



## Annex 16

### CLARIFICATIONS TO FACILITATE THE IMPLEMENTATION OF THE

#### PROCEDURES FOR REVIEW

REFERRED TO IN PARAGRAPH 65 OF THE MODALITIES AND PROCEDURES FOR A CLEAN DEVELOPMENT MECHANISM (Annex IV to Decision 4/CMP.1)

*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/MOP 1*

#### 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 serving as the meeting of the Parties to the Kyoto Protocol, or to the Conference of the Parties (pending entry into force of the Kyoto Protocol), 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 certified emission reductions (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 procedures for review 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 CDM project activity concerned shall be sent by the relevant designated national authority to the Executive Board, through the secretariat, using official means of communication. 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.

*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, consistency of monitoring and crediting periods throughout the documentation. The secretariat shall refuse acceptance of documentation unless identified issues regarding these criteria are addressed.*

*Once completeness is confirmed, an appraisal shall be prepared in accordance with the procedure for a registration and issuance team (EB-RIT) contained in the terms of reference and procedure for a registration and issuance team.*

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

*In cases of requests for review based on incompetence relating to other issues for which clarifications and/or revised documentation should be supplied by the project participants and/or the DOE prior to the issuance of CERs, the request for review should indicate that it is related to "Other issues". If requests for review received before the end of the request for review period are only based on other issues the project participant and the DOE will then be informed by the secretariat that the issuance of CERs has been postponed until they have provided satisfactory clarifications to the issue(s) raised, and if necessary revised documentation. These clarifications and documentation shall be checked by the secretariat, in consultation with the Chair of the Executive Board before the CDM registry administrator is instructed to issue CERs.*

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 DOEs 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 1700 GMT on the last day of the 15-day period after the receipt of the request for issuance of CERs.

*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 review of a proposed issuance of CERs is requested by a Party involved in the CDM project activity concerned or by three Executive Board members, 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

*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 within two weeks but not later than two weeks before the meeting. These inputs shall be made publicly available.*

*An RIT member shall prepare an appraisal of these inputs with regard to issues identified in the requests for review.*

*The secretariat, under the guidance of the Chair of the Executive Board, shall prepare a decision sheet for consideration of the Board.*

*If a request for review for a request for issuance 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 request for issuance 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.*

*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 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.

*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 shall decide either to perform a review of the proposed issuance of CERs, if there is sufficient evidence indicating a case of fraud, malfeasance or incompetence of the DOE, or to approve the issuance.

*If the Board decide to approve the issuance 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 issuance. This revised documentation shall be checked by the secretariat, in*



*consultation with the registration and issuance team member and/or the Chair of the Executive Board, as appropriate, before the CDM registry administrator is instructed to issue the CERs. If the Chair of the Board considers that the corrections have not been made properly, or considers that as a result of the corrections further issues related to the verification requirements arise, the Chair may ask the secretariat to place the case on the agenda of the next meeting of the Executive Board for a further consideration.*

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 DOE, based on the consideration in the request for a review;

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

*One member of the review team shall be identified as lead member of the team having the responsibility 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, 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.

*Project participants and/or the DOE will be informed through the contact person identified in paragraph 9 (c) 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(c) 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.

*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 65 of the CDM modalities and procedures, the Board shall complete its review within 30 days following its decision to perform the review.

*Considering the short period of time between some meetings of the Executive Board, the Chair of the Board may request an electronic decision on the case in accordance with rule 30 of the Rules of procedures of the Executive Board (Annex I of Decision 4/CMP.1)*

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;

*The DOE responsible for the verification and/or the project participants shall submit its corrections within 12 weeks to the secretariat. These corrections related to verification should be reflected in revised documentation required for issuance.*

*Where applicable, a version tracking the changes shall be submitted in addition to a clean version. This revised documentation shall be checked by the secretariat, in consultation with the appraisal team leader, if needed. 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 CERs shall be issued, otherwise the request is rejected.*

- (c) To decline to approve the proposed issuance of CERs.

19. In accordance with paragraph 65 of the CDM modalities and procedures, 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 the 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. 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 fraud, malfeasance or incompetence, the DOE shall reimburse the costs incurred as a result of the review. This provision is subject to review as experience accrues.



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|  <b>CDM project activity issuance review form</b><br><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> |  |
| Designated national authority/Executive Board member submitting this form (Name in print)   |  |
| Title of the proposed CDM project activity for which issuance is requested  |  |
| DOE that requested for issuance and date of request   |  |
| Please indicate, in accordance with paragraphs 65 of the CDM modalities and procedures, for which reason(s) you request review. (Place a cross (X) in front of the reason)  |  |
| <input type="checkbox"/> <i>Fraud</i> <input type="checkbox"/> <i>Malfeasance</i> <input type="checkbox"/> <i>Incompetence</i>  |  |
| Please indicate reasons for the request for review and attach any supporting documentation to this request form. (if space is not sufficient please attach further reasons)   |  |
|   |  |
| <b>Section below to be filled in by UNFCCC secretariat</b>  |  |
| Date received at UNFCCC secretariat   |  |