



## UNITED NATIONS FRAMEWORK CONVENTION CLIMATE CHANGE: CLEAN DEVELOPMENT MECHANISM

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### INTRODUCTION

The United Nations Framework was signed in 1992 at United Nations Conference on Environment and Development, which constitute the foundation of climate agreement for the most consequent international climate agreements. The United Nations Framework Convention on Climate Change was established with an aim to reduce the emission of Greenhouse gas concentrations, which would prevent anthropogenic interference with the climate system.<sup>1</sup> It was designed to initiate the process for more climate change agreements between the countries. The important reasons for the establishment of UNFCCC is Greenhouse Gas Inventory. The United Nations Framework Convention on Climate Change was signed between 150 countries in Rio de Janeiro in 1992, which went on to widely recognize that climate change is a major threat to world's environment and economic development. The United Nations Climate Change has divided the countries into important groups.<sup>2</sup> The first group includes the countries, which are the member of Organization for Economic Co-

operation and Development, (OECD) in 1992 and the countries with economies in conversion called as the EIT, which included the Russian Federation, the Baltic States and several Central and Eastern European States. The second group consists of Organization for Economic Co-operation and Development (OECD) but not the EIT parties, which is there on the first committee.<sup>3</sup> The constituents of the committees are required to provide financial services to the developing countries for the reductions of emissions activities and help them to adapt the adverse effects of climate change. The convention has mainly focused on activities pertaining to special concerns of climate change and special concern about the vulnerable countries for the technology, investment and insurance.<sup>4</sup>

### CLEAN DEVELOPMENT MECHANISM

Clean Development Mechanism is defined under Article 12 of the Kyoto Protocol, which allows the countries for the reduction or emission-limitation commitment in the developing countries. Article 12<sup>5</sup> of the Kyoto Protocol, which allows the clean development mechanism for emission reduction projects in the developing countries to receive certified emission reductions (CERs) which are equal to one tone (907 Kilogram) of carbon dioxide. The certified emission reductions can be sold and used by industry to meet their requirement under emission reduction goals under the Kyoto Protocol. This process stimulated the

<sup>1</sup> K.F. Kuh, *The Encyclopedia of the Anthropocene*, Science Direct, 2018 at 2.

<sup>2</sup> UNFCCC, Global Policy.at 1,(2019),available at <http://unfccc.int/resource/climateaction2020/spm/introduction/index.html>.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> UNFCCC, The Kyoto Protocol Mechanisms, art. 12, (2010).



sustainable development and helps the industry to achieve their required goals. The Clean development mechanisms project must have a public registration and a well settled process to make sure that it is implemented for the emission reductions in the earth for better climate change.<sup>6</sup> The Clean Development Executive Board looks after the mechanisms under these regulations and accountable to the ratified countries under the Kyoto Protocol. The Central Development Mechanism has two-fold process to assist the developing countries for achieving the sustainable development goals and to assist the developed country parties for the reduction commitments and emission limitations.<sup>7</sup>

India is one of significant member country of Clean Development Mechanism. Clean development mechanisms has been a significant component of the global carbon market. The global carbon market has been established with an objective to reduce carbon emissions in the globe. India has been the part of Kyoto Protocol in August 2002 and the objective of the protocol was to fulfill the prerequisites for the clean development mechanism.<sup>8</sup> The central government reflects on clean development mechanism as a significant process for which it has constituted the National Clean Development Mechanism Authority for the reason of protecting and improving the quality of environment with respect to the objectives of Kyoto Protocol.<sup>9</sup> The National

Clean Development Mechanism authority accepts projects for the evaluation and approval, which are in accordance with the guidelines of the clean development executive board and conference of parties serving the meeting of parties to the United Nations Framework Convention on Climate change.<sup>10</sup> The central government constitutes the body of the National Clean Development Mechanism Authority as per the Environment Protection Act, 1986 with reference to sub section (1) and (3). The committees member includes the<sup>11</sup>

- 1- Chairperson-Secretary ( Environment and Forests)
- 2- Member-Foreign Secretary of his nominee
- 3- Member- Finance Secretary or his nominee
- 4- Member- Secretary, Industrial Policy and Promotion or his nominee
- 5- Member- Secretary, Ministry of Non Conventional Emery Sources or his nominee
- 6- Member- Secretary, Ministry of Power or his nominee
- 7- Member- Secretary, Planning Commission or his nominee
- 8- Member- Joint Secretary ( Climate Change), Ministry of Environment and Forests
- 9- Member- Secretary- Director (Climate Change), Ministry of Environment and Forests

The National clean development mechanism authority will exercise the following

<sup>6</sup> *Supra* 5.

