

April 14, 2010

**Input for the Call : Procedures for appeals in accordance with
the CMP requests in Para. 42-43 of Decision 2/CMP.5**

Japan Quality Assurance Organization

Para. 42 (a) of Decision 2/CMP.5

The EB of UNFCCC CDM has already disclosed the “Draft Procedures for an Appeal Process against DOEs by Project Participants” as Annex 2 to the EB 51 Proposed Agenda–Annotations. We would submit our input for the call hereunder given that the whole content shall be preserved as provided in the above draft, especially, the content of Para. 9 (a) and (c) of the draft, that “Allow a PP to file an appeal to the Executive Board against the validation/verification decision of a DOE on its project activity where the PP is not satisfied with the related decision of an appeal panel of the DOE.” and that “An appeal only shall be submitted after a PP has exhausted those opportunities already provided by the DOE’s system of complains, disputes and appeals.”

As we have no experiences of the PP’s filing the complaints, disputes or appeals against us with our appeal panel, we cannot infer the reasons why the CDM Executive Board calls the inputs on the proposed appeal procedures from DOEs upon this opportunity. We would ask the EB to provide us with the background information behind the scene on the proposed appeal procedures in order for us to share common understandings with the EB.

We are wondering by which laws the specific procedure for the above appeal against the DOE submitted by the PP is governed and construed. As you may easily understand, the validation/verification service agreement executed between the DOE and the PP is always governed and construed by the specific laws designated by the DOE and the PP. In case that the specific appeal procedure is governed and construed by a specific rules to be established by the EB, the DOE and the PP shall amend the governing laws from the specific laws provided in the agreement to the specific rules under which the specific appeal procedure is governed and construed. Or, alternatively, the specific appeal procedure might be governed by the specific laws designated by the DOE and the PP. We would ask the EB to clarify this regard on the governing laws or rules.

Para. 42 (b) of Decision 2/CMP.5

With regard to the “Rulings taken by or under the authority of the Executive Board....regarding the rejection or alteration of requests for registration or

issuance,” even prior to establishing the above appeal procedures, we would ask the EB to provide the DOE and the PP with sufficient reasoning or rationale for the Ruling under which the DOE and the PP could understand well why the requests for registration or issuance have been rejected or altered and take learning effects that the DOE and the PP would not repeat the same errors as they did prior to the requests for registration or issuance. Also, should the EB provide the sufficient reasoning or rationale we could decrease the possible dependences on the proposed appeal procedures.

Para. 43 of Decision 2/CMP.5

With regard to the due process of the proposed appeal procedures we would ask the EB to ensure the independence or impartiality of the appeal panel or body, which we assume the EB considers establishing, from the EB.