



Annex 23

DRAFT CLARIFICATIONS TO FACILITATE THE IMPLEMENTATION OF THE PROCEDURES FOR REVIEW AS REFERRED TO IN PARAGRAPH 41 OF THE MODALITIES AND PROCEDURES FOR A CLEAN DEVELOPMENT MECHANISM (Annex II to decision 18/CP.9)

*Note: The text contained in boxes below provides for **version 2** of clarifications by the Executive Board to facilitate the implementation of the review procedures adopted by COP 9. **Grey highlights** refer to issues still to be decided by the Executive Board.*

A. Background

1. In accordance with paragraph 5 (o) of the modalities and procedures for a clean development mechanism (CDM modalities and procedures), the Executive Board shall elaborate and recommend to the Conference of the Parties (Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol), for adoption at its next session, procedures for conducting the reviews referred to in paragraphs 41 and 65 of the CDM modalities and procedures including procedures to facilitate consideration of information from Parties, stakeholders and UNFCCC accredited observers.
2. Paragraph 41 of the CDM modalities and procedures stipulates that the registration by the Executive Board shall be deemed final eight weeks after the date of receipt by the Executive Board of the request for registration, unless a Party involved in the project activity or at least three members of the Executive Board request a review of the proposed CDM project activity. The review by the Executive Board shall be made in accordance with the following provisions:
 - (a) It shall be related to issues associated with the validation requirements;
 - (b) It shall be finalized no later than at the second meeting following the request for review, with the decision and the reasons for it being communicated to the project participants and the public.
3. The procedures for review proposed below aim at elaborating on the provisions in paragraph 41, in particular by specifying detailed provisions for requesting a review, the scope of review, modalities for communicating with project participants and the designated operational entity (DOE) in question, possible outcomes of a review, and the coverage of costs relating to the review.

B. Request for review

4. A request for review by a Party involved in the proposed project activity shall be sent by the relevant designated national authority to the Executive Board, through the secretariat, using official means of communication (such as recognized official letterhead and signature or an official dedicated e-mail account). The secretariat shall acknowledge the receipt of a request for review and promptly forward the request to the Executive Board via the listserv.
5. A request for review by a member of the Executive Board shall be made by notifying the Executive Board through the secretariat. The secretariat shall acknowledge the receipt of a request for review and promptly forward the request to the Executive Board via the listserv.



The secretariat is requested to include in its completeness check an enhanced check going beyond the assessment as to whether documentation has been submitted by covering: Correct versioning, cross referencing, the use of disclosure formulations and of English language, appropriateness of approval by Parties involved. The secretariat shall refuse acceptance of documentation unless identified issues regarding these criteria are addressed. [Resource implications of the enhanced role of the support secretariat need to be assessed]

ALTERNATIVE TO BE CONVERTED INTO DRAFT PROCEDURES, TO BE PREPARED BY THE SECRETARIAT, WITH A VIEW TO TAKING AN ELECTRONIC DECISION: The Board identifies a body based on a call for experts which has the task to consider every case and prepare an appraisal for the Board. This body, [chaired by a Board member and]supported by secretariat, would undertake its task by e-mail and teleconferences, as appropriate. NUMBER OF Committee MEMBERS in addition to EB member /PAYMENT / [This option does have resource implications which have not yet been taken into consideration in the CDM-MAP] REVIEW THE NEW MEASURE AFTER 6-9 MONTH / CHECKLIST OF ISSUES

An appraisal shall be highlighting objectively issues which do not meet standard to assist Board members to take a decision with regard to requesting a review and substantiating it

It remains the responsibility of each Board member to consider the reasons and need for requesting a review.

6. In accordance with paragraph 41 of the CDM modalities and procedures, a review shall be related to issues associated with the validation requirements and a request for review shall, therefore, be specific in this regard.

7. A request for review shall:

(a) Include the CDM project activity registration review form (F-CDM-RR) contained in the appendix to these procedures;¹

(b) Provide reasons for the request for review and any supporting documentation.

8. A request for review shall be considered to be received by the Executive Board on the date it has been received by the secretariat. A request for review will not be considered by the Executive Board if it is received after 17:00 GMT of the last day of the eight-week period after the receipt of the request for registration.

A request for review shall be forwarded to the Board as soon as the secretariat has received it. The request for review forwarded to the Board is strictly confidential.

9. As soon as a Party involved in a proposed CDM project activity or three Executive Board members request a review of a proposed project activity, the following action shall be taken:

¹ This form can be downloaded from the section on “References/procedures” on the UNFCCC CDM web site (<http://cdm.unfccc.int/Reference/Procedures>) and/or obtained electronically from the UNFCCC secretariat.



- (a) The consideration of a review of the proposed project activity shall be included in the proposed agenda of the next Executive Board meeting;
- (b) The Executive Board shall notify the project participants and the DOE which validated the proposed project activity that a review has been requested. The project participants and the DOE shall be informed about the date and venue of the next and the subsequent Executive Board meetings at which the request for review shall be considered. Stakeholders interested in the review process shall also be given an opportunity to attend the next or the subsequent Executive Board meeting.

