

**A6.4-SB011-AA-A05**

## Draft Procedure

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# Appeal and grievance processes under the Article 6.4 mechanism

Version 04.0

DRAFT



## COVER NOTE

### 1. Procedural background

1. The rules, modalities and procedures (RMPs) for the mechanism established by Article 6, paragraph 4, of the Paris Agreement (the Article 6.4 mechanism), as contained in the annex to decision 3/CMA.3 state, in paragraph 62 thereof, that "Stakeholders, activity participants and participating Parties may appeal decisions of the Supervisory Body or request that a grievance be addressed by an independent grievance process".
2. The Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA), through decision 3/CMA.3, paragraph 5(a), requested the Supervisory Body to develop provisions for the process of developing and approving methodologies, validation, registration, monitoring, verification and certification, issuance, renewal, first transfer from the mechanism registry, voluntary cancellation and other processes pursuant to chapters V.B–L and VIII of the RMPs.
3. The Supervisory Body, at its seventh and eighth meetings, considered the appeal and grievance processes and prepared the draft "Procedure: appeal and grievance processes under the Article 6.4 mechanism" (hereinafter referred to as the draft procedure).
4. The Supervisory Body, at its tenth meeting, considered the draft procedure "Appeal and grievance processes under the Article 6.4 mechanism" and requested the secretariat to revise the draft procedure for consideration and adoption at its eleventh meeting, considering the feedback provided, including but not limited to:
  - (a) Elaborating an option on fees with differentiation of applicable fees depending on the type of appeal and grievance, along with analysis to substantiate it;
  - (b) Streamlining the timelines to optimize the appeal and grievance processes;
  - (c) Ensuring confidentiality and protection of identity and personal data upon request by appellants and grievants;
  - (d) Enabling submissions of appeals and grievances in English, but also establishing a process for facilitating access to translation;
  - (e) Providing flexibility to demonstrate standing on grievance by means other than documentary evidence;
  - (a) Providing a clarificatory process on the outcome of the grievance and publishing the rationale for the reconsideration decision on an appeal to increase transparency;
  - (b) Provisions to allow representation by authorized representatives under both appeal and grievance processes.
5. Additionally, the Supervisory Body requested the secretariat to prepare an expanded cover note with further analysis on the scope of an appeal and a grievance, information availability for appeal and grievance processes and their interlinkages with established stakeholders' engagement processes.

## **2. Purpose**

6. The purpose of developing an appeal and grievance procedure is to operationalize appeal and grievance processes under the Article 6.4 mechanism.
7. This cover note provides further analysis on the scope of an appeal and a grievance, information availability for appeal and grievance processes and their interlinkages with established stakeholders' engagement processes and analysis of the proposed option on fees with differentiation of applicable fees depending on the type of appeal and grievance.

## **3. Key issues and proposed solutions**

### **3.1. Scope of appeals and grievances**

8. Paragraph 62 of the RMPs stipulates that "Stakeholders, activity participants and participating Parties may appeal decisions of the Supervisory Body or request that a grievance be addressed by an independent grievance process".
9. The formulation of the two processes associated with Article 6.4 mechanism activities (A6.4 activities) - the process for appeals against decisions of the Supervisory Body (appeal process); and the process for grievances to be addressed by an independent grievance process (grievance process) - is under the subchapter titled "Other processes associated with Article 6, paragraph 4, activities" and is located within chapter V of the RMPs titled "Article 6, paragraph 4, activity cycle".
10. Given the location of paragraph 62 of the RMPs in chapter V of decision 3/CMA.3 "Article 6, paragraph 4, activity cycle", it may be interpreted that the appeal and grievance processes are intended to address matters relating to specific A6.4 activities, as defined in paragraph 1(a) of the RMPs, regarding their status or actions within the Article 6, paragraph 4, activity cycle (A6.4 activity cycle).
11. While appeals referred to in paragraph 62 of the RMPs are explicitly stated as intending to be directed at Supervisory Body decisions made within the A6.4 activity cycle, grievances are not directly related to Supervisory Body decisions.
12. Therefore, the appeal process shall be intended for filing appeals against decisions made by the Supervisory Body within the A6.4 activity cycle and grievances shall indicate the intent to request resolution of matters other than Supervisory Body decisions to be addressed, as long as they concern specific A6.4 activities within the A6.4 activity cycle.
13. Under chapter V of the RMPs titled "Article 6, paragraph 4, activity cycle" the sub-sections included are activity design, methodologies, approval and authorization, validation, registration, monitoring, verification and certification, issuance, renewal of the crediting period and first transfer from the mechanism registry.
14. In accordance with paragraph 24 of the RMPs, throughout the "Article 6, paragraph 4, activity cycle" processes, the Supervisory Body establishes requirements and processes for the development and/or approval of methodologies and standardized baselines for article 6, paragraph 4 activities and the registration of activities as Article 6, paragraph 4, activities, the renewal of crediting periods of registered Article 6, paragraph 4, activities and the issuance of A6.4 emission reductions (ERs).

