

Decision /CP.8

Guidance to the Executive Board of the clean development mechanism

Addendum

ANNEX I

Draft rules of procedure of the Executive Board of the clean development mechanism

I. SCOPE

Rule 1

1. These rules of procedures shall apply to all activities of the Executive Board of the clean development mechanism (CDM) undertaken in accordance with decision 17/CP.7, and the annex thereto on the modalities and procedures for a CDM, as defined in Article 12 of the Kyoto Protocol.

II. DEFINITIONS

Rule 2

For the purpose of these rules:

1. “Decision 17/CP.7” means the decision taken by the Conference of the Parties to the United Nations Framework Convention on Climate Change at its seventh session on the modalities and procedures for a clean development mechanism as defined in Article 12 of the Kyoto Protocol;¹
2. “CDM modalities and procedures” means modalities and procedures for a clean development mechanism contained in the annex to decision 17/CP.7;²
3. “UNFCCC” means the United Nations Framework Convention on Climate Change;
4. “COP” means the Conference of the Parties to the United Nations Framework Convention on Climate Change;
5. “COP/MOP” means the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol;
6. “CDM” means the clean development mechanism as defined in Article 12 of the Kyoto Protocol;
7. “Executive Board” means the Executive Board of the clean development mechanism as defined in Article 12 of the Kyoto Protocol;
8. “Chair” and “Vice-Chair” mean the members of the Executive Board elected as Chair and Vice-Chair by the Executive Board of the clean development mechanism;
9. “Member” means member of the Executive Board of the clean development mechanism;
10. “Alternate member” means alternate member of the Executive Board of the clean development mechanism;
11. “Secretariat” means the secretariat referred to in Article 14 of the Kyoto Protocol and the paragraph 19 of the CDM modalities and procedures;

¹ FCCC/CP/2001/13/Add.2

² FCCC/CP/2001/13/Add/2

12. “Technical reports commissioned” refers to reports commissioned by the Executive Board to obtain outside expertise other than reports produced by committees, panels and working groups specified in section VII of these rules of procedure;

Paragraph 1 (e) of the CDM modalities and procedures:

13. “Stakeholders” means the public, including individuals, groups or communities affected, or likely to be affected, by the proposed clean development mechanism project activity.

14. For the purpose of rules 26 and 27, Parties to the Convention that are not Parties to the Kyoto Protocol may exercise the same rights as all other observers.

III. MEMBERS AND ALTERNATE MEMBERS

A. Nomination, election and re-election

Rule 3

Paragraph 7 of the CDM modalities and procedures:

1. The Executive Board shall comprise ten members from Parties to the Kyoto Protocol, as follows: one member from each of the five United Nations regional groups, two other members from the Parties included in Annex I, two other members from the Parties not included in Annex I, and one representative of the small island developing States, taking into account the current practice in the Bureau of the Conference of the Parties.

Rule 4

Paragraph 8 (a) to (d) of the CDM modalities and procedures:

1. Members, including alternate members, of the Executive Board shall:

(a) Be nominated by the relevant constituencies referred to in paragraph 7 {of the CDM modalities and procedures} and be elected by the COP/MOP. Vacancies shall be filled in the same way;

(b) Be elected for a period of two years and be eligible to serve a maximum of two consecutive terms. Terms as alternate members do not count. Five members and five alternate members shall be elected initially for a term of three years and five members and five alternate members for a term of two years. Thereafter, the COP/MOP shall elect, every year, five new members, and five new alternate members, for a term of two years. Appointment pursuant to paragraph 11 {of the CDM modalities and procedures} shall count as one term. The members, and alternate members, shall remain in office until their successors are elected;

(c) Possess appropriate technical and/or policy expertise and shall act in their personal capacity;

(d) Be bound by the rules of procedure of the Executive Board.

2. The term of service of a member, or an alternate member, shall start on 1 January of the calendar year following his/her election by the COP/MOP and shall end on 31 December, two or three years thereafter, as applicable.

Rule 5

Paragraph 9 of the CDM modalities and procedures:

1. The COP/MOP shall elect an alternate for each member of the Executive Board based on the criteria in paragraphs 7 and 8 {of the CDM modalities and procedures}. The nomination by a constituency of a candidate member shall be accompanied by a nomination for a candidate alternate member from the same constituency.

2. Any reference in these rules to a member shall be deemed to include his/her alternate when such alternate acts for the member.

3. In the absence of a member from a meeting of the Board, his/her alternate shall serve as the member for that meeting.

Rule 6

Paragraph 8 (c) of the CDM modalities and procedures:

1. The cost of participation of members, and of alternate members, from developing country Parties and other Parties eligible under UNFCCC practice shall be covered by the budget for the Executive Board.

