

PROCEDURE FOR APPEALS AGAINST ADVERSE RULINGS OF REQUESTS FOR REGISTRATION AND ISSUANCE

EB 57: Bonn, Germany, 12-14 October 2010



I. Background



Background

- The procedure only deals with [appeals against adverse rulings](#) regarding request for registration or issuance (as requested by decision 2/CMP.5, paragraph 42 (b)).
- The EB requested a call for inputs at EB 53.
- The secretariat provided an information note and presentation on comments received at EB 54.
- The secretariat provided an Information note and presentation on key issues at EB 55.
- The secretariat provided a draft procedure and presentation for feedback at EB 57.



II. Purpose and expectations



Purpose and expectations of the Executive Board at EB 57

- Discuss the procedure to implement the decisions of the CMP regarding appeals against adverse rulings.
- Adopt the procedure and request the endorsement of CMP at its 6th session.



III. EB 56 comments on the draft procedure



Overview of comments on draft procedure from EB 56

1. Following a remand, stakeholders should be allowed to appeal a reconsidered ruling that again rejects the request for registration or issuance.
2. Filing fee should be tied to the size of the project activity.
3. Allow multiple stakeholders to file a single appeal.
4. Provisions for dealing with confidential information.
5. Establishment of timelines.
6. The establishment of the record
7. Whether DOEs should be allowed to appeal (no resolution by the EB on this issue).



IV. Overview of how the revised procedure addresses the comments



1. Appeal following remand

- The revised procedure allows an appeal of EB's reconsidered ruling following a remand.
- The revised procedure includes provisions and timelines for EB to adopt and issue a reconsidered ruling.
- The revised procedure includes new grounds for appeal; in particular that the reconsidered ruling is not consistent with the judgement of the [Appellate Body].



2. Filing fee should be tied to size of project activity

- For **appeals of requests for registration**, the filing fee shall be **USD 0.10 per tonne** of expected emission reductions or removals of carbon dioxide equivalent **for the entire crediting period** of the proposed project activity, as identified in the project design document and as validated by the DOE.
- For **appeals of request for issuance**, the filing fee shall be the **sum of the following**:
 - (a) **USD 0.10 per tonne for the first 15,000** emission reductions or removals certified by the request for issuance under appeal; and
 - (b) **USD 0.20 per tonne** for the quantity of emission reductions or removals certified **in excess of the first 15,000**.



3. Allow multiple stakeholders to file a single appeal.

- Stakeholders allowed to file a written appeal may file appeals individually or jointly. Multiple appeals (individually or jointly) may be filed against the same ruling, so long as no single stakeholder is a signatory to more than one appeal.



4. Provisions for dealing with confidential information

Excerpt of revised procedure:

- Information obtained from CDM project participants marked as proprietary or confidential shall not be disclosed without the written consent of the provider of the information, as specified in decision 3/CMP.1, annex, paragraph 6, except for the information specified by paragraph below.
- The following information, as specified in decision 3/CMP.1, annex, paragraph 6, shall not be considered proprietary or confidential:
 - (a) Information required to be disclosed by national law;
 - (b) Information used to determine additionality;
 - (c) Information used to describe the baseline methodology and its application;
 - (d) Information used to support an environmental impact assessment referred to in decision 3/CMP.1, annex, paragraph 37 (c).



5. Establishment of timelines

- The revised procedure contains timelines for actions required by the Executive Board and the appellant'(s).
- The revised procedure requires the Appellate Body to adopt timelines to govern the actions that it is required to take.



6. The establishment of record

- The revised procedure includes the establishment of a Registrar, whose responsibilities would include maintaining the record.
- The Executive Board would be responsible for submitting all basic information into the record (e.g. all information submitted to the EB as part of the request for registration or issuance).
- The Executive Board may introduce other specified information into the record, but only for the purpose of demonstrating that previously submitted information is **inconsistent with, or contrary to**, the information submitted as part of the request for issuance under appeal, **without sufficient explanation**.
- The Appellant may introduce such information into the record, but only for the purpose of rebutting any such assertion by the Executive Board.



End

Thank You.