15. Considering that the methodologies and standardized baselines are included as subsections under chapter V of the RMPs titled "Article 6, paragraph 4, activity cycle" they may be interpreted as a qualifying criterion under the activity cycle.
16. The decisions on approval or rejection of a proposed new or revised Article 6.4 mechanism methodology or methodological tool, or clarification of an approved Article 6.4 mechanism methodology or methodological tool and approval or rejection of a proposed new, revised or updated standardized baseline, or clarification of an approved standardized baseline are technical in nature, but they are decisions made by the Supervisory Body while exercising its governance role and functions.
17. However, the procedures for the development of mechanism methodologies and standardized baselines, adopted by the Supervisory Body at its sixth meeting, allow the proponent of a mechanism methodology or standardized baseline and global stakeholders to comment and raise concerns on the draft mechanism methodology or standardized baseline before it is approved by the Supervisory Body. With such provisions, the likelihood of cases that need escalation to appeal against Supervisory Body decisions would be very small.
18. In addition, any stakeholder may communicate with the Supervisory Body on matters relating to the Article 6.4 mechanism by sending an unsolicited letter following the "Procedure: Consideration of unsolicited letters to the Supervisory Body".
19. Furthermore, considering that the standing on decisions pertaining to methodologies and standardized baselines under the appeal process could be ambiguous and have in some cases limitless global coverage, the management of the processes may be problematic.
20. The grievance process shall serve as an avenue for stakeholders having local affinity to an Article 6.4 activity, or activity participants or participating Parties to express dissatisfaction with the implementation or treatment of Article 6.4 activity within the A6.4 activity cycle, if they believe that the implementation or treatment of the activity within the A6.4 activity cycle has or is likely to have a direct adverse effect of environmental, social or economic nature on the grievant.
21. The current formulation of the scope of grievance includes adverse effects of a social, economic or environmental nature suffered by the local individuals, communities or businesses as a direct consequence of the implementation or treatment of a registered A6.4 activity within the activity cycle under the Article 6.4 mechanism [or suffered by communities or businesses in the countries where an approved Article 6.4 mechanism methodology, methodological tool or standardized baseline is applicable as a consequence of approval of such methodology, methodological tool or standardized baseline].
22. Considering that the methodologies are uniformly applicable and standardized baselines shall be established at the highest level of aggregation in the relevant sector of the host Party, it may not be possible for localized direct negative effects to be identified and escalated as grievances. Furthermore, procedures for the development of mechanism methodologies and standardized baselines, adopted by the Supervisory Body at its sixth meeting, provide multiple avenues for proponents of a mechanism methodology or standardized baseline and global stakeholders to make comments and raise concerns before the approval of the draft mechanism methodology or standardized baseline.