Project Participants and the DOE, when being notified of the request for review, shall be invited to submit comments to the Board on issues raised as quickly as possible but not later than one week before the meeting. These inputs shall be made publicly available.

If a request for review for a proposed CDM project activity is considered the first time by the Executive Board, stakeholders may register as observers until two weeks before the meeting. For any meeting thereafter, where the request for review for this proposed CDM project activity is on the agenda, the normal three week deadline has to be observed. When requesting registration as observers, stakeholders shall indicate briefly how they are affected, or likely to be affected, by the proposed CDM project activity.

Stakeholders meeting above requirements and deadlines are registered as observers subject to availability of space on a first come first serve basis.

CONSULTATION: If at the end of the request for review period, only one or two Board member(s) raised a request for review, the activity is recorded as registered, the DOE and PPs are informed that such requests were raised. The Board shall:

- decide [electronically] which, if any, issue(s) raised should be conveyed and addressed by the PPs/DOE within 30 days including possibly the preparation of revised documentation. This revised documentation shall be checked by [secretariat][appraisal team leader][chair of] registration committee] WHAT IF NOT COMPLIED WITH THIS REQUEST*
- agree on clarification(s)/guidance to DOE/PPs in general which would avoid such issues in the future.*

The Board may in the future develop further criteria and process.

- (c) The project participants and the DOE shall each provide a contact person for the review process, including for a conference call, in case the Executive Board wishes to address questions to them during the consideration of a review at its meeting;

As part of the request for registration of a CDM project activity, project participants are required to submit a statement signed by all project participants stipulating the modalities of communicating with the Executive Board and the secretariat. The information on a contact person for the purpose of the review process shall be communicated in accordance with these modalities. After identification of the contact person, all communications (such as requests for clarifications, result of review) will be communicated through this contact person.

- (d) The proposed project activity shall be marked as being “under review” on the UNFCCC CDM web site and a notification shall be sent through the UNFCCC CDM News facility.



If a review is triggered, the request(s) for review shall be made publicly available with the names of the requesting Board members or Party(ies) remaining confidential.

C. Scope and modalities of review

10. The Executive Board shall consider, at its next meeting, a request for review, and either decide to undertake a review of the proposed project activity or register it as a CDM project activity.

*If the Board decide to register the activity it may do while requesting the DOE and project participants to make corrections based on the findings from its consideration of the request of review before proceeding with registration; This revised documentation shall be checked by **DEPENDS ON PROCEDURE TO BE DRAFTED REFERED TO ABOVE** before the activity is displayed as registered*

11. If the Executive Board agrees to undertake a review of a proposed project activity, it shall, at the same meeting, decide on:

(a) The scope of the review relating to issues associated with validation requirements, based on the consideration in the request for a review;

(b) The composition of a review team. The review team shall consist of two Board members, who will be responsible for supervising the review, and outside experts, as appropriate.

One member of the review team shall be identified (preferably the member/ alternate member who was responsible for the assessment) as lead member of the team having the responsible for drafting the final recommendation of the team to the Board ensuring that any diverging views within the team are reflected.

12. The review team, under the guidance of the Board members responsible for supervising the review, shall provide inputs, prepare requests for clarification and further information to the DOE and project participants, and analyse information received during the review.

D. Review process

13. The decision by the Board on the scope of the review shall be made publicly available as part of the report of its meeting.

14. Project participants and the DOE which validated the proposed project activity shall be notified of the decision by the Executive Board.

Project participants and/or the DOE will be informed through the contact person identified in paragraph 9 above.

15. Requests for clarification and further information may be sent to the DOE and the project participants. Answers shall be submitted to the review team, through the secretariat, within five working days after the receipt of the request for clarification. The secretariat shall acknowledge the receipt of the answers and forward them to the review team.

Project participants and/or the DOE will be requested to provide clarifications and/or further information through the contact person identified in paragraph 9 above.



16. The two Board members supervising the review shall be responsible for compiling inputs and comments and preparing the recommendation to be forwarded to the Executive Board via listserv at least two weeks before the next Executive Board meeting.

In considering a review, the following procedures and schedule shall be followed:

- A detailed request for clarification shall be prepared and submitted to project participants/DOE by the review team selected by the Board within one week after the Board decided on the composition of a review team and communicated to the team the scope of a review;
- Clarifications from project participants and DOE to the review team shall be submitted two weeks after the request for clarifications has been made by the review team;
- The lead review team member may decide to have further interactions for clarifications if she/he considers it useful and/or necessary in order to conclude on a recommendation;
- The recommendation by the two Board members supervising the review team shall be made available to the Board no later than two weeks before (deadline for documents) the next Board meeting.

E. Review decision

17. In accordance with paragraph 41 of the CDM modalities and procedures, the review by the Board shall be finalized no later than at the second meeting following a request for review.