<sup>7</sup> *Id.*

<sup>8</sup> Order, Ministry of Environment and Forests, Climate Change Division, 16. Apr, 2004, available at [http://ncdmaindia.gov.in/approval\\_process.aspx](http://ncdmaindia.gov.in/approval_process.aspx).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> Constitution, National CDM Authority, 1. Feb, 2019, available at <http://ncdmaindia.gov.in/Constitution.aspx>.



functions for the environment protection and to increase the efficiency of the clean developed mechanism. The authority checks that the measures taken under section-3(2)(viii), (ix), (x), (xii) of Environment protection Act,1986 and issue directions under section 5 of the Environmental Protection Act, 1986.<sup>12</sup>

Section 3 of the Environmental Protection Act states the power of the central government to protect the environment and look after the sustainable development goals. Section 3(2) (viii) states about the examination of the manufacturing process and substances, which are likely to cause environmental pollution. Section 3(2)(ix) states about the carrying out investigations and research relating to the problems caused in environmental pollution. Section 3(2) (x) states about the inspection process into certain premises, plant, equipment for control and prevention of environment pollution. Section 3(2)(xii) states about the collection of information regarding the matters related to environmental pollution.<sup>13</sup> The NCDM authority accepts the projects for the evaluation and approval as per the guidelines of Clean Development Mechanism which are issued at the meeting of parties in the United Nations Framework Convention on Climate Change. The evaluation of the clean development mechanisms will be based on the prerequisites of the objectives of sustainable development goals and meet the national priorities. National priorities will include the majority of the people and protect the

environment at large and hence the interest of the private party would be ignored under national priority. It will give additional recommendations to the people or group who has proposed the project for clean development mechanism to achieve the sustainable development goals within the legal framework of the country to ensure that the projects are compatible with the national priorities and the stakeholders have been duly consulted.<sup>14</sup> It ensures that the priority with respect to investment to the project is given to those projects which have achieved higher and long-term sustainable development benefits. The financial review of the project is done to check that the projects are not diversified for other goals and complied with the rules and modalities of the clean development mechanisms. It maintains the registration of the CDM projects approved and the certified emission reduction potential.<sup>15</sup> It makes sure that the project holder has sufficient and vast knowledge about the clean development mechanism to ensure better environmental protection and sustainable development. It collects and publishes the technical data related to the clean development mechanism projects in India.<sup>16</sup>

The national clean development authority has the definite powers. It invites the officials and experts from Government, financial institutions, consultancy organization, non-governmental organizations, and civil society for the technical and professional inputs for the projects. It helps in the interaction with the concerned authorities & institutions for the

<sup>12</sup> Environment Protection Act, No. 29 of 1986, Indian Code (1986), available at [envfor.nic.in/legis/env/env1.html](http://envfor.nic.in/legis/env/env1.html).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Supra* 12



CDM projects. It takes up matters which are of environment concern and sustainable development projects that are prescribed by the central government. It recommends about the guidelines of the CDM projects to the central government for upholding the nation priority at the top.<sup>17</sup>

The report of the conference of the parties under the Kyoto Protocol held at Montreal from 28 November to 10 December 2005 has discussed about the modalities and procedure for the clean development mechanism.<sup>18</sup> Article 12 of the Kyoto Protocol defines the purpose of the clean development mechanism in the global world for protecting the environment from the pollution. It further states that there should be emission reduction for the sustainable development goals. Article 3 states the there should be awareness about the goals of clean development mechanism and the procedure under Article 12 should be followed up.<sup>19</sup> Article 12 further states that it should follow the modalities and procedures for the clean development mechanism. It should invite the executive board to review the modalities and procedures for the clean development mechanism and if necessary make appropriate recommendations to the conference of parties of the Kyoto Protocol. It further decides that the rules and modalities for clean development mechanism are in accordance to the conference of parties of the Kyoto Protocol.<sup>20</sup> The role of conference of parties, which are served as the meeting of parties

shall give guidance to the executive board for the rules of procedure. The conference of parties also reviews the annual reports of the executive board. The executive board shall administer the clean development mechanism under the conference of parties. The executive board has the following functions with respect to the clean development mechanism project.<sup>21</sup>

- 1- It gives recommendations to the conference of parties regarding the modalities and procedures of the CDM.
- 2- It gives a report of its activities to the conference of parties.
- 3- It supervises about the baselines and project boundaries related to the clean development projects.
- 4- It reviews the modalities and procedures about the clean development mechanism and small- scale projects.
- 5- It is responsible for the accreditation of the operational entities and in accordance with the accreditation standards make recommendations to the conference of parties. The responsibility includes the decisions of the re-accreditation, suspension and withdrawal of accreditation and operationalization of accreditation procedures and standards.
- 6- It gives report on the regional and sub regional distribution of clean development projects mechanism to the conference of parties.
- 7- It gives relevant information to public about the clean development projects in order to receive funding for the project.
- 8- It make the availability of technical reports commissioned to the public and provide them a period of 8 weeks for the comments and suggestions before

<sup>17</sup> *Id.*

<sup>18</sup> *UNFCCC*, 42d plen, U.N. Doc. A/8/Add.1 (Mar. 30, 2006).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*



- finalizing the report and giving it to the conference of parties.
- 9- It maintains and develops rules and makes publicly available the repository of approved rules and procedures.
  - 10- It maintains the publicly available database of the clean development projects for the information contained on the registered project design documents.
  - 11- It states and addresses the rules of the clean development mechanism project to the project participants and operational entities.
  - 12- It carries out any further functions, which are prescribed by conference of parties.

These were the guidelines provided by the national central development authority for protecting the environment. Nevertheless, the approval projects of these aspects are important for the reader to understand the whole mechanism of this process.<sup>22</sup> The project proposed by the project participants should have certain qualification for the approval process. The project should have a quality to lead to real, measurable and long term sustainable goals for the protection of the environment. The additional GHG mitigation has to be reduced with respect to the baseline of the environment.<sup>23</sup> The additional certified emission reduction should not be in the form of the official development assistance. The authority checking for the approval process should notice that the clean development projects should achieve the sustainable

development goals. The clean development mechanism should improve the life of the environment in the best way.<sup>24</sup> The clean development mechanism should have a social well being activity which should terminate poverty in the country and generate additional employments to the poor people. The clean development mechanism project should have an additional investment consistent with the need of the people.<sup>25</sup> It should also look after the environmental and technological well being of the country. The environmental well-being should have a discussion regarding the clean development mechanism and its impact on the environment. The technological well-being include the transfer of the environmentally safe and sound technologies for the up gradation of the technological base.<sup>26</sup>

Like every other projects, the clean development mechanism project should have a methodology for the determination of the baseline. The baseline should be transparent, precise, comparable and workable for the project holders. The determination of the project should be uniform and reliable. It should avoid the potential errors and that should be indicated. System boundaries of the baseline should be indicated and the interval between the baselines should be updated.<sup>27</sup> It should include the lifetime of the project cycle and clearly mention about the project. The small-scale clean development projects are

<sup>22</sup> Approval Process CDM Authority, I Feb, 2019, available at [http://ncdmaindia.gov.in/approval\\_process.aspx](http://ncdmaindia.gov.in/approval_process.aspx).

<sup>23</sup> *Id.*

<sup>24</sup> *Supra* 22.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*



simplified procedures and can be used for the project proponent.

The approved procedure for the programme of activities is mention herein. The manager of the programme of activities submits to the National CDM authority. The projects are submitted in a single window & are opened by the National CDM authority. The projects proposer is required to apply to the administrator of the National CDM authority through the website by filling the user registration form. After the receipt of the user registration form, the project holder needs to fill the online Project Concept Note and upload the Project Design Document<sup>28</sup>. The National CDM authority examines the documents submitted regarding the CDM projects and if there exist any preliminary queries, it can seek response from the project holder. The project proposals are than put up for consideration by the National CDM authority. The project holders are given a time of ten-fifteen days of notice to come to the authority for a meeting and give a power point presentation on the project whereby the members of the authority seek clarifications.<sup>29</sup> In case, a member needs additional clarifications than it asks clarifications from the project holder. After complete satisfaction by the entire member, the Member- Secretary of the National CDM authority for that particular project issues the Host Country Approval. Hence, this is the way the clean development projects are approved by the national clean development authority.

One of the recent examples of clean development mechanism project & first

<sup>28</sup> *Supra* 12.

<sup>29</sup> *Id.*

under CDM is by a Gujarat based company for reducing green house gases emission from the environment as reported in Down to earth.<sup>30</sup>

## CONCLUSION

Environment pollution control, be it climate, air, water, soil etc is the need of the hour. Since GHG & carbon emission are causing irreparable loss to the environment leading to climate change, which, is now affecting the world in many ways. It has created extreme weather conditions & affects health & agriculture directly. The UNFCCC seeks a better world for all irrespective of people living in developed or developing countries. The sustainable development goals can only be achieved under the UNFCCC protocols. India being a signatory to the UNFCCC has taken up many clean development projects. People's participation in CDM mechanism is necessary for achieving the objectives of UNFCCC, which must be in the forefront of the agenda of every citizen. Climate change is a reality & can only be fought together without differentiating the rich & the poor.

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<sup>30</sup>Ritu Gupta, India's first CDM projects, Down To Earth, 4Jul.2015 available at <https://www.downtoearth.org.in/news/climate-change/indias-first-cdm-project-9597>