



## Annex 22

**CONCEPT NOTE ON IMPROVING THE STAKEHOLDER  
CONSULTATION PROCESS****CONTENTS**

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## I. Background

1. At its sixty-first meeting the Executive Board (hereinafter referred to as the Board) of the clean development mechanism (CDM) considered a note submitted by a member of the Board on improvements of guidance regarding stakeholder and public participation in the CDM process. A subsequent analysis on the application of requirements for consideration of stakeholder inputs to the validation process was considered by the Board at its sixty-second meeting.
2. The Board agreed to launch a call for public inputs on this issue. The call specifically sought inputs on the implementation of local stakeholder consultation and global stakeholder consultation during the validation process. The secretariat was further requested to prepare an analysis on how the validation by DOEs on the adequacy of the stakeholder consultation process has been done and propose options for improvements.
3. The public call for inputs was open from 18 July to 15 August 2011. The secretariat received eighteen (18) inputs from a range of stakeholders, including the Project Developer Forum, non-governmental and civil society organizations, Designated Operational Entities (DOEs) and Independent Entities Association, and private individuals. The Board at its sixty-fourth meeting considered a summary of these inputs and requested the secretariat to provide recommendations to the Board, at the earliest possible opportunity, on how to incorporate the proposals received into the revised project cycle documentation and additional guidelines as appropriate. In doing so the secretariat was requested to take into account the issues identified in paragraph 119 of the report of the sixty-third meeting of the Board<sup>1</sup>.
4. Further opportunities for stakeholder input were provided via two interactive events organized by the secretariat in 2012. A session dedicated to the stakeholder consultation process was conducted at the thirteenth Designated National Authorities (DNA) Forum, and the topic was also discussed during a break-out session at the first Sustainable Development Mechanisms Joint Coordination Workshop held in March 2012. Both events featured discussion and solicited further views and inputs from participants.
5. Furthermore, a draft paper on improvement of the stakeholder consultation process was presented to stakeholders and discussed at the fifth CDM round table that took place in Bonn on 10<sup>th</sup> August 2012. This concept note takes into account the outcome of the discussion and the consensus of stakeholders during the round table.

## II. Scope and purpose

6. The scope of this paper is focussed on presenting proposals for best practices, amendments to and elaboration of the current rules and provision of new requirements for improving the stakeholder consultation process. The aim of such proposals is to increase participation, transparency, clarity and effectiveness of the stakeholder consultation process through:

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<sup>1</sup> These issues were: (a) Timing for the global stakeholder consultation with reference to the submission for registration and potential risks for specifying a certain period; (b) DOEs treatment of significant concerns regarding the validation process and how they could be improved; (c) Reconsideration of timing for dealing with significant concerns raised by Board members in the validation process; (d) Practice in communication with stakeholders and concerns with the process of submission of the letters.



- (a) Providing clear requirements to project participants (PPs)<sup>2</sup> on how to conduct the stakeholder consultation, who to consult and how to report on the consultation;
- (b) Providing clear requirements and guidance to DOEs on how to assess the conduct of the stakeholder consultations;
- (c) Ensuring uniformity of the practices for stakeholder consultations among all PPs and the way it is assessed by DOEs;
- (d) Ensuring that affected communities and stakeholders are adequately consulted and are provided the opportunity to give feedback;
- (e) Ensuring that consultations are conducted during appropriate times during the project cycle and in a transparent manner.

7. This concept note provides a consolidated overview of comments, proposals, and inputs submitted via electronic and in-person channels described above. Options for implementation and recommendations arising there from are presented for the Board's further consideration.

8. It is intended that if the proposed amendments were adopted, the CDM rules would provide clear requirements for stakeholder consultation. This would facilitate more effective stakeholder involvement in CDM projects<sup>3</sup> and facilitate the DOEs task of assessing how this involvement was conducted.

9. The scope does not include analysis of the proposed measure to highlight sustainable development co-benefits.

10. In this concept note, analysis of the current CDM requirements are presented. This is followed by a summary of the issues raised by and proposals from stakeholders. Based on those two elements and literature reviews undertaken to understand how other organizations deal manage stakeholder consultation, proposals for improvement of the local and global stakeholder consultations are made.

### **III. Local stakeholder consultation process**

#### **A. Analysis of the current situation**

11. Currently, the local stakeholder consultation (LSC) process requires the PP to:
- (a) Demonstrate what steps/actions were taken to appropriately engage stakeholders and solicit comments (paragraph 37 of the annex to decision 3/CMP.1); and
  - (b) Prepare a summary of the comments provided by local stakeholders and demonstrate that it has considered all comments received for the proposed CDM project activity or PoA<sup>4</sup>.

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<sup>2</sup> Reference to PPs in this document includes CMEs for CDM programme of activities.

<sup>3</sup> References to CDM project or CDM project activity in this document include CDM programmes of activities (PoAs).

<sup>4</sup> Current provisions regarding PPs conducting of LSC are contained in paragraphs 65 to 69 of the CDM Project Standard (PS), ver.01, EB 65 Annex 5. Current provisions regarding DOEs' assessment LSC are contained in paragraphs 138 to 140 of the CDM Validation and Verification Standard (VVS), ver.02, EB 65 Annex 4. In addition,, the LSC is covered in section E. of the PPD and section F. of the PoA-DD.



