



Annex 12

Procedures for review as referred to in paragraph 65 of the modalities and procedures for a clean development mechanism

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 65 of the CDM modalities and procedures stipulates that the issuance of CERs by the Executive Board shall be considered final 15 days after the date of receipt by the Executive Board of the request for issuance, unless a Party involved in the project activity or at least three members of the Executive Board request a review of the proposed issuance of CERs. Such a review shall be limited to issues of fraud, malfeasance or incompetence of the designated operational entities and be conducted as follows:

(a) Upon receipt of a request for such a review, the executive board, at its next meeting, shall decide on its course of action. If it decides that the request has merit it shall perform a review and decide whether the proposed issuance of CERs should be approved;

(b) The executive board shall complete its review within 30 days following its decision to perform the review;

(c) The executive board shall inform the project participants of the outcome of the review, and make public its decision regarding the approval of the proposed issuance of CERs and the reasons for it.

3. The draft procedures for review proposed below aim at elaborating on the provisions in paragraph 65, 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 sent to 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.



6. In accordance with paragraph 65 of the CDM modalities and procedures, a review shall be limited to issues of fraud, malfeasance or incompetence of the designated operational entities and a request for review shall, therefore, be specific in this regard.
7. A request for review shall provide reasons for the request for review and any supporting documentation.
8. A request for review shall be considered received by the Executive Board on the date it has been received by the secretariat. The Executive Board will not consider a request for review if it is received after 17:00 GMT of the last day of the 15 days period after the receipt of the request for issuance of CERs.
9. As soon as a Party involved in the CDM project activity or three Executive Board members request a review of a proposed issuance of CERs, the following action shall be taken:
- (a) The consideration of a review of the proposed issuance of CERs 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 that verified the monitored reductions and certified the reductions achieved by the CDM project activity that a review has been requested. The project participants and the DOE shall be informed about the date and venue of the Executive Board meeting at which the request for review will be considered. Stakeholders interested in the review process shall also be given an opportunity to attend the Executive Board meeting;
 - (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;
 - (d) The proposed issuance of CERs 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.

C. Scope and modalities of review

10. The Executive Board shall consider, at its next meeting, a request for review, and shall either decide to perform a review of the proposed issuance of CERs or to approve the issuance.
11. If the Executive Board agrees to perform a review of a proposed issuance of CERs, it shall, at the same meeting, decide on:
- (a) The scope of the review relating to issues of fraud, malfeasance or incompetence of the designated operational entities, 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.
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, including on the scope of a review and the composition of a review team, shall be made publicly available as part of the report of its meeting.
14. A notification of the decision by the Executive Board shall be sent to the project participants and the DOE that verified the monitored reductions and certified the reductions achieved by the CDM project activity.
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.
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.

E. Review decision

17. In accordance with paragraph 65 of the CDM modalities and procedures, the Board shall complete its review within 30 days following its decision to perform the review.
18. Taking into consideration recommendations by the two Board members responsible for the review, the Board shall decide on whether:
 - (a) To approve the proposed issuance of CERs;
 - (b) To request the DOE to make corrections based on the findings from the review before approving the issuance of CERs; or
 - (c) To not approve the proposed issuance of CERs.
19. In accordance with paragraph 65, the Board shall inform the project participants of the outcome of the review, and make public its decision regarding the approval of the proposed issuance of CERs and the reasons for it.
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.

F. Coverage of costs of the request for review

21. The Executive Board shall bear the costs for reviewing a proposed issuance of CERs. If the Executive Board decides not to approve a proposed issuance of CERs 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.