



RE: Procedures for appeals in accordance with the CMP requests in paragraphs 42-43 of Decision 2/CMP.5

Dear Members of the CDM Executive Board,

We are grateful to the Executive Board for launching a call for public inputs, inviting views on procedures for appeals in accordance with the CMP requests in paragraphs 42-43 of Decision 2/CMP.5 and would like to submit our comment. Our comment focuses on procedures for appeals in relation to paragraph 42(a): *“Situations where a designated operational entity may not have performed its duties...”* and paragraph 42(b): *“Rulings taken by or under the authority of the Executive Board...regarding the rejection or alteration of requests for registration or issuance”*.

1. Paragraph 42(a): “Situations where a designated operational entity may not have performed its duties...”

Paragraph 43 of Decision 2/CMP.5 “requests the Executive Board to design the procedures referred to in paragraph 42...focusing on, but not limited to, ensuring due process...” With this in mind, we would like to suggest to the Executive Board (EB) that any future appeals process should be conducted by a party independent of the Executive Board. The EB and Secretariat are already overloaded with reviewing projects that have been approved at the DOE level. If the EB were to take on the further role of reviewing requests for appeal this would not facilitate the request of paragraph 43. Further it is the EB’s role to make high level decisions on such issues as methodologies, rule setting, procedures and not to deal with project-by-project appeals.

Procedures for appeals in situations where a designated operational entity (DOE) may not have performed its duties are welcomed and should be conducted by a separate, expert committee independent of the UNFCCC Secretariat and EB.

2. Paragraph 42(b): “Rulings taken by or under the authority of the Executive Board...regarding the rejection or alteration of requests for registration or issuance”

Procedures for appeals against rulings taken by or under the authority of the Executive Board...regarding the rejection or alteration of requests for registration or issuance are welcomed.

As previously noted in our comments on the revised procedures for registration, issuance and review, which are currently under the Board's consideration in accordance with paragraph 37 of Decision 2/CMP.5, we believe that all decisions made by the Executive Board need to be clear and transparent. At present, the details of the scope of any Review and the final response by stakeholders / DOEs to a Review are not made publicly available. A detailed conclusion of the Review is also not made publicly available. This contradicts the otherwise transparent nature of the CDM system. Until these issues are addressed, there seems little prospect for an effective appeals procedure. At present,



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stakeholders do not even receive a detailed explanation of the reasons for rejection. Provision of more detailed rationale at this stage of the process would reduce the number of potential appeal cases.

As with our suggestion to paragraph 42(a) above, any appeal procedures should not be handled directly by the EB and should, following the request in paragraph 43 of Decision 2/CMP.5, focus on the need for due process. We suggest that a separate, independent and expert committee be established to deal with all appeals to rulings taken by or under the authority of the EB regarding the rejection or alteration of requests for registration or issuance. Thank you for your consideration.

Sincerely yours,

Hajime Watanabe
Chairman
Clean Energy Finance Committee
Mitsubishi UFJ Securities Co., Ltd.