2. Funding for participation shall be provided in accordance with the financial regulations of the United Nations and the financial procedures of the UNFCCC.

B. Suspension, termination and resignation

Rule 7

Paragraph 10 of the CDM modalities and procedures:

1. The Executive Board may suspend and recommend to the COP/MOP the termination of the membership of a particular member, including an alternate member, for cause including, *inter alia*, breach of the conflict of interest provisions, breach of the confidentiality provisions, or failure to attend two consecutive meetings of the Executive Board without proper justification.

2. Any motion calling for the suspension of, and recommendation to the COP/MOP to terminate the membership of, a member, or an alternate member, shall immediately be put to the vote in accordance with the voting rules in section V below. When the motion concerns the suspension of, and recommendation to the COP/MOP to terminate the membership of, the Chair, the Vice-Chair shall act as Chair until the voting has been conducted and its result announced.

3. The Executive Board shall suspend and recommend termination of the membership of a member, or an alternate member, only after the member, or alternate member, has been afforded the opportunity of a hearing by the Board in a meeting.

Rule 8

Paragraph 11 of the CDM modalities and procedures:

1. If a member, or an alternate member, of the Executive Board resigns or is otherwise unable to complete the assigned term of office or to perform the functions of that office, the Executive Board may decide, bearing in mind the proximity of the next session of the COP/MOP, to appoint another member, or an alternate member, from the same constituency to replace the said member for the remainder of that member's mandate.

2. The Executive Board shall request the relevant constituency to nominate the new member, or the new alternate member, to be appointed in accordance with paragraph 1 of this rule.

C. Conflict of interest and confidentiality

Rule 9

Paragraph 8 (f) of the CDM modalities and procedures:

1. {Members, including alternate members, of the Executive Board shall} {h}ave no pecuniary or financial interest in any aspect of a CDM project activity or any designated operational entity.

Rule 10

Paragraph 8 (e) of the CDM modalities and procedures:

1. {Members, including alternate members, of the Executive Board shall} {t}ake a written oath of service witnessed by the Executive Secretary of the UNFCCC or his/her authorized representative before assuming his or her duties.

2. The written oath of service shall read as follows:

“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.”

Rule 11

Paragraph 8 (g) of the CDM modalities and procedures:

1. {Members, including alternate members of the Executive Board shall,} {s}subject to their responsibilities to the Executive Board, not disclose any confidential or proprietary information coming to their knowledge by reason of their duties for the Executive Board. The duty of the member, including alternate member, not to disclose confidential information constitutes an obligation in respect of that member, and alternate member, and shall remain an obligation after the expiration or termination of that member's function for the Executive Board.

Paragraph 6 of the CDM modalities and procedures:

2. Information obtained {by members, and alternate members} from CDM project participants marked as proprietary or confidential shall not be disclosed without the written consent of the provider of the information, except as required by national law. Information used to determine additionality as defined in paragraph 43 {of the CDM modalities and procedures}, to describe the baseline methodology and its application, and to support an environmental impact assessment referred to in paragraph 37 (c) {of the CDM modalities and procedures}, shall not be considered as proprietary or confidential.

D. Officers

Rule 12

Paragraph 12 of the CDM modalities and procedures:

1. The Executive Board shall elect its own {Chair} and {Vice-Chair}, with one being a member from a Party included in Annex I and the other being from a Party not included in Annex I. The positions of {Chair} and {Vice-Chair} shall alternate annually between a member from a Party included in Annex I and a member from a Party not included in Annex I.

2. At the first Executive Board meeting of each calendar year, the Board shall elect a Chair and a Vice-Chair from among its members.

Rule 13

1. The Chair and Vice-Chair shall serve in their respective capacities at any meeting of the Executive Board.

2. If the elected Chair is not able to serve in that capacity for a meeting, the Vice-Chair shall serve as Chair. If both are unable to serve in their respective capacities, the Board shall elect a member from among its members present to serve as Chair for that meeting.

3. If the Chair or Vice-Chair ceases to be able to carry out his or her functions, or ceases to be a member, a new Chair or Vice-Chair shall be elected for the remainder of the term.

Rule 14

1. The Chair shall preside over the meetings of the Executive Board as provided for under this rule.
2. In addition to exercising the functions conferred upon the Chair elsewhere by these rules, the Chair shall declare the opening and closing of meetings, preside at meetings, ensure the observance of these rules, accord the right to speak, put questions to the vote and announce decisions. The Chair shall rule on points of order and, subject to these rules, shall have complete control of the proceedings and over the maintenance of order at the meeting.
3. The Chair may propose to the Executive Board a limitation on the time to be allowed to speakers and on the number of times each member may speak on a question, the adjournment or closure of the debate and the suspension or adjournment of a meeting.
4. The Chair, or any other member designated by the Executive Board, shall represent the Board as necessary, including at sessions of the COP/MOP.

