the Fund and make recommendations to the Board.³⁸ People and communities who are directly affected by adverse impacts of projects resulting from a failure to implement the IFC safeguards can submit a complaint to the mechanism. The mechanism can make recommendations on a specific project or on operational policies and procedures.

Thus, the GCF has a relatively robust safeguard policy in place. However, there are some improvements that could be made – in particular, concerns have been raised that the GCF Monitoring and Accountability Framework relies too heavily on self-monitoring and self-reporting by accredited entities.³⁹ Another weakness is that the GCF Board has not committed to a “no harm” approach wherein it will not fund activities that cause environmental, social, or gender-specific harm.⁴⁰

(d) Adaptation Fund

The Adaptation Fund Board approved an Environmental and Social Policy in 2013 and revised it in 2016.⁴¹ The policy outlines a process for screening projects and programs based on their environmental and social impacts, and adopting measures to mitigate any adverse impacts. Specifically, the policy requires implementing entities to adopt measures to avoid or, where avoidance is impossible, minimize environmental and social risks, and monitor and report on the status of those measures during and at the end of implementation. It also outlines a set of social principles to guide the impact assessment process, which are more comprehensive than some of the other safeguard policies. Some notable aspects of these principles include:

- They explicitly require that all projects supported by the Fund “respect and where applicable promote human rights,”⁴² and furthermore, that all projects adhere to “core labour standards as identified by the International Labour Organization”⁴³ and the “rights and responsibilities set forth in the UN Declaration on the Rights of Indigenous Peoples and other applicable international instruments relating to indigenous peoples.”⁴⁴
- They require that projects be designed and implemented in a way that “avoids or minimizes the need for involuntary resettlement” and specify requirements for when “limited involuntary settlement is unavoidable” which include “socially feasible resettlement alternatives or fair and adequate compensation.”⁴⁵
- They require that all supported projects “provide fair and equitable access to benefits in a manner that is inclusive and does not impede access to basic health services, clean water

³⁸ Decisions of the Board – Green Climate Fund, Terms of Reference for the Independent Redress Mechanism, GCF/B.06/06, Feb. 13, 2014.

³⁹ *Working Draft: Inputs for the Green Climate Fund Environmental and Social Management System (ESMS)* (Feb. 15, 2016).

⁴⁰ Carbon Market Watch, *Social and Environmental Accountability of Climate Finance Instruments*, 10 (Sept. 2015).

⁴¹ Adaptation Fund Board, *Environmental and Social Policy* (Approved in November 2014; Revised in March 2016).

⁴² *Id.* at para 15.

⁴³ *Id.* at para 17.

⁴⁴ *Id.* at para 18.

⁴⁵ *Id.* at para 5.

and sanitation, energy, education, housing, safe and decent working conditions, and land rights,” and that projects “should not exacerbate existing inequities, particularly with respect to marginalized or vulnerable groups.”⁴⁶ They also include specific provisions to ensure that project proponents respect the rights of marginalized and vulnerable groups and women.⁴⁷

- They include provisions for habitat protection, conservation of biological diversity, pollution prevention, resource efficiency, public health, physical and cultural heritage, and land and soil conservation.⁴⁸

The policy also includes relatively robust requirements for public disclosure and consultation, and for monitoring, reporting, and evaluating the implementation of projects and risk mitigation measures.⁴⁹ Finally the policy requires that the implementing entities identify a grievance mechanism that will provide affected persons with an “accessible, transparent, fair and effective process for receiving and addressing their complaints about environmental or social harms” caused by the project.⁵⁰ The policy also states the Adaptation Fund Board secretariat will receive and respond to complaints, but does not specify what sort of standards or process will be used to review complaints or whether any remedies will be available.⁵¹

The Adaptation Fund policy provides a positive model for the protection and promotion of both substantive and procedural human rights. That said, the policy could be improved through the introduction of an independent grievance mechanism with more clearly defined standards for processing and responding to complaints.⁵² Such a grievance mechanism should also be part of the SDM safeguards.