23. Thus, it is considered that excluding decisions on approval or rejection of a proposed new or revised Article 6.4 mechanism methodology or methodological tool, clarification of an approved Article 6.4 mechanism methodology or methodological tool and approval or rejection of a proposed new, revised or updated standardized baseline, clarification of an approved standardized baseline from the scope of appeal and grievance processes may have operational benefits which can be justified with the ambiguity of formulation on standing and impracticality in terms of the effect of overturning the decisions which can be achieved more efficiently through the established processes in the relevant procedures.

### **3.2. Interlinkages of appeal and grievance processes with stakeholder's engagement processes**

24. The Article 6.4 mechanism includes meaningful public stakeholders participation, consultation and engagement which is based on the regulatory documents that the Supervisory Body already adopted and encompass the following processes:

- (a) Local stakeholder consultation (mandatory for all A6.4 activities before registration);
- (b) Global stakeholder consultation (mandatory for all A6.4 activities before registration);
- (c) Continuous engagement of stakeholders at both global and local levels (mandatory for all A6.4 activities after registration);
- (d) Stakeholder communication with the Supervisory Body on matters relating to the Article 6.4 mechanism, which may include general policy matters and matters specific to a particular proposed or registered A6.4 activity following the "Procedure: Consideration of unsolicited letters to the Supervisory Body".

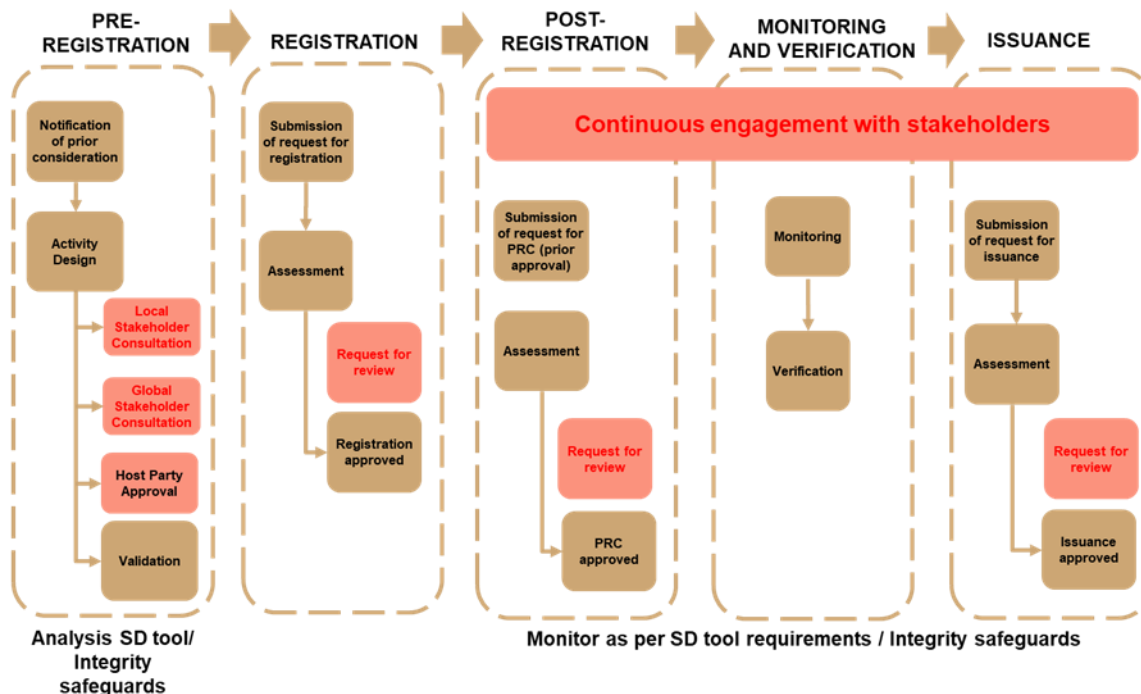
25. The relevant provisions of the Article 6.4 mechanism RMPs and approved regulatory documents, such as Article 6.4 activity cycle procedure for projects (hereinafter referred to as activity cycle procedure for projects) and Article 6.4 activity standard for projects (hereinafter referred to as activity standard for projects), establish robust environmental, social and integrity requirements for Article 6.4 projects and serve as safeguards for the integrity of the Article 6.4 mechanism. Additionally, there are many avenues for individuals and entities affected by Article 6.4 projects to raise issues and concerns, such as local stakeholder consultation, global stakeholder consultation, continuous engagement of stakeholders at both global and local levels, unsolicited letters to the Supervisory Body, assessment of environmental and social and other sustainable development impacts of proposed A6.4 projects and monitoring of such impacts after their registration followed by verification using the sustainable development tool.

