



Annex 6

DRAFT GUIDELINES FOR REQUESTING A REVIEW AND MAKING DECISIONS AND OBJECTIONS REGARDING REVIEW ASSESSMENTS*

(Version 02)

I. Background

1. All members of the Executive Board (hereinafter referred to as the Board), (and duly authorized alternate members) may request a review of any request for registration or issuance (see decision 3/CMP.1, annex, paragraphs 41 and 65; decision 4/CMP.1, annex II, paragraph 24; decision 2/CMP.5, paragraphs 37, 38, and 39; EB 55 report, annexes 40 and 41).
2. Further, all members of the Board (and duly authorized alternate members) may object to the proposed decision contained in the assessments, prepared in response to a request for review, by the secretariat and member of the Registration and Issuance Team (RIT) (see decision 2/CMP.5, paragraph 39 (c), and EB 55 report, annexes 40 and 41).
3. Finally, all members of the Board (and duly authorised alternate members) may object to a proposed ruling by the secretariat, following a decision by the Board to reject a request for registration or issuance (see EB 55 report, annexes 40 and 41).
4. The purpose of this guideline is to provide the Board with a framework to maintain the consistency and objectivity of its decisions and rulings and to provide greater transparency to clean development mechanism (CDM) stakeholders regarding the criteria applied by the Board in deciding upon case specific matters related to registration and issuance.
5. The guideline also serves to provide direction to the secretariat and members of the RIT in performing assessments and making recommendations as required by the relevant procedures.
6. This document replaces “Guidelines for the consideration of request for review and review cases” (EB 49, annex 21).

II. Authorization of alternate member

7. In cases where a member of the Board is unable to carry out his or her functions for a period of time, he/she may decide to delegate the authority to request a review, object to an assessment and object to a proposed ruling to his/her alternate member. This delegation of authority should be for a defined period of time to be notified to the Secretary to the Board. All Board members will be informed of this delegation of authority via the listserv.

III. Requesting a review

A. General

8. In accordance with the latest version of the relevant procedures, members of the Board may be provided advice regarding their consideration of request for registration and issuance by the secretariat and/or members of the RIT. It remains the responsibility of

* Due to the overall modification of the previous version (“Guidelines for the consideration of request for review and review cases” version 01), no highlights of the changes are provided.

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individual members of the Board, or duly authorized alternate members, to determine whether a request for review is appropriate.

B. Grounds for requesting a review

9. As a guideline it is expected that members would request a review when the request for registration or issuance raises concerns to a reasonable reader regarding whether the proposed project activity complies with the CDM rules and requirements.

10. A request for review would imply that the information contained in the request for registration or issuance does not demonstrate that the project activity meets the CDM rules and requirements for the issuance of certified emission reductions (CERs). It is therefore expected that members would be specific regarding the nature of the concern and where appropriate include references to the source of the concern within the submitted documentation.

IV. Matters to be considered in taking decisions regarding a review**A. Requests for registration**

11. Following the consideration of the project participants' and DOE's response(s) to the request for review of a request for registration, the Board shall decide to either:

- (a) Register the proposed project activity; or
- (b) Reject the request for registration of the proposed project activity.

12. The Board should decide to reject the request for registration of the proposed project activity in situations where the request for registration does not contain sufficient information to demonstrate to a reasonable reader that the proposed project activity complies with CDM rules and requirements for the registration of proposed project activities.

13. Specifically the Board should decide to reject the request for registration if it:

- (a) Contains information which indicates that the project activity does not comply with the applicable requirements;
- (b) Contains information which indicates that the validation activity has not been conducted in a manner that complies with the relevant requirements of the latest versions of either the "Standard for accrediting operational entities" or the "Clean Development Mechanism Validation and Verification Manual";
- (c) Contains contradictory facts regarding the compliance of the project activity with the CDM rules and requirements;
- (d) Does not contain sufficient facts or evidence to confirm compliance with applicable CDM rules and requirements;
- (e) Contains facts put forward by the project participant(s) within the project design document but without evidence regarding whether or how such facts have been validated.

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14. In exceptional cases, the Board may reject the request for registration when the response(s) to the request for review raises new issues regarding whether the request for registration complies with CDM rules and requirements to register a proposed project activity.

B. Requests for issuance

15. Following the consideration of the project participants' and DOE's response(s) to the request for review of the request for issuance, the Board shall decide to either:

- (a) Approve the request for issuance; or
- (b) Reject the request for issuance.

16. The Board shall decide to reject the request for issuance in situations where the request for issuance does not contain sufficient information to demonstrate to a reasonable reader that the request for issuance complies with the CDM rules and requirements for the issuance of CERs.

17. Specifically the Board should decide to reject the request for registration if it:

- (a) Contains information which indicates that the project activity has not complied with the applicable requirements for operating and monitoring registered CDM project activities;
- (b) Contains information which indicates that the verification activity has not been conducted in a manner that complies with the relevant requirements of the latest versions of either the "Standard for accrediting operational entities" or the "Validation and Verification Manual" (VVM);
- (c) Contains contradictory facts regarding the compliance of the monitoring or operation of the CDM project activity with the CDM rules and requirements;
- (d) Does not contain sufficient facts or evidence to confirm compliance with applicable CDM rules and requirements;
- (e) Contains facts put forward by the project participant(s) within the monitoring report but without evidence regarding whether or how such facts have been verified.