12. Therefore, the current process comprises:
- (a) Solicitation of comments from local stakeholders – description of the process by which comments from local stakeholders have been invited for the CDM project activity;
  - (b) Summary of comments received;
  - (c) Report on consideration of comments received – reporting on information demonstrating that all comments received have been considered.
13. With regard to the timing for undertaking the LSC process, currently the requirements stipulate that it shall be conducted prior to submitting the project for validation.
14. In validating the LSC process, the DOE is required to determine whether the PPs have completed a LSC process and that appropriate steps were taken to engage stakeholders and solicit comments for the proposed CDM project activity.
15. Based on the above, it could be concluded that the CDM rules and requirements do not provide specific guidance to PPs on who to consult during the LSC process, when to consult and using what method of consultation. Based on the inputs received from stakeholders, the absence of specific guidance on conducting the LSC process appears to be making it difficult for a DOE to assess whether the LSC process was conducted adequately by a PP. This has the further consequence of making it difficult for the DOE to make an objective judgement.

#### **B. Input from stakeholders on the LSC process**

16. A broad consensus on the need to improve the current requirements and practice for local stakeholder consultation is apparent from the inputs received from stakeholders. It is noted that different kinds of stakeholders share a desire to improve the transparency and effectiveness of the LSC process through enhancement of current rules and guidelines on conducting, reporting, and assessment of consultation activities.
17. The first recommendation for improvement within the LSC process is to introduce specific rules for PPs on how to conduct the process. Recurrent proposals for improvements include modalities describing the method, frequency, and timing of consultation, as well as the need to consider and identify key stakeholders that should be consulted.
18. The recommendations from stakeholders for changes in the LSC process include the need to:
- (a) *Define the scope* of the LSC process, vis à vis national or local regulatory requirements;
  - (b) Provide rules for *how local stakeholders are to be informed* of the LSC process;
  - (c) Provide rules for *how and when to conduct* the LSC.
19. Stakeholders also identified a need for clearer guidance to DOEs on how to assess LSC. Stakeholders identified the need for the following types of rules to assist DOEs in making an appropriate validation opinion on the adequacy of the LSC process:
- (a) Rules to establish **who** stakeholders are, as well as a possible minimum number and types / groups of stakeholders that must be consulted;
  - (b) Rules describing **how** stakeholders should be informed about the proposed CDM project activity and **how** they should be engaged in the consultation process;



- (c) Rules describing *what* information or evidence need to be provided;
- (d) Rules describing *how* feedback is to be documented and assessed;
- (e) Guidance on *what* to do about negative stakeholder comments.

20. Stakeholders also expressed a wish for the establishment of a grievance mechanism for stakeholders who feel they have not been adequately consulted or for cases in which measures or outcomes pledged by project participants/developers may have not occurred.

21. A detailed summary of stakeholder inputs is provided in appendix 1 to this document.

### C. Proposals for improvements of LSC

22. Based on the issues identified with the current requirements and stakeholder inputs, the process for LSC could be improved as follows:

- (a) Define the start time of the consultation (this would be a clarification of an existing requirement);
- (b) Define the scope of consultations (this would be a new requirement);
- (c) Identify stakeholders that should be involved (this would be a new requirement);
- (d) Seek/invite comments (this would be through clarifications and new requirements);
  - (i) Specify the means for inviting stakeholder participation;
  - (ii) Specify what information has to be made available to stakeholders;
  - (iii) Specify the format of the information to be provided;
  - (iv) Specify how the consultation is to be conducted.
- (e) Provide how to summarise comments received (this would be through clarifications and new requirements);
- (f) Provide how to report on consideration of comments received – (this would be through clarifications and new requirements); and
- (g) Require a further stakeholder feedback round (this would be a new requirement). This round would;
  - (i) Define the stakeholders to be invited;
  - (ii) Define what information shall be made available to stakeholders;
  - (iii) Define how the consultation shall be conducted;
  - (iv) Define reporting requirements including how stakeholders' comments were taken into account.
- (h) Include a requirement on the PP to have a grievance mechanism for local stakeholders where their comments are not taken into account (this would be a new requirement).



23. In relation to strengthening, improving and clarifying the DOE assessment of the LSC process; proposals include:

- (a) Assessing that the steps referred to in paragraph 22 above have been conducted adequately. As the above proposal includes detailed provisions on how to conduct the LSC process, including such these provisions would provide clarity to DOEs on how to assess them. As such, the validation requirements for DOEs would mirror the implementation and reporting requirements of the PPs.
- (b) Requiring DOEs to assess any information provided by the DNAs about complaints the DNA receives about the proposed CDM project activity from stakeholders.
- (c) Providing guidance to DOEs on what to do about negative stakeholder comments.;
- (d) Requiring the DOE to assess whether the information provided to stakeholders, by PPs (including the non-technical summary of the project) reflects adequately the reality of the project activity.

24. The table below elaborates on the recommendations above. The table includes a list of the regulatory documents that would be affected if the recommendations were adopted. It also summarises potential positive and negative impacts of each proposal.

**Table 1: Detailed proposals for the improvement of the LSC**

<i>Proposed step</i>	<i>Proposed requirement</i>	<i>Nature of recommendation (new requirement, clarification/ change of an existing requirement)</i>	<i>Where it could be incorporated in the current regulatory framework</i>	<i>Potential positive impacts</i>	<i>Potential negative impacts</i>
<b>Local Stakeholder Consultation</b>					
<i>Define the start time of the consultation</i>	Consultations shall be carried out at the design phase of the project activity or PoA	New requirement	Amendment to the PS and VVS and PDD and PoA-DD forms.  Specifically, PS paragraph 69 and VVS paragraph 138 PDD/PoA-DD guidelines section E.1/F.1.	The first round of stakeholder consultation conducted at a stage where the project developer is still open to adapting the project design.	None identified
<i>Define the scope of LSC</i>  (a) <i>Clarify that compliance with national regulations takes precedence over CDM</i>	(a) compliance with national regulations takes precedence  (b) LSC could be combined with EIA process  (c) The scope shall comprise as a minimum the potential impact that the project may have, both positive and negative, on the environment and the local communities	New requirement	PS paragraph 65	Address conflicting views on local or national regulations and stakeholders comments.  As project developers must in any case comply with local or national regulations, LSC could be combined with consultation required in, for example, the EIA process.	None identified



<i>Proposed step</i>	<i>Proposed requirement</i>	<i>Nature of recommendation (new requirement, clarification/ change of an existing requirement)</i>	<i>Where it could be incorporated in the current regulatory framework</i>	<i>Potential positive impacts</i>	<i>Potential negative impacts</i>
<i>requirements</i> (b) <i>LSC could be combined with EIA process</i>				Consultations may not need to be CDM specific, which would reduce the costs of organizing such meetings.	
<i>Define the minimum group of stakeholders who shall be involved in the consultations</i>	<p>The following groups of stakeholders shall be at a minimum involved in the consultation process: potentially affected members of the public , local authorities, a DNA representative, representatives of local civil society. PPs/CME shall substantiate their choice of potentially affected members of the public. The PPs or CME shall also substantiate how they identified the local people affected.</p> <p>If stakeholders from those groups have not been involved, PP or CME shall justify why.</p> <p>Attendance of all groups of stakeholders may not be possible. However, PPs or CME shall provide evidence that invitations were sent to those groups of stakeholders and their comments were invited.</p>	New requirement	Amendment to the PS and VVS and PDD and PoA-DD forms. Specifically, PS para. 66 and and VVS para. 139. PDD/PoA-DD guidelines section E. 1. /F.1	The specification of the minimum core groups of stakeholders that should be consulted, to ensure that all relevant groups of stakeholders are involved.	The proposal could result in additional implementation work for project developers and extra costs.
<i>Seek/invite comments</i>  (i) <i>Define means for inviting stakeholders participation</i>  (ii) <i>Define what information</i>	<p>(i) Effective means/media shall be used to inform stakeholders about the consultations and the project. This should include information disseminated in ways that are appropriate for the particular community that is affected. For example: community centres, cultural places (Churches, shrines, mosques...), Schools...In areas where a significant part of the population is illiterate the information shall be provided orally: local radio, public announcer...PPs/CME shall provide evidence that consultation information was distributed in appropriate locations.</p>	Clarifications and new requirements within current step	Amendment to the PS and VVS and PDD and PoA-DD forms.	<p>Ensure involvement of relevant stakeholders in the consultation process and their access to information about the project.</p> <p>Increase uniformity on the conduct of LSC.</p> <p>Ensure that relevant</p>	The proposal could result in additional implementation work for project developers and extra costs.





<i>Proposed step</i>	<i>Proposed requirement</i>	<i>Nature of recommendation (new requirement, clarification/ change of an existing requirement)</i>	<i>Where it could be incorporated in the current regulatory framework</i>	<i>Potential positive impacts</i>	<i>Potential negative impacts</i>
<i>has to be made available to stakeholders and its format</i>  <i>(iv) Define how the consultation shall be conducted;</i>	<p>(ii) In addition to the original project information including non-confidential technical information, provide a non-technical summary explaining the project in simple, non-technical term and in the appropriate local language(s). The provided information should enable the stakeholders to understand the project and its impact positive or negative.</p> <p>(iii) Among other means, hold an in-person meeting with stakeholders:</p> <p>(a) Sufficient time should be given to stakeholders to enable their participation in the meeting</p> <p>(b) The meeting shall be conducted in the local language(s)</p> <p>(c) PPs or CME shall present the project and its potential impact on the environment and local communities so that a lay audience can understand the effects of the project both when it is created and over the project's lifetime.</p> <p>(d) The PPs, CME shall address any questions and clarification from the stakeholders.</p> <p>(e) PPs or CME shall gather stakeholders comments and concerns about the project and its impact.</p> <p>(f) PPs/CME shall inform stakeholders of means to raise concerns on the project</p> <p>(iv) The in person meeting referred to above shall not be the only mean for providing comments on the project activity, Stakeholders shall be provided the opportunity to comment in writing or via other</p>			information about the conduct of the LSC is adequately reported.	



<i>Proposed step</i>	<i>Proposed requirement</i>	<i>Nature of recommendation (new requirement, clarification/ change of an existing requirement)</i>	<i>Where it could be incorporated in the current regulatory framework</i>	<i>Potential positive impacts</i>	<i>Potential negative impacts</i>
	means.				
<ul style="list-style-type: none"> <li><b>Summary of comments received</b></li> </ul>	<p>PPs/CME shall prepare a summary report of the comments received. This report shall contain as a minimum:</p> <p>(a) Evidence of means used to invite stakeholders;</p> <p>(b) Lists of participants to the meeting;</p> <p>(c) A copy of the documentation or presentations made available to stakeholders during the meeting including voice recording or video recording;</p> <p>(d) Summary of the discussion that took place including, if appropriate, voice recording or video recording.</p> <p>(e) Input, comments and concerns raised by stakeholders</p>	Clarifications and new requirements within current step.	<p>PS paragraph 65-69, VVS 138-140, PDD and PoA-DD section E /F</p> <p>Possible: Guidelines for conducting LSC?</p> <p>PCP ?</p>	<p>Increase uniformity of treatment of comments received during LSC.</p> <p>Assure and expand the accessibility of information on the consultation to relevant stakeholders.</p>	The proposal could result in additional implementation work for project developers and extra costs.
<b>Report on consideration of comments received</b>	<p>PPs/CME shall consider the inputs, comments and concerns raised by stakeholders and report on how it has taken them into account when revising the PDD.</p> <p>The PPs/CME shall justify if any comments were not incorporated including negative comments.</p>	Clarifications and new requirements within current step	Amendment to the PS and VVS and PDD and PoA-DD forms.	<p>To assure that relevant stakeholders comments were taken into account.</p> <p>Increase transparency of reporting stakeholder comments.</p>	May reduce the flexibility for development of CDM project activities and programmes, and potentially raise costs for projects developers.
<b>Stakeholder feedback round</b>  <b>(i) Define how to conduct this</b>	(v) PPs/CME shall invite at least the same stakeholders that were invited to the first round of consultations through the appropriate means taking into account any issues with communication that arose in the first round. Individual invitations to stakeholders who attended the first round shall be made;	New requirement	Amendment to the PS and VVS and PDD and PoA-DD	Summary of comments from first round should be made available and follow up rounds should be held to discuss how / if concerns	The proposal could be a burden for project developers and may make validation process longer, thus generating incremental



<i>Proposed step</i>	<i>Proposed requirement</i>	<i>Nature of recommendation (new requirement, clarification/ change of an existing requirement)</i>	<i>Where it could be incorporated in the current regulatory framework</i>	<i>Potential positive impacts</i>	<i>Potential negative impacts</i>
<p><i>round</i></p> <p>(ii) <i>Define what information shall be made available to stakeholders</i></p> <p>(iii) <i>Define how the consultation shall be conducted;</i></p> <p>(iv) <i>Define how reporting requirements including how comments were taken into account</i></p>	<p>(vi) The PPs/CME shall present:</p> <p>(a) The project activity in non-technical terms.</p> <p>(b) The summary of comments received in the first round and how it has addressed them including the ones that were considered immaterial or irrelevant</p> <p>(c) The changes in the project design carried-out as a result of the stakeholders comments.</p> <p>(d) Any other change in the project design.</p> <p>(vii) Invite stakeholders' comments.</p> <p>(viii) Inform stakeholders of the grievance mechanism available to them if they consider that their comments were not taken into account and the reasons for that not appropriately substantiated.</p> <p>(ix) PPs/CME shall prepare a report on stakeholders inputs received during the second round and how they have been addressed. Reports shall contain the same information that these required for the first round.</p>		forms.	<p>have been taken into account. More than one round of consultations should increase stakeholder participation.</p> <p>The first round during design phase would increase the suitability and thus the likelihood of incorporating stakeholder's comments into the CDM project or programme.</p>	work and costs for projects developers.
<i>Grievance mechanism for stakeholders if their comments are not taken into account</i>	If stakeholders consider that their comments were not taken into account and the reasons for that not appropriately substantiated by the PPs, they can inform the DNA of the host country. The DNA should inform the DOE, when a LoA is requested for the project, of the complaints from stakeholders. The DOE shall investigate the complaints and ensure through raising a CAR that the PP addresses the complaint appropriately and communicate the outcome to the	New requirement	Amendment to the VVS Inclusion of new requirements in section N. and PCP.	To enhance the accountability, integrity and transparency.	Increase risks for project developers and complexity of the current system.



<i>Proposed step</i>	<i>Proposed requirement</i>	<i>Nature of recommendation (new requirement, clarification/ change of an existing requirement)</i>	<i>Where it could be incorporated in the current regulatory framework</i>	<i>Potential positive impacts</i>	<i>Potential negative impacts</i>
	complainant and the DNA. It is to be noted that the outcome of the complaint may not be always in favor of the complainant.				
<b><i>DOE assessment of the adequacy of LSC</i></b>	<p>The DOE shall check whether the LCS has been carried out adequately through checking all the records of the consultation process and through contacting some of the stakeholders who had participated to the consultation either through telephone, email or on site if the DOE carries-out a site visit.</p> <p>The DOE shall validate that input from stakeholders were duly taken into account and if not reasons why should be substantiated.</p> <p>The DOE shall also contact the DNA through email and/or phone to check whether any complaints has been received by them from stakeholders and in such case investigate the complaint.</p> <p>In case no response is received by the DOE from the DNA in 2 weeks, The DOE shall proceed based on the information available to it.</p>	New requirement	Amendment to the VVS. Inclusion of new requirements in section N.	Provide clarity to DOEs on how to assess the LSC which would result in a better assessment, increase the transparency and uniformity of the assessment process.	May result in more reporting requirement for the DOEs



## IV. Global stakeholder consultations

### A. Analysis of the current situation

25. The global stakeholder consultation (GSC) process consists of a mandatory step where the DOE makes the PDD or PoA-DD publicly available through a dedicated interface on the UNFCCC CDM website for global stakeholder consultation (paragraph 40 (c) of the annex to decision 3/CMP.1). The duration of the period for submission of comments for the GSC is currently 30 days, except for large-scale afforestation and reforestation (A/R) project activities or large-scale A/R PoAs, where it is 45 days<sup>5</sup>.

26. According to the CDM Project Cycle Procedures (PCP), Parties, stakeholders<sup>6</sup> and UNFCCC accredited observers may submit comments, in English, on the validation requirements for the proposed CDM project activity or PoA to the DOE through the secretariat and via a dedicated interface on the UNFCCC CDM website. The submitters of the comments are required to provide the name and contact details of the individual or organization on whose behalf the comments are submitted. The DOE is required to check the authenticity of this information in case of doubt.

27. Generally, the requirements for conducting GSC appear to be straightforward. However, there are a number of aspects of the GSC that may be impacting the inclusiveness and effectiveness of the GSC process. These are:

- (a) The fact that the PDD is presented to stakeholders only in English;
- (b) The (short) time period allocated for comments;
- (c) The fact that the requirements for DOEs on how to validate stakeholder comments and how to deal with vexatious comments are not very detailed.

### B. Input from stakeholders on the GSC process

28. Stakeholder proposals to improve the GSC process mainly relate to improving the accessibility and completeness of the project information made available by DOEs to stakeholders, as well as measures to manage defamatory or vexatious comments.

29. The stakeholder proposals that were submitted in relation to the publication of information and submission of comments on projects open for GSC submitted include the following:

- (a) Extend the commenting period for submission of global stakeholder comments.
- (b) Expand the types of documents that are required to be published for GSC and provide clarity to global stakeholders on criteria/scope of comments that may be submitted;
- (c) Improve the clarity of information provided on the GSC web pages and the registration requirements for the submitters of comments;

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<sup>5</sup> The current requirements for DOEs on conducting the GSC process, and the treatment of comments, are paragraphs 34 to 37 of the CDM Validation and Verification Standard (VVS), ver.02, EB 65 Annex 4, and paragraphs 13, 20, 21 of the CDM Project Cycle Procedure (PCP), ver.02, EB 66 Annex 64.

<sup>6</sup> For the purpose of the PCP all members of the public are considered to be stakeholders.



- (d) Allow comments to be submitted in local language(s) and also through channels other than the commenting interface on the web, and translate the UNFCCC website into all UN languages;

30. Stakeholders also identified the need for specific guidance for DOEs on how to assess comments received and how to manage abusive practices or vexatious comments. Related proposals include:

- (a) Establish criteria for DOE to determine which types of comments should be considered genuine and relevant to the validation process;
- (b) Establish appropriate relevant actions for different types of comments, including how to deal with negative comments;
- (c) Establish measures, possibly in cooperation with DNAs, to support legal prosecution in cases of defamatory comments;

**C. Proposed process for improvement of global stakeholders consultation**

31. Based on the issues identified with the current requirements and stakeholder inputs, the process for GSC could be improved as follows:

- (a) Extend the commenting period for submission of global stakeholder comments (this would be a change to an existing requirement);
- (b) Expand the types of documents that are required to be published for GSC (this would be an extension of an existing requirement);
- (c) Define the scope of GSC of comments that may be submitted by global stakeholders (a clarification of existing rules);
- (d) Improve the GSC web pages (this would be an elaboration of existing requirement);
- (e) Allow comments to be submitted in the local languages used in the location of the project (this would be a new requirement);

32. Provide guidance to DOEs on treatment of the comments received (this would be an elaboration of existing requirement). The table below elaborates on the recommendations above. The table includes a list of the regulatory documents that would be affected if the recommendations were adopted. It also summarises potential positive and negative impacts of each proposal.



Table 2: Detailed proposals for the improvement of the GSC

Proposed step	Proposed requirement	Nature of recommendation (new requirement, clarification/ change of an existing requirement)	Where it could be incorporated in the current regulatory framework	Potential positive impacts	Potential negative impacts
<b>Global Stakeholder Consultation (GSC)</b>					
<i>Extend the commenting period for GSC</i>	<p>Option 1: Keep the requirement as is</p> <p>Option 2: The commenting period to be extended to 45 (60 for LSAR)</p> <p>Option 3: The commenting period to be extended to 60 days for all type of CDM projects (the most commonly requested period from stakeholders)</p>	Change to an existing requirement	Paragraph 13 of the PCP	Options 2 and 3: Allow more time for stakeholders to analyse the PDD and provide meaningful comments	<p>Options 2 and 3:</p> <ul style="list-style-type: none"> <li>Add to the length of the validation process</li> <li>Requires a CMP decision</li> </ul>
<i>Expand the types of documents that are required to be published for global stakeholder consultation</i>	<p>The DOE shall in addition to the PDD, upload the following documentation:</p> <p>(i) The report of the feedback round of LSC;</p> <p>(ii) Summary of the EIA report</p>	Change to an existing requirement	Paragraph 13 of the PCP	<p>More information about the project is provided allowing stakeholders to better understand the project and provide meaningful comments</p> <p>Increase transparency</p>	To get appropriate comments from stakeholders especially on additionality, some confidential information may be needed which the PP would be reluctant to make public.



Proposed step	Proposed requirement	Nature of recommendation (new requirement, clarification/ change of an existing requirement)	Where it could be incorporated in the current regulatory framework	Potential positive impacts	Potential negative impacts
	(iii) The PDD shall contain all the information related to the project including those for demonstration of additionality.				
<i>Documents required for GSC to be submitted in local language in addition to English</i>	Option 1:  The documents required for GSC shall be submitted in English and in the prevailing language used in the location of the project (if it is a written language);  Option 2:  A summary of the PDD in the prevailing language used in the project location shall be submitted.  PS: The legally binding documentation is the documentation submitted in English	New requirement	Paragraph 13 of the PCP	Having the project documentation in local language will allow stakeholders to access the information about the project as in most of the countries eligible to host CDM, English is not widely used	Could be very expensive and may constitute a burden for PPs/CME to translate the documentation and will add to the CDM project development costs
<i>Define the scope of GSC comments to be submitted;</i>	Comment from stakeholders shall be:  (i) Project specific	New requirement	Paragraph 20 of the PCP	Provide clarity to stakeholders on what is expected from this process and for DOEs as a criteria to	-





Proposed step	Proposed requirement	Nature of recommendation (new requirement, clarification/ change of an existing requirement)	Where it could be incorporated in the current regulatory framework	Potential positive impacts	Potential negative impacts
	<p>(ii) Provide objective and verifiable information</p> <p>(iii) Limited to the additionality of the project and its claimed sustainable development benefits and any impact it may have on environment and local communities.</p> <p>To avoid defamatory or vexatious comments, a warning may be included in the webpage where the PDD is uploaded to inform stakeholders who submit such defamatory or vexatious comments that legal actions could be initiated against them by the DOE or the PPs.</p>			<p>accept or not a comment</p> <p>Would contribute to minimizing defamatory comments and comments not relevant to the project activity or general comment on the mechanism itself</p>	
<i>Improve the GSC web pages;</i>	<p>Better definition of the time zone where the commenting period ends</p> <p>Enhance registration requirements for comment submitters, which shall include mandatory fields for full name and contact details</p>	<p>Elaboration of an existing requirement</p>	<p>Paragraph 17 of the PCP</p> <p>Paragraph 20 of the PCP</p>	<p>Avoid confusion and prevent missing the deadline for comments</p> <p>Ensure that the submitter of the comment could be contacted by the DOE for clarifications if needed</p>	-



Proposed step	Proposed requirement	Nature of recommendation (new requirement, clarification/ change of an existing requirement)	Where it could be incorporated in the current regulatory framework	Potential positive impacts	Potential negative impacts
<i>Allow comments to be submitted in local language used in the location of the project</i>	<p>Stakeholders comments could be submitted in English or in the prevailing language used in the location of the project</p> <p>The DOE when uploading a PDD for GSC shall specify which is the prevailing language in the location of the projects that comments could be accepted if used besides English.</p>	New requirement	Paragraph 20 of the PCP	Enhance participation of local communities in the CDM	May constitute a burden for the DOE if it has to translate the comments (if not using a local expert) and may add to the validation costs
<i>Review of the DOE of the comments received</i>	<p>Only comments falling into the categories specified in the scope of GSC shall be taken into account and investigated.</p> <p>If the DOE considers a comment not relevant to the scope, it shall substantiate its judgement</p>	<p>Elaboration of an existing requirement</p> <p>New requirement</p>	<p>Paragraph 34 of the VVS</p> <p>Paragraph 34 of the VVS</p>	<p>Provides clarity to DOEs on which comments to take on board and which not</p> <p>Ensure that DOEs consider all comments and provide reasoning in their consideration</p>	<p>-</p> <p>-</p> <p>-</p>



## **V. Concerns about the length of time between the consultations and registration of the CDM project**

33. Stakeholders and some Board members have raised concerns about the length of time between the initial consultations on a project activity (whether LSC or GSC) and its registration.
34. To resolve this recurring issue, the Board may wish to consider that in case of a significant change in the design of the project after the initial LSC, the LSC should be repeated.
35. If this approach were to be followed, the LSC could be conducted in the same way as the proposed second feedback round. DOEs would then be required to assess the conduct of those consultations in the same way as it assesses the conduct of the feedback round of LSC.
36. In the event that a PP, despite changes in the project design, did not conduct a new LSC, the DOE could be required to question why and the PPs would have to justify the reasons why they considered the change in the project design not to warrant a new LSC. If the DOE considered that the justifications from the PPs were unsatisfactory, the DOE could be required to raise a CAR, requiring new LSC to be carried out.
37. Adopting this approach would ensure re-involvement of stakeholders where changes in the project design had occurred. This would provide them with the possibility to raise comments about any potential positive or negative impacts not identified in the initial LSC or changes in such impacts as a result of the revised project design. However, it should be noted that such an approach would be expected to increase the length of the validation process and result in extra costs for project developers.

## **VI. Stakeholder concerns raised after the GSC or registration of the CDM project**

38. From the start of CDM, a significant proportion of the submissions from stakeholders to the Board (unsolicited submissions or letters to the Board) concern project specific matters whereby stakeholders in many instances raise concern about CDM project activities after the GSC has been conducted or after registration of the project activity.
39. The current regulatory framework provides for stakeholder comments that relate to only to compliance with CDM requirements and only at specific points in the project cycle; before and at the start of the validation of a project activity.
40. To resolve this recurrent issue, the Board may wish to consider:
- (a) Opening a commenting period at the stage of publication of the monitoring report prior to issuance requests. Such an approach could allow for comments from all stakeholders on any negative impacts that may have been triggered by the implementation of the CDM project activity and that may have not been apparent when the GSC was conducted.
  - (b) The commenting period could be open only for a short period of time so as to not delay the verification process.
  - (c) The DOE could be required to consider the input received from stakeholders and assess whether such comments are within the scope for comments (for example, the scope could be set as related exclusively to negative impacts with a requirement that the comments be backed with evidence).
  - (d) The DOE could be required to, if more information is required, contact the submitter via telephone or email to request missing information.



- (e) The DOE could also be required to inform the PPs of the comments received and request their feedback within a specified timeframe.

41. If the above initial process were to be adopted, the Board may wish to consider the following two options with regard to the role of the DOE:

- (a) Option 1: Based on the comments and the feedback received from the PPs, the DOE could be required to assess whether the stakeholder comment is related to the CDM requirements or outside CDM requirements (for example, related to issues under national laws).
  - (i) Where the DOE concludes that the comments are related to CDM requirements, the DOE could be required to raise a CAR and submit a positive verification opinion only when the CAR is resolved by the PPs;
  - (ii) Where the DOE concludes that comments are related to issues outside CDM requirements (for example, under national laws), the DOE could be required to annex the comments received from the stakeholders and the information gathered and the feedback from the PPs (if any) to its verification report (the “comments annex”) for the Board’s consideration. The Board would then communicate the DOE comments annex to the involved DNA(s) and request the relevant DNA to investigate the issues raised in the comments annex. The Board may also wish to consider whether to introduce a procedure where it informs the relevant DNA(s) that it will withhold the issuance of CERs for a limited period of time (X days) pending the DNA(s) response(s). If no response(s) is/are received within that time frame the Board would proceed with the issuance of the CERs.
- (b) Option 2: Based on the comments and the feedback received from the PPs, the DOE could be required simply to annex the comments received from stakeholders and the information gathered and the feedback from the PPs, if any, to its verification report (comments annex) for the Board’s consideration. This is different to option 1 as the DOE undertakes no analysis, and merely collates information for the Board’s attention.
  - (i) Where, upon consideration of the comments annex the Board concludes that comments are related to CDM requirements the Board could reject the request of issuance of the project activity;
  - (ii) If the comments are related to issues outside CDM requirements (for example, related to national laws) the Board could forward the comments annex to the involved DNA(s) and request the relevant DNA to investigate the issues raised in the comments annex. The Board may also wish to consider whether to introduce a procedure where it informs the relevant DNA(s) that it will withhold the issuance of CERs for a limited period of time (X days) pending the DNA(s) response(s). If no response(s) is/are received within that time frame the Board would proceed with the issuance of the CERs.

42. Adopting one of the proposed options would provide the Board with a route to try to resolve negative impacts that become apparent after registration and during the project implementation that were not visible at the design phase. It would also provide a process and an avenue for addressing stakeholders’ concerns raised after the registration of a CDM project activity. Both options recognise the role of the DNA



(in particular host Party DNA) in addressing issues relating to project activities that are outside the CDM requirements, by strengthening and facilitating information-gathering in relation to such issues.

43. Adopting option one would provide the DOE with more responsibility in relation to these issues and allow it to make a professional judgement in its role as operational arm of the Board. Where the issue is related to CDM requirements, it would also provide an opportunity to the PPs to take corrective actions and restore the compliance with the CDM requirements.

44. Adopting option two shifts the responsibility from the DOE to the Board to determine whether the issues are CDM requirements or within the national laws /outside CDM requirements.

45. It should be noted that adopting either of the two options may increase the risks for project developers and reduce the predictability with regard to investment in CDM projects.

## VII. Recommendations

46. The Board may wish to consider the recommendations for improvement of the local and global stakeholder consultation processes outlined in this concept note and request the secretariat to amend the relevant documents (PS, VVS and PCP) to introduce the proposed improvements.

47. The Board may wish to particularly focus on the recommendations related to:

- (a) In relation to the LSC process:
  - (i) The proposal for a second round of LSC;
  - (ii) The proposal on establishing a grievance mechanism for stakeholders during the LSC.
- (b) In relation to the GSC process:
  - (i) The proposal to extend the commenting time for the GSC;
  - (ii) The proposal to require translation of all or part of the documentation to be submitted for the GSC into the prevailing local languages at the location of the CDM project activity;
  - (iii) The proposal to accept comments in the prevailing local language in the location of the project;
- (c) The proposal to allow comments from stakeholders after registration of the CDM project activity;
- (d) The proposal of repeating local stakeholders' consultations in case of occurrence of significant change in the project design.

48. The Board may wish to request the secretariat to incorporate the agreed proposals and options into the relevant documents (PS, VVS and PCP) for its consideration at a future meeting.



## Appendix 1

### Input from stakeholders on the validation consultation process

1. A broad consensus on improving the current requirements and practice for local and global stakeholder consultation is apparent. It is noted that different kinds of stakeholders share a desire to improve the transparency and effectiveness of the consultation process through enhancement of current rules and guidelines on conducting, reporting, and assessment of consultation activities. Related measures also include optimization of existing information sharing practices and tools.
2. Input from stakeholders are broadly categorized into those concerning i) the local stakeholder consultation process, ii) the global stakeholder consultation process, and iii) general issues.

#### A. Local stakeholder process

3. The first main area recommended for improvement within the local stakeholder consultation process is the need for clearer rules for project participants on how to conduct the process. Recurrent proposals include modalities describing the method, frequency, and timing of consultation, as well as the need to consider and identify key stakeholders that should be involved at this stage. The recommendations in this regard are:

- (a) *Define the scope* of the local consultation process, vis a vis national or local regulatory requirements:
  - (i) The compliance of a project with national legislative requirements should be given precedence over compliance with stakeholder concerns;
  - (ii) Consultations may not need to be CDM specific. As project developers must in any case comply with local or national regulations, CDM local stakeholder consultation could be combined with consultation required in, for example, the environmental impact assessment (EIA) process.
- (b) Define rules for *how local stakeholders are to be informed* of consultation process:
  - (i) Use of effective means to invite participation, including both radio and print media distributed at appropriate community locations;
  - (ii) Provide non-technical summaries of the project and make all announcements and project documentation available in the local language;
  - (iii) Invitation to at least a core group of stakeholders, including local people impacted by the project, representatives of local authorities/policy makers, a representative of the DNA of the host country and local NGOs, and a DOE representative if possible.
  - (iv) Increasing awareness of the local participatory process, for example via workshops and training, which could involve collaboration with local NGO and DNA representatives.
- (c) Define rules for *how and when to conduct* the local stakeholder consultation:



- (i) The meeting should be conducted in person in the appropriate local language and provide information about the project and how to raise concerns or complaints;
  - (ii) Feedback should be gathered and considered over more than one round of consultation. Early consultation is emphasized, ideally during the design phase of the project, with a follow up on how inputs have been accounted for in the project design. A summary or report of inputs to the first round should be made available, and a second round of consultations should then take place to discuss with stakeholders whether comments from the first round have been addressed appropriately.
- 4. Correspondingly, stakeholders also identified a need for **clearer guidance to DOEs on how to assess stakeholder consultation**. The current requirements for DOE assessment of comments are provided in Appendix 1 of this document. The following types of rules have been identified as needed to be prescribed to assist DOEs in making an appropriate validation opinion on the adequacy of the local stakeholder consultation process:
  - (a) Rules to establish who stakeholder are, as well as a possible minimum number and types / groups of stakeholders that should be consulted;
  - (b) Rules describing how stakeholders should be informed about the project and engaged in the consultation process. This should include requirements on *how* the project information is provided and *how and when* the consultations are announced and organized. It is important that all announcements concerning the consultation process, and main project related documentation (e.g., the PDD and EIA) are made available in the local language(s), and that appropriate and effective methods are used, including a variety of print and oral media, as well as appropriate distribution / circulation locations.
  - (c) Rules describing *what* information or evidence need to be provided. The project and its potential impacts should be described in non-technical terms in the local language, and supporting documentation (e.g., financial transaction information) should also be made public.
  - (d) Rules describing how feedback is to be documented and assessed. These should include guidelines on assessing how meetings and feedback/input is recorded, who attended, and assessing the validity of stakeholder consultations and whether comments have been adequately taken into account.
  - (e) Guidance on what to do about negative stakeholder comments.

### **B. Global stakeholder process**

- 5. Stakeholder proposals to improve the global stakeholder consultation process are mainly concerned with improving the accessibility and completeness of project information made available by DOEs, as well as measures to control for defamatory or vexatious comments.
- 6. The proposals concerning the publication of information and submitting comments on projects open for global stakeholder comments submitted are:



- (a) Extend the commenting period for submission of global stakeholder comments. The most commonly proposed period is 60 days, to be applied to both projects in validation and to proposed new methodologies;
- (b) Expand the types of documents that are required to be published for global stakeholder consultation. In addition to the project PDD, supporting documentation (e.g., financial analyses, EIA) should be made public, and pages/information should be made available in UN official languages other than English;
- (c) Improve the clarity of information provided on the GSC web pages regarding deadlines and time zones, and establish an alert mechanism (e.g., via e-mail notification) about time-sensitive CDM process streams involving stakeholder commenting stages as well as follow-up status on projects post-validation;
- (d) Allow comments to be submitted in local language(s) and not only through the commenting interface on the web;
- (e) Allow comments to be submitted via alternate means, including fax, lettermail, and via e-mail;
- (f) Translate GSC web pages into local/official UN languages
- (g) Enhance registration requirements for comment submitters, which should include full name and contact details, and provide clarity to stakeholders on the scope of comments to be submitted (i.e., comments should be project specific and substantiated). This could involve standardizing the format of submitted comments (e.g., by introducing a commenting form)
- (h) Provide clarity to global stakeholders on criteria/scope of comments to be submitted

7. Guidelines for DOEs to assess comments received and control for abusive practices or vexatious comments submitted were also identified by stakeholders. Related proposals include:

- (a) Establish criteria for DOE to determine which types of comments should be considered genuine and relevant to the validation process, as well as appropriate relevant actions for different types of comments. Criteria to be considered should take into account, inter alia, whether a comment is project specific, whether information is objectively verifiable, and whether a comment is defamatory or vexatious.
- (b) Enable the easy searching of all comments submitted into the validation system in order to identify possible “SPAM”-type comments or non-project specific mass commenting.
- (c) Provide clear guidance to DOEs on how to address public comments received, including how to deal with negative comments.
- (d) Establish measures, possibly in cooperation with DNAs, to support legal prosecution in cases of defamatory comments. This could include, for example, restricting submissions of comments only from Parties that have signed the Kyoto Protocol.





### C. General issues

8. Stakeholders also expressed a wish for the establishment of a grievance mechanism for stakeholders who feel they have not been adequately consulted or for cases in which measures or outcomes pledged by project participants/developers may have not occurred.

9. Another general issue highlighted concerns conflicts of interest in the validation process. Enhanced measures to incorporate integrity practices, including the application of robust conflict of interest policies and codes of conduct for project participants has been proposed to assure the avoidance of corrupt practices.

10. Other issues highlighted in the inputs concerned the need for the consultation process to be in compliance with other international treaties and that sustainable development assessment criteria should be adopted to support DNA assessments of projects within their approval capacity.

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### History of the document

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