26. The first avenue for local stakeholders to provide comments and raise issues on a proposed Article 6.4 project is at a very early stage of the project cycle, i.e. at the local stakeholder consultation. As per section 6.9, paragraph 66 of the Article 6.4 activity standard for projects, the activity participants shall conduct a local, and where appropriate, subnational stakeholder consultation on the proposed A6.4 project in accordance with applicable host Party rules, but also in line with the modalities contained in Appendix 2 to the Article 6.4 activity standard for projects, and any additional elements for consultation required by the A6.4 sustainable development tool, at minimum.

27. At this stage, local communities directly affected by the activity must be consulted extensively and any potential issues and concerns that may be raised shall be addressed through the local stakeholder consultation. The activity participants are required to convey information to stakeholders about this consultation process and the proposed A6.4 project in ways that are appropriate for the community that is directly affected by the project, and to provide a description of the proposed A6.4 project in a manner that enables local stakeholders to understand the project. The process shall ensure that local stakeholders are invited to provide comments on the proposed A6.4 project in an open and transparent manner, and in a way that facilitates the submission of comments.
28. In line with the modalities contained in Appendix 2 to the Article 6.4 activity standard for projects, A6.4 project activity participants are required to conduct the local stakeholder consultation through means that are appropriate for the local and national circumstances. The activity participants shall provide local stakeholders with the opportunity to comment in writing or via other means and gather their comments about the proposed A6.4 project and its direct impacts and shall request the designated national authority (DNA) of the host Party to forward any comments from local stakeholders submitted to the host Party to them.
29. The activity participants shall prepare a summary report of the comments received from local stakeholders and must consider the comments provided by local stakeholders and report in the project design document (PDD) on how they have taken them into account, providing justification if any comments were not incorporated.
30. After the completion of the local stakeholder consultation, local stakeholders may submit a complaint to the DNA of the host Party if they find that the outcome of the local stakeholder consultation has not been appropriately taken into account.
31. As per section 6.2.7, paragraph 55 of the Article 6.4 validation and verification standard for projects, the designated operational entity (DOE) is required to request the DNA of the host Party of the proposed A6.4 project to forward to the DOE complaints received by the DNA from stakeholders on the handling of the outcome of the local or subnational stakeholder consultation, if any. In this case, the DOE shall promptly forward such complaints to the activity participants and subsequently determine whether the activity participants have taken due account of the complaints and modify the PDD as appropriate.
32. Another avenue for stakeholders to submit issues and raise claims in the Article 6.4 activity cycle for projects is the global stakeholder consultation on the proposed A6.4 activity. After making the submitted PDD to the secretariat publicly available on the UNFCCC website, Parties, stakeholders and UNFCCC-admitted observer organizations may submit comments in English on the proposed A6.4 project activity within 28 days of the publication of the PDD. The comments submitted shall be specific to the proposed A6.4 project activity and be related to the compliance with applicable Article 6.4 mechanism rules and regulations. The eligible comments are made publicly available, and the activity participants and the DNA of the host Party are informed of the publication of the comments.
33. As per paragraph 68 of the Article 6.4 activity standard for projects, the activity participants are required to provide in the PDD a summary of comments received during the global stakeholder consultation and describe how they were taken into account. Furthermore, as per the provisions of the Article 6.4 validation and verification standard for projects, the DOE shall determine whether the eligible comments submitted in the global stakeholder consultation have been taken into due account in the PDD of the proposed A6.4 project.