IV. MEETINGS

A. Dates

Rule 15

Paragraph 13 of the CDM modalities and procedures:

1. The Executive Board shall meet as necessary but no less than three times a year, bearing in mind the provisions of paragraph 41 {of the CDM modalities and procedures.}

Rule 16

1. At the first Executive Board meeting of each calendar year, the Chair shall propose for the approval of the Board a schedule of meetings for that calendar year. To the extent possible, these meetings shall be held in conjunction with sessions of the COP, the COP/MOP or their subsidiary bodies.
2. If changes to the schedule or additional meetings are required, the Chair shall, after consultations with all members, give notice of any changes in the dates of scheduled meetings, and/or of the dates of additional meetings.

Rule 17

1. The Chair shall convene and give notice of the date of each meeting of the Executive Board not less than eight weeks prior to the date of such meeting.

Rule 18

1. The secretariat shall promptly notify all those invited to the meeting.

B. Venue

Rule 19

1. Meetings of the Executive Board held in conjunction with meetings of the COP, the COP/MOP or their subsidiary bodies shall be held at the same location as the meetings of these bodies. Other meetings of the Executive Board shall take place at the location of the secretariat, unless the Executive

Board decides otherwise or other appropriate arrangements are made by the secretariat in consultation with the Chair.

C. Agenda

Rule 20

1. The Chair, assisted by the secretariat, shall draft the provisional agenda of each meeting of the Executive Board and transmit a copy of such provisional agenda, agreed upon by the Executive Board at its previous meeting, to all those invited to the meeting.

Rule 21

1. Additions or changes to the provisional agenda of a meeting may be proposed to the secretariat by any member, or alternate member, and incorporated in the proposed agenda provided that the member, or alternate member, shall give notice thereof to the secretariat not less than four weeks before the date set for the opening of the meeting. The proposed agenda for the meeting shall be transmitted by the secretariat to all those invited to the meeting three weeks before the date set for the opening of the meeting.

Rule 22

1. The Executive Board shall, at the beginning of each meeting, adopt the agenda for the meeting.

Rule 23

1. Any item included on the agenda for a meeting of the Executive Board, consideration of which has not been completed at that meeting, shall be included automatically on the provisional agenda for the next meeting, unless otherwise decided by the Executive Board.

D. Documentation

Rule 24

1. All documentation for an Executive Board meeting shall be made available to members and alternate members through the secretariat at least two weeks before the meeting.

2. Documentation shall be made publicly available by the secretariat via the Internet soon after transmission to members and alternate members. Availability of such documentation shall be subject to confidentiality provisions.

Rule 25

Paragraph 5 (j) of the CDM modalities and procedures:

1. {The Executive Board shall} {m}ake any technical reports commissioned available to the public and provide a period of at least eight weeks for public comments on draft methodologies and guidance before documents are finalized and any recommendations are submitted to the COP/MOP for their consideration.

E. Transparency

Rule 26

1. Subject to the need to protect confidential information, the principle of transparency should apply to all the work of the Executive Board, encompassing the timely public availability of documentation and channels through which external comments by all Parties and all UNFCCC accredited observers and stakeholders can be submitted for consideration by the Board. The posting of the Board's meetings on the Internet is one way to ensure transparency.

F. Attendance

Rule 27

Paragraph 16 of the CDM modalities and procedures:

1. Meetings of the Executive Board shall be open to attendance, as observers, by all Parties and by all UNFCCC accredited observers and stakeholders, except where otherwise decided by the Executive Board.

2. Observers may, upon invitation by the Board, make presentations relating to matters under consideration by the Board.

G. Quorum

Rule 28

Paragraph 14 of the CDM modalities and procedures:

1. At least two thirds of the members of the Executive Board, representing a majority of members from Parties included in Annex I and a majority of members from Parties not included in Annex I, must be present to constitute a quorum.

V. VOTING

Rule 29

Paragraph 15 of the CDM modalities and procedures:

1. Decisions by the Executive Board shall be taken by consensus, whenever possible. If all efforts at reaching a consensus have been exhausted and no agreement has been reached, decisions shall be taken by a three-fourths majority of the members present and voting at the meeting. Members abstaining from voting shall be considered as not voting.

2. The Chair shall ascertain whether consensus has been reached. The Chair shall declare that a consensus does not exist if there is a stated objection to the proposed decision under consideration by a member of the Executive Board or by an alternate member acting for a member.

