



Annex 1

DRAFT PROPOSED AMENDMENTS TO THE RULES OF PROCEDURE OF THE CDM EXECUTIVE BOARD

I. INTRODUCTION

1. By its decision 21/CP.8, the Conference of the Parties (COP) adopted the rules of procedure of the CDM Executive Board and encouraged the Board to keep these rules under review and, if necessary, to make recommendations, in accordance with paragraph 5 (b) of the CDM modalities and procedures, on any amendments or additions aimed at safeguarding its efficient, cost-effective and transparent functioning. The COP at its ninth session further encouraged the Executive Board to keep its rules of procedure under review and, if necessary, make recommendations, in accordance with paragraph 5 (b) of the annex to decision 17/CP.7, on any amendments or additions aimed at safeguarding its efficient, cost-effective and transparent functioning;
2. The draft amendments to the rules of procedure of the Executive Board, contained in section II below, propose provisions regarding dispute settlement and the use of Internet and e-mail listservs.
3. The Board may wish to consider these proposed amendments with a view to agreeing on them at its seventeenth meeting, so that they can be recommended for adoption to the Conference of the Parties at its tenth meeting.

II. DRAFT PROPOSED AMENDMENTS

4. *Section V (Voting), Rule 30:* The new paragraph 4 would read as follows: “Any decision made using the procedure specified in paragraphs 1 to 3 of this rule shall be included in the report of the Board at its next meeting **and shall be deemed to have been taken at the seat of the UNFCCC secretariat in Bonn, Germany**”.
5. *Section IX. Conduct of business:* Add the following provisions as rule 38 bis: “**The Executive Board, and the UNFCCC secretariat in its mandated role of support to the Executive Board, may use e-mail listservs and online Internet submission of documentation in response to relevant procedures.**

The documentation submitted using online Internet submission is subject to the transparency and confidentiality provisions of the CDM modalities and procedures. In submitting any application, registration or other documentation through use of the UNFCCC CDM web site, the submitter shall acknowledge that he or she has read the relevant procedures and agree to be bound by the terms and conditions of submission of documentation, including with respect to the submitter’s sole responsibility the content of his or her submission and the waiver of all claims associated with use of the internet as a means of submitting and transmitting documentation.

The Executive Board shall not be made responsible for any claim or loss arising from the transmission or use of documentation obtained through on-line Internet submissions or e-mail listserv. Neither the confidentiality nor the integrity of the documentation submitted can be guaranteed following transmission on the Internet.”

6. *Section IX. Conduct of business:* Add the following provisions as rule 38 ter: “**If attempts at settlement by negotiation will have failed, every dispute, controversy or claim arising out of, or in**



connection with, any decision of the Executive Board, including its panels and working groups, in the implementation of the CDM shall be submitted to arbitration in Bonn, which shall have exclusive jurisdiction with respect to the same. The arbitration shall be conducted by a single arbitrator agreed to by both parties; if the parties are unable to agree on a single arbitrator within 30 (thirty) days of the request for arbitration, then each party shall appoint one arbitrator and the two arbitrators thus appointed shall agree on a third. Failing such agreement, either party may request the appointment of the third arbitrator by the President of the Permanent Court of Arbitration. The decision rendered in arbitration, including any allocation of costs of the arbitration between the parties, shall constitute final adjudication of the dispute and shall be binding upon the parties.”