18. Taking into consideration recommendations by the two Board members responsible for the review, the Board shall decide on whether:

- (a) To register the proposed project activity;
- (b) To request the DOE and project participants to make corrections based on the findings from the review before proceeding with registration; or

The DOE and/or the project participants shall submit these corrections within 12 weeks to the secretariat. The corrections should be reflected in revised documentation required for registration. Where applicable, a version tracking the changes shall be submitted in addition to a clean version. This revised documentation shall be checked by [secretariat][appraisal team leader][registration committee] The secretariat shall make the revised documentation available to the Board and the public.

The Board will consider the revised documentation at its next meeting for which the revised documentation was received within the two weeks documents deadline for Board meetings. If the Board considers the corrections as satisfactory, the proposed CDM project activity shall be registered, otherwise the proposed project activity is rejected.

- (c) To reject the proposed project activity.

19. In accordance with paragraph 41, the Board shall communicate the decision to the project participants, the DOE that validated the proposed project activity and the public.

20. If the review indicates any issues relating to performance of the DOE, the Board shall consider whether or not to trigger a spot-check of the DOE, in accordance with the procedures for accrediting operational entities.



If issues related to the performance are identified, the DOE shall be requested to send to the Board information of measures it put in place to avoid such issues. The information shall be placed in the DOE file and be part of the evaluation at the time of re-accreditation.


To support the assessment whether or not to trigger a spot check of the DOE, the Board will establish, subject to availability of resource, a tracking system to record the number of times a DOE is involved with a request for review, the causes for review and the measures the DOE identified in to address the causes.

F. Coverage of costs of the request for review

21. The Executive Board shall bear the costs for reviewing a proposed project activity. If the Executive Board decides to reject the registration of a proposed project activity and if a DOE is found to be in the situation of malfeasance or incompetence, the DOE shall reimburse the Board for the expenses incurred as a result of the review. This provision is subject to review as experience accrues.



APPENDIX

 <p>CDM project activity registration review form (F-CDM-RR) <i>(By submitting this form, a Party involved (through the designated national authority) or an Executive Board member may request that a review is undertaken)</i></p>	
Designated national authority/Executive Board member submitting this form	
Title of the proposed CDM project activity submitted for registration	
<p>Please indicate, in accordance with paragraphs 37 and 40 of the CDM modalities and procedures, which validation requirement(s) may require review. A list of requirements is provided below. Please provide reasons in support of the request for review, including any supporting documentation.</p>	
<p><input type="checkbox"/> <i>The following are requirements derived from paragraph 37 of the CDM modalities and procedures:</i></p> <ul style="list-style-type: none"> <input type="checkbox"/> The participation requirements as set out in paragraphs 28 to 30 of the CDM modalities and procedures are satisfied; <input type="checkbox"/> Comments by local stakeholders have been invited, a summary of the comments received has been provided, and a report to the designated operational entity (DOE) on how due account was taken of any comments has been received; <input type="checkbox"/> Project participants have submitted to the DOE documentation on the analysis of the environmental impacts of the project activity, including transboundary impacts and, if those impacts are considered significant by the project participants or the host Party, have undertaken an environmental impact assessment in accordance with procedures as required by the host Party; <input type="checkbox"/> The project activity is expected to result in a reduction in anthropogenic emissions by sources of greenhouse gases that are additional to any that would occur in the absence of the proposed project activity, in accordance with paragraphs 43 to 52 of the CDM modalities and procedures; <input type="checkbox"/> The baseline and monitoring methodologies comply with requirements pertaining to methodologies previously approved by the Executive Board; <input type="checkbox"/> Provisions for monitoring, verification and reporting are in accordance with decision 17/CP.7, the CDM modalities and procedures and relevant decisions of the COP/MOP; <input type="checkbox"/> The project activity conforms to all other requirements for CDM project activities in decision 17/CP.7, the CDM modalities and procedures and relevant decisions by the COP/MOP and the Executive Board. <p><input type="checkbox"/> <i>The following are requirements derived from paragraph 40 of the CDM modalities and procedures:</i></p> <ul style="list-style-type: none"> <input type="checkbox"/> The DOE shall, prior to the submission of the validation report to the Executive Board, have received from the project participants written approval of voluntary participation from the designated national authority of each Party involved, including confirmation by the host Party that the project activity assists it in achieving sustainable development; <input type="checkbox"/> In accordance with provisions on confidentiality contained in paragraph 27 (h) of the CDM modalities and procedures, the DOE shall make publicly available the project design document; <input type="checkbox"/> The DOE shall receive, within 30 days, comments on the validation requirements from Parties, stakeholders and UNFCCC accredited non-governmental organizations and make them publicly available; <input type="checkbox"/> After the deadline for receipt of comments, the DOE shall make a determination as to whether, on the basis of the information provided and taking into account the comments received, the project activity should be validated; <input type="checkbox"/> The DOE shall inform project participants of its determination on the validation of the project activity. Notification to the project participants will include confirmation of validation and the date of submission of the validation report to the Executive Board; <input type="checkbox"/> The DOE shall submit to the Executive Board, if it determines the proposed project activity to be valid, a request for registration in the form of a validation report including the project design document, the written approval of the host Party and an explanation of how it has taken due account of comments received. 	
Section below to be filled in by UNFCCC secretariat	
Date received at UNFCCC secretariat	