18. In exceptional cases, the Board may reject the request for issuance when the response(s) to the request for review raises new issues regarding whether the request for issuance complies with CDM rules and requirements for the issuance of CERs.

V. Objections to proposed decisions in assessments

19. In accordance with the "Procedure for review of requests for registration", and the "Procedure for review of requests for issuance of CERs", following receipt of the response(s) to the request for review, the secretariat and assigned RIT member shall provide an assessment, which shall include a proposed decision, and in cases where the proposed decision is final it shall become final unless an objection is received from a member of the Board.

20. As a guideline, it is expected that members would only object to the proposed decision in situations where both assessments:

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- (a) Did not consider a fact (or set of facts) that, if considered, would result in different proposed decision;
- (b) Contain an erroneous finding of fact (or set of facts) that, if corrected, would result in a different proposed decision;
- (c) Contain an unreasonable interpretation of a CDM rule or requirement that, if corrected, would result in a different proposed decision; or
- (d) Contain an unreasonable application of a CDM rule or requirement to the facts that, if corrected, would result in a different proposed decision.

VI. Objections to proposed rulings

21. Following the Board's decision to reject a request for registration or issuance, the secretariat shall prepare a proposed ruling for the decision, in accordance with the "Procedure for review of requests for registration", and the "Procedure for review of requests for issuance of CERs".

22. As a guideline, it is expected that members would only object to the proposed ruling in the following situations:

- (a) The proposed ruling does not contain a sufficient basis or explanation for the decision contained in the ruling; and
- (b) The ruling differs from the assessment that formed the basis from the decision. These differences include the following:
 - (i) The findings of fact;
 - (ii) The interpretation of a CDM rule or requirement; or
 - (iii) The application of a CDM rule or requirement as applied to the facts.

VII. Consideration of review cases at Executive Board meetings**A. Consideration of reviews placed on the agenda without objection**

23. In accordance with the "Procedure for Review of Requests for Registration" or the "Procedure for Review of Requests for Issuance of CERs" if the proposed decision of the RIT Team and the secretariat differ the review shall be considered at a meeting of the Board.

24. In such situations the Board should apply the following process to its consideration of such reviews:

- (a) Firstly, the secretariat shall present whichever assessment has recommended the rejection of the project activity outlining the requirement being questioned and the facts considered in the assessment;
- (b) Members and alternates may seek clarifications regarding the presentation;
- (c) Once members have received necessary clarifications the Chair of the Board will invite members and alternates to express their opinion regarding the recommendation;

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- (d) On the basis of the opinions expressed the Chair of the Board will propose to the Board either to accept the recommendation or not;
- (e) If consensus with the Chair's proposal is not achieved the Chair shall proceed to seek adoption of a decision via a vote in accordance with the "Rules of procedure of the Executive Board of the clean development mechanism"

B. Consideration of reviews placed on the agenda due to an objection

25. An objection made by a member of the Board to a proposed decision shall be considered during a meeting of the Board, as specified in the "Procedure for Review of Requests for Registration" or the "Procedure for Review of Requests for Issuance of CERs".
26. In such situations the Board should apply the following process to its consideration of such reviews:
- (a) Firstly the member(s) making an objection should present the reasons for the objection, making reference to the additional facts or interpretations relied on beyond the assessments;
 - (b) Members and alternates may seek clarifications regarding the presentation;
 - (c) The secretariat may provide any clarifications of a factual nature regarding applicable requirements and evidence contained in the relevant request for registration/issuance or response to request for review;
 - (d) Once members have received necessary clarifications the Chair of the Board will invite members and alternates to express their opinion regarding the objection;
 - (e) After a discussion by the members of the Board, the Chair shall determine and propose to the Board whether or not the objection should be further considered;
 - (f) If the Board decides that the objection requires further consideration the Board should follow the process outlined in section VII. A. above.

C. Consideration of objections to ruling documents at Executive Board meetings

27. An objection made by a member of the Board to a proposed ruling document shall be considered during a meeting of the Board, as specified in the "Procedure for Review of Requests for Registration" or the "Procedure for Review of Requests for Issuance of CERs".
28. In such situations the Board should apply the following process to its consideration of such objections:
- (a) Firstly the member(s) making an objection should present the reasons for the objection, making reference precise area of concerns within the draft and proposing an alternative;
 - (b) Members and alternates may seek clarifications regarding the presentation;
 - (c) The secretariat may provide any clarifications of a factual nature;



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- (d) Once members have received necessary clarifications the Chair will invite members and alternates to express their opinion regarding the objection;
- (e) After a discussion by the members of the Board, the Chair shall determine and propose to the Board whether or not the objection should be accounted for in the final revision;
- (f) If the objection is upheld by the Board, the Chair shall request the secretariat to revise the document for adoption at the same meeting of the Board.

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