34. The third avenue for local stakeholders to raise issues and provide comments on the A6.4 project activity is under the process for continuous engagement of stakeholders as part of the post-registration activities.
35. Paragraphs 70–72 of the Article 6.4 activity standard for projects require activity participants, after the registration of the project under the Article 6.4 mechanism, to create and maintain until the end of the valid crediting period of the project a window for local stakeholders to comment on the implementation or the operation of the project, taking into account any additional elements for consultation required by the A6.4 sustainable development tool.
36. In addition, as per paragraphs 87 and 88 of the Article 6.4 activity cycle procedure for projects, Parties, stakeholders and UNFCCC-admitted observer organizations may submit comments in English on the registered A6.4 project to the secretariat through a dedicated interface on the UNFCCC website any time after the registration of a project under the Article 6.4 mechanism. The eligible stakeholder comments, which shall be specific to the registered A6.4 project and related to the compliance with applicable Article 6.4 mechanism rules and regulations, are made publicly available on the UNFCCC website where the project information is displayed, and the activity participants are notified of the publication of the comments.
37. The activity participants are required to review the comments on the registered A6.4 project submitted from Parties, stakeholders and UNFCCC-admitted observer organizations and published on the UNFCCC website, if any. Furthermore, the activity participants are required to address the issues raised in the comments from the local stakeholders and the global stakeholders above as appropriate and summarize how they have addressed the comments in the next monitoring report.
38. In line with paragraph 142 of the Article 6.4 validation and verification standard for projects, the DOE shall determine whether the activity participants have received comments on the implementation or operation of the A6.4 project from local stakeholders after its registration through the process of continuous engagement of stakeholders in accordance with the activity standard, and if so, determine whether the activity participants have addressed the issues raised in the comments in the implementation or operation of the project, as appropriate. As per paragraph 143 of the same standard, the DOE shall also determine whether comments on the compliance of the registered A6.4 project with applicable Article 6.4 mechanism rules and regulations have been submitted from Parties, stakeholders and UNFCCC-admitted observer organizations and published on the UNFCCC website, and if so, determine whether the activity participants have addressed the issues raised in the comments.

39. These processes are schematically represented in the below diagram:



**3.3. Appeal and grievance fees: Analysis of an option to differentiate fees based on type of appeal and grievance**

40. The appeal process is directed at Supervisory Body decisions relating to activities within the A6.4 activity cycle. Differentiation between decisions of the Supervisory Body made in accordance with the Article 6.4 activity cycle procedure for projects, the procedure on development, revision and clarification of methodologies and methodological tools and the procedure on development, revision, clarification and update of standardized baselines may be cumbersome because the severity of the consequences is very difficult to establish. Throughout the project cycle equivalently severe consequences can be recognized from any of the Supervisory decisions within the project cycle. Thus, differentiation of the fees based on different types of appeals is not justifiable.
41. Generally, the implementation of tiered or sliding-scale fee structures is based on the financial capacity of the entities and individuals involved. This approach allows for a more nuanced application of fees, ensuring that those who can afford to pay contribute more while minimizing the impact on individuals with limited financial resources.
42. If the tiered or sliding-scale structures are to be based on different types of grievances the following need to be considered:
- (a) Managing a fee structure that varies based on the type of grievance can add complexity to administrative processes, potentially leading to confusion or errors in fee determination. Furthermore, the establishment of the fee requires a substantive assessment and consideration of the submitted claim in order to determine the exact fee that shall be applied in accordance with the established criteria;



- (b) Differential fee structures may be exploited by individuals or organizations seeking to misuse the system for their own benefit, either by exaggerating the nature of their grievance to qualify for lower or waived fees or by avoiding legitimate fees through loopholes. In addition, applying lower fees for certain types of grievances may incentivize individuals to prioritize those grievances over others, potentially leading to an imbalance in the attention given to different issues;
  - (c) Determining fair and appropriate fees for different types of grievances can be subjective and may require careful consideration of various factors, such as the complexity and severity of the grievance, which can be challenging to assess accurately;
  - (d) Charging different fees for different types of grievances might be perceived as unfair by some individuals, especially if they feel their grievance is being undervalued or marginalized;
  - (e) Charging different fees based on the type of grievance could be seen as contrary to the principle of equality before the law, which holds that all individuals should be treated equally regardless of their circumstances or the nature of their grievance.
43. With respect to the differentiation of the grievance based on different types of grievances the approach proposed follows the severity of the consequences:
- (a) Claims pertaining to violations of human rights as defined by the national law of the host Party to enforce the United Nations Universal Declaration of Human Rights should be associated with no fee;
  - (b) Grievances associated with access to land, land acquisition, and resettlement and infringements of the free, prior informed consent should be associated with no fee;
  - (c) Claims associated with deterioration of environmental or social conditions due to the implementation or treatment of the project activity should be associated with application of half fee;
  - (d) Claims involving violations of implementation of planned remedial measures of negative impacts, if any, during and after the implementation of the project in accordance with the "Article 6.4 sustainable development tool" should be associated with application of half fee;
  - (e) Claims associated with access to project benefits or natural resources should be associated with application of full fee;
  - (f) Nuisance/s related to implementation, operations and all others should be associated with application of full fee.
44. Overall, while differentiated fees based on the type of grievance may offer some advantages, such as providing a more tailored approach to addressing different types of issues, they also raise significant concerns regarding fairness, accessibility, and administrative complexity.
45. Under the current provisions of the appeal and grievance processes regardless of underlying facts of the matter at hand the system can be misused taking advantage of the warranted no fees option and making submissions that can distort activity cycle.

46. In order to provide safeguards for limiting vexatious and frivolous appeals and grievances the following are proposed:
- (a) Requiring a declaration in the form of an affidavit when filling an appeal or submitting a grievance. This verified statement which serves as evidence for its veracity is required to ensure that all claims are truthful and made in good faith;
  - (b) Requiring a bond in the sum of full fee to be posted in case of exemption from fees and returning the sum to the appellant or grievant if the appeal or the grievance is found to have merits. This will serve as a barrier for submitting frivolous claims;
  - (g) Adding an option that costs shall be imposed on the grievant if the grievance is found to have no merits. Even in cases where the option for no fee or reduced fee is to be availed by the grievant there will be a safeguard serving as a deterrent to the submission of meritless claims.

#### **4. Subsequent work and timelines**

47. The secretariat will continue preparing for the operation of the activity cycle, including the further development of regulatory provisions, necessary forms and IT infrastructure to process appeal and grievance submissions.

#### **5. Recommendations to the Supervisory Body**

48. The secretariat recommends that the Supervisory Body consider and adopt the "Procedure: Appeal and grievance processes under the Article 6.4 mechanism" contained in this document after modifying it as appropriate.

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## 1. Introduction

### 1.1. Background

1. The rules, modalities and procedures (RMPs) for the mechanism established by Article 6, paragraph 4, of the Paris Agreement (the Article 6.4 mechanism), as contained in the annex to decision 3/CMA.3<sup>1</sup> provide state, in paragraph 62 thereof, that "Stakeholders, activity participants and participating Parties may appeal decisions of the Supervisory Body or request that a grievance be addressed by an independent grievance process".
2. The Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA), through paragraph 5(a) of decision 3/CMA.3, requested the Supervisory Body to develop provisions for the process of developing and approving methodologies, validation, registration, monitoring, verification and certification, issuance, renewal, first transfer from the mechanism registry, voluntary cancellation and other processes pursuant to chapters V.B–L and VIII of the RMPs. The development of appeal and grievance processes referred to in paragraph 62 of the RMPs is a part of such mandate from the CMA to the Supervisory Body.

### 1.2. Objectives

3. The objectives of the "Procedure: Appeal and grievance processes under the Article 6.4 mechanism" (hereinafter referred to as this procedure) is are to set out requirements for filing an appeