

**CDM-EB80-AA-A04**

## Concept note

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# Issues related to the oath of service of the CDM Executive Board

Version 01.0



**United Nations**  
Framework Convention on  
Climate Change

## COVER NOTE

### 1. Procedural background

1. The “Modalities and procedures for a clean development mechanism”<sup>1</sup> (CDM modalities and procedures) state that members and alternate members of the Executive Board of the clean development mechanism (hereinafter referred to as the Board) shall take a written oath of service before assuming their duties on the Board. This oath of service is contained in rule 10 of the rules of procedure of the Board.<sup>2</sup> By taking the oath of service, members and alternate members declare their financial integrity and independence by stating that they do not have financial interest in any aspect of the clean development mechanism (CDM).
2. In 2009 and 2012 respectively, the Board developed and revised a code of conduct, which further defines and elaborates the concept of (real or perceived) conflict of interest. It refers to any current professional, financial or other interest which could: i) significantly impair the individual’s objectivity in carrying out his or her duties and responsibilities for the Board, or ii) create an unfair advantage for any person or organization. For the purposes of this code, circumstances that could lead a reasonable person to question an individual’s objectivity, or to question whether an unfair advantage has been created, constitute a potential conflict of interest.
3. At its seventy-seventh meeting, the Board requested the secretariat to propose means to align the language of the oath of service of the Board, as included in its rules of procedure, with its code of conduct, for consideration by the Board at a future meeting with a view to the Board making a recommendation to the next session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP).

### 2. Purpose

4. The purpose of this work is to align the language in the oath of service and the code of conduct for Board members and alternate members and hence apply consistently the definition of conflict of interest in the CDM documents and regulations.

### 3. Key issues and proposed solutions

5. In order to align the language of the oath of service of the Board, as included in its rules of procedure, with its code of conduct several options are possible:

#### ***Option 1: Recommend to the CMP a revision to the rules of procedure***

6. The oath of service could be revised to align it with the language of the code of conduct, as contained in appendix 1 to this document. Since the oath of service is part of the rules

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<sup>1</sup> Decision 3/CMP.1.

<sup>2</sup> Decision 4/CMP.1.

of procedure of the Board, which were adopted by the CMP at its first session, it is required to recommend such an alignment to the CMP for adoption. It is to be noted that:

- (a) The rules of procedure contain other provisions which do not reflect the current practice of the Board. If the Board decides to recommend a revision of the Rules of Procedure it may wish to recommend an overall revision to the Rules of Procedure to reflect the current practice of the Board. A similar exercise was undertaken by the secretariat for consideration of the Board at the sixty-second meeting of the Board<sup>3</sup>.
- (b) The rules of procedure contain the relevant extracts from the CDM modalities and procedures, which are cited in boxes for easy reference. Currently the CDM modalities and procedures are being reviewed by the Subsidiary Body for Implementation. Once the CDM modalities and procedures have been revised by the CMP, the rules of procedure may need to be modified to reflect this revision in the respective parts of the rules.

#### **Option 2: Include elements of the code of conduct in the oath of service**

- 7. While the oath of service, as reflected in the rules of procedure, is required to be signed by each member and alternate member, an addition to this written oath could be made with relevant reference to the code of conduct of the Board, as contained in appendix 2 to this document. This addition would not require that a recommendation be made to the CMP as the oath of service would not be modified. However, members and alternate members would sign both the oath of service as stipulated by the CMP and elements of the code of conduct of the Board.

#### **4. Impacts**

- 8. The alignment of the oath of service and the code of conduct would increase transparency and consistency among the various regulations on this matter.

#### **5. Proposed work and timelines**

- 9. If the Board selects option 1; to recommend the revision of the rules of procedure to the CMP, the recommendation would be included in the annual report of the Board to the CMP, which is to be considered and approved at its eighty-first meeting (September 2014). Once the CMP endorsement the alignment, the revised oath of service would be applied thereafter.
- 10. If the Board selects option 2; and add elements of the code of conduct in the oath of service, this can be applied immediately or as of next year.

#### **6. Recommendations to the Board**

- 11. The secretariat recommends that the Board includes elements of the Code of Conduct in the oath of service, as contained in appendix 2 (Option 2).

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<sup>3</sup> EB63, annex 1 to the annotations

<<https://cdm.unfccc.int/UserManagement/FileStorage/3NJ9BGPTM0DY1HOQVZXFU6CK87IE45>>.

## Appendix 1. Revision to the oath of service of the CDM Executive Board

"I solemnly declare that I will perform my duties as a member/alternate member of the Executive Board of the clean development mechanism pursuant to Article 12 of the Kyoto Protocol, honourably, faithfully, impartially and conscientiously.

"I further solemnly declare and promise that I shall have no professional, financial or other interest in any aspect of the CDM, including accreditation of operational entities, registration of CDM project activities and programmes of activities and/or the issuance of related certified emission reductions. Subject to my responsibilities to the Executive Board, I shall not disclose, even after the termination of my functions, any confidential or proprietary information which is transferred to the Executive Board in accordance with the CDM modalities and procedures, or any other confidential information coming to my knowledge by reason of my duties for the Executive Board.

"I shall disclose to the Executive Secretary of the United Nations Framework Convention on Climate Change, or his/her authorized representative, and to the Executive Board any interest in any matter under discussion before the Executive Board which may constitute a real or perceived conflict of interest, as defined by the Board in its code of conduct, or which might be incompatible with the requirements of integrity and impartiality expected of a member of the Executive Board and I shall refrain from participating in the work of the Board in relation to such matter."

## Appendix 2. Inclusion of elements of the Code of Conduct in the oath of service of the CDM Executive Board

### **Oath of service if the CDM Executive Board (rule 10 of the Rules of Procedure)<sup>1</sup>:**

"I solemnly declare that I will perform my duties as a member/alternate member of the Executive Board of the clean development mechanism pursuant to Article 12 of the Kyoto Protocol, honourably, faithfully, impartially and conscientiously.

"I further solemnly declare and promise that I shall have no financial interest in any aspect of the clean development mechanism, including accreditation of operational entities, registration of CDM project activities and/or the issuance of related certified emission reductions. Subject to my responsibilities to the Executive Board, I shall not disclose, even after the termination of my functions, any confidential or proprietary information which is transferred to the Executive Board in accordance with the CDM modalities and procedures, or any other confidential information coming to my knowledge by reason of my duties for the Executive Board.

"I shall disclose to the Executive Secretary of the United Nations Framework Convention on Climate Change and to the Executive Board any interest in any matter under discussion before the Executive Board which may constitute a conflict of interest or which might be incompatible with the requirements of integrity and impartiality expected of a member of the Executive Board and I shall refrain from participating in the work of the Board in relation to such matter."

### **Code of conduct of the CDM Executive Board (EB69, annex 1)<sup>2</sup>:**

"I hereby solemnly declare that I will perform my duties following the provisions contained in the code of conduct of the CDM Executive Board, as contained in annex 1 of the sixty-ninth meeting of the Board. In particular, I declare that I will:

- (a) Discharge my duties with honesty, integrity and full regard for his/her responsibilities as a Board member;
- (b) Respect the confidentiality of all confidential information acquired in my position as a Board member and not make improper use of or disclose such confidential information to third parties;
- (c) Observe the principles of independence, accuracy and integrity in dealings with other Board members, the UNFCCC secretariat and CDM stakeholders;
- (d) Exercise personal discretion in deciding whether I have a real or perceived conflict with respect to any matter under consideration by the Board and take appropriate action, which may include remaining silent and/or leaving the room during deliberations and decisions of the Board, and disclose to the Board any actual or perceived conflicts of interest of a

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<sup>1</sup> Decision 4/CMP.7.

<sup>2</sup> Adopted by the Board at EB69.

direct or indirect nature of which I'm aware and which I believe could compromise in any way the reputation or performance of the Board;

(e) Maintain the principle of transparency in the preparation and delivery of information to other Board members and CDM stakeholders;

(f) Remain committed to observing, developing and implementing the principles embodied in this Code in a conscientious, consistent and rigorous manner.

A "conflict of interest" refers to any current professional, financial or other interest which could: i) significantly impair the individual's objectivity in carrying out his or her duties and responsibilities for the Board, or ii) create an unfair advantage for any person or organization. For the purposes of this code, circumstances that could lead a reasonable person to question an individual's objectivity, or whether an unfair advantage has been created, constitute a potential conflict of interest."

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### Document information

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