3. Each member shall have one vote. For the purpose of this rule, the phrase “members present and voting” means members present at the meeting at which voting takes place and casting an affirmative or negative vote.
4. Alternate members may participate in the proceedings of the Board without the right to vote. An alternate member may cast a vote only if acting for the member.

Rule 30

1. Whenever, in the judgment of the Chair, a decision must be taken by the Executive Board which cannot be postponed until the next meeting of the Executive Board, the Chair shall transmit to each member a proposed decision, with an invitation to approve the decision by consensus. Together with the proposed decision, the Chair shall provide, subject to the applicable confidentiality requirements, the relevant facts that, in the Chair’s judgement, justify decision-making pursuant to this rule 30. The proposed decision shall be transmitted in the form of an electronic message through the listserv of the Executive Board. A quorum of the Board is required to confirm the receipt of the message. Such message shall also be transmitted to alternate members for information.
2. Members, and/or alternate members, shall be given two weeks from the date of receipt of the proposed decision for comments. These comments shall be made available to members and alternate members via the Executive Board listserv.
3. At the expiration of the period referred to in paragraph 2 above, the proposed decision shall be considered approved if there is no objection by any member. If an objection is raised, the Chair shall include consideration of the proposed decision as an item on the proposed agenda for the next meeting of the Executive Board and inform the Board accordingly.
4. Any decision made using the procedure specified in paragraphs 1 to 3 of this rule shall be included in the report of the Board at its next meeting.

VI. LANGUAGES

Rule 31

Paragraph 17 of the CDM modalities and procedures:

1. The full text of all decisions of the Executive Board shall be made publicly available. The working language of the Executive Board shall be English. Decisions shall be made available in all six official languages of the United Nations.

VII. COMMITTEES, PANELS AND WORKING GROUPS

Rule 32

Paragraph 18 of the CDM modalities and procedures:

1. The Executive Board may establish committees, panels or working groups to assist it in the performance of its functions. The Executive Board shall draw on the expertise necessary to perform its functions, including from the UNFCCC roster of experts. In this context, it shall take fully into account the consideration of regional balance.

2. The panel shall be composed of an appropriate number of panel members determined by the Executive Board. Members of a panel shall have demonstrated and recognized technical expertise in the relevant field of work.

3. In establishing a panel, the Executive Board shall appoint two Executive Board members to act as Chair and Vice-Chair of the panel, one from a Party included in Annex I and one from a Party not included in Annex I. The Executive Board may appoint additional members and alternate members to participate in a panel.

4. In establishing a panel, the Executive Board shall determine its terms of reference. The terms of reference shall include a work plan, the deadline for submission of documents, the criteria for the selection of the panel members and the necessary budgetary provisions.

5. Reports of committees, panels and working groups to the Executive Board shall be made publicly available, subject to confidentiality provisions.

VIII. SECRETARIAT

Rule 33

Paragraph 19 of the CDM modalities and procedures:

1. The secretariat shall service the Executive Board.

Rule 34

1. The Executive Secretary of the UNFCCC shall arrange for the provision of staff and services required for the servicing of the Executive Board from within available resources. The Executive Secretary shall manage and direct such staff and services and provide appropriate support and advice to the Executive Board.

Rule 35

1. An official of the secretariat designated by the Executive Secretary shall serve as secretary to the Executive Board.

Rule 36

1. In addition to the functions specified in the CDM modalities and procedures and/or any subsequent decision by the COP/MOP, the secretariat shall, in accordance with these rules, and subject to the availability of resources:

(a) Receive, reproduce and distribute to members and alternate members the documents of a meeting;

(b) Receive and translate decisions into all six official languages of the United Nations and make publicly available the full texts of all decisions of the Executive Board;

(c) Assist the Executive Board in fulfilling tasks relating to the maintenance of files and the collection, processing and public availability of information;

(d) Perform all other work that the Executive Board may require.

Rule 37

1. The financial regulations of the United Nations and the financial procedures of the UNFCCC shall apply.

IX. CONDUCT OF BUSINESS

Rule 38

1. The Executive Board shall undertake any tasks assigned to it by decision 17/CP.7, in accordance with the CDM modalities and procedures, and by any subsequent decision taken by the COP/MOP.

X. RECORD OF THE MEETING

Rule 39

1. Before the end of each meeting, the Chair shall present draft conclusions and decisions of the meeting for consideration and approval by the Executive Board. Any written records of the Executive Board or recordings of proceedings shall be kept by the secretariat in accordance with United Nations rules and regulations.

XI. AMENDMENTS TO THE RULES

Rule 40

Paragraph 5 (b) of the CDM modalities and procedures:

1. {The Executive Board shall} {m}ake recommendations to the COP/MOP on any amendments or additions to rules of procedure for the Executive Board contained in the {CDM modalities and procedures}, as appropriate.
