

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

1. The situations where a designated operational entity may not have performed its duties could be induced to two types of non-compliance for objective cause in relation to technique, knowledge and experience and subjective cause in relation to fraud, malfeasance and intentional error, which should be respectively classified further to different levels by its harm to the credibility of the clean development mechanism and the losses to the participants of the proposed project activities, with which a range of correspondent punitive sanction to serious extent should be listed accordingly in the procedures for appeals.
2. There are two points in the process of registration of proposed project activities where a designated operational entity may not have performed its duties are concentrated: one is the point where a decision whether or not to take a submission (including withdraw) for the proposed project to EB is made and the other is the point where a decision on review for registration whether to continued (including withdraw) and how to make its clarification is made, with which an appeal or a potential appeal is subject to and the revised procedures for submission for registration and that for review for registration are involved.
3. It is urgent for EB to establish procedures for considering appeals that are brought by stakeholders directly involved, especially by the project participants in relation so that to enforce DOE to improve its capacity and competition in the balance system between EB and stakeholders (mainly the participants). Therefore, to aim to that it is quite necessary to take more serious punishment and relative measures to DOE than the current provisions by EB on it, for instance, taking a suspension to DOE with a serious or more times of non-compliance for more than two years and even for ever, keeping relative stable in number of DOE with a new one in and an non-compliance one out just like talent in a company, as well as a compensation for the losses to the proposed project participants either recommended by EB as an internal settlement prior to lawsuit or taken by or under the authority of the Executive Board as rulings, which suit to that for subjective cause.
4. As a result of appeal, the procedure for appeals shall include the provision on compensation for the losses to the proposed project participants, if the settlement recommended or taken by EB as shown above not so appropriate, that the CERs issuance for the proposed project can be traced back as it would have been when it is proved that the DOE or EB expert involved shall be responsible for the failure of registration.
5. It might be considered in the procedure for appeals that the appeal, as appropriate, could be put on the UNFCCC website for public views based on opening and transparent principles under the situation that the appealer dose not accept the rulings taken by or under the authority of the Executive Board, with which a final ruling shall be taken by the Executive Board or by another group of experts designated under the authority of the Executive Board.

Finally, we must admit that the context of views shown above are basis on our experience met with right now that an appeal, after two year's validation without conclusion for the proposed project activity, will have to be sent to the headquarter of the DOE (Beijing office) for the first step by commendation from the secretariat of EB since there is no way for an appeal from the project participant to the Executive Board directly even though we knew that's just waste of time in accordance with the serious non-compliance by the DOE.

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