(e) Global Environment Facility

The GEF is the oldest UNFCCC financial mechanism, and it manages two additional funds established by the COP: the Special Climate Change Fund (SCCF) and the Least Developed Country Fund (LDCF). In 2011, the GEF Council has also approved its own set of Policies on Environmental and Social Safeguards and Gender Mainstreaming.⁵³ The environmental and social safeguards are similar to the World Bank safeguards.⁵⁴ They require an initial screening for environmental and social impacts, and outline various substantive requirements for the protection of natural habitats, avoiding and minimizing involuntary resettlement, protecting the rights of indigenous peoples (unlike the World bank they require FPIC), pest management, the protection of physical cultural resources, and dam safety. Apart from the requirements for consulting with and respecting the rights of indigenous peoples, the public participation

⁴⁶ *Id.* at para 13.

⁴⁷ *Id.* at para 14, 16.

⁴⁸ *Id.* at para 20-26.

⁴⁹ *Id.* at para 32, 33.

⁵⁰ *Id.* at para 34.

⁵¹ *Id.* at para 34-35.

⁵² Carbon Market Watch, *Social and Environmental Accountability of Climate Finance Instruments*, 12 (Sept. 2015).

⁵³ *GEF Policies on Environmental and Social Safeguards and Gender Mainstreaming*, GEF/C.40/10/REV.1, May 26, 2011.

⁵⁴ Johl & Lador (2012), *supra* note 20, at 8.

provisions are very weak. The social and environmental policy also lacks provisions to address adverse or disproportionate impacts on vulnerable or marginalized groups.

The policy on gender mainstreaming outlines additional criteria for soliciting input from women and avoiding discriminatory outcomes. The policy calls for the preparation of a “gender mainstreaming strategy or plan” to “cover gender sensitive activities” but does not contain very robust requirements for ensuring that women are fully involved in the decision-making process and that benefits are equally distributed to women.⁵⁵

The GEF safeguards provide some protection for human rights, but lack provisions on public notice and consultation that would help to ensure that procedural rights are fully respected in the context of GEF-funded projects.

III. Conclusion

The UNFCCC can draw from and improve upon the policies outlined above in order to create a robust set of environmental and social safeguards to accompany the SDM. Based on past experience, we submit the following recommendations for the SDM safeguard policy:

- Explicitly recognize, incorporate, and build upon human rights law and international labor standards;
- Commit to a “no harm” approach whereby SDM funds are only used to finance projects that fully respect the human rights of affected people and communities;
- Require project proponents to disclose information about the project and accept input from affected communities and individuals at the earliest possible point in the project planning process, and to sustain an ongoing dialogue with the public throughout project development and implementation;
- Require project proponents to avoid adverse effects on people and the environment wherever possible, and to implement measures to mitigate any adverse effects that cannot be avoided;
- Require community participation in the determination of proper mitigation measures;
- For projects with potentially adverse impacts on indigenous people, require project proponents to obtain FPIC from those people;
- For projects that result in displacement of persons or communities, require the project proponent to offer resettlement opportunities, financial compensation, and other services as may be necessary to fully mitigate adverse effects on displaced persons and host communities;

⁵⁵ *GEF Policies* (2011), *supra* note 52, at Annex II, p. 18.

- Require periodic monitoring and reporting on compliance with environmental and social safeguards, preferably through a third party verifier; and
- Provide an independent grievance mechanism whereby parties that are harmed by SDM-funded projects can submit a complaint and request redress for those harms.

Thank you for considering these recommendations.

Sincerely



Michael Burger

Executive Director
Sabin Center for Climate Change Law
mburger@law.columbia.edu
(212) 854-2372



Jessica Wentz

Staff Attorney
Sabin Center for Climate Change Law
jwentz@law.columbia.edu
(212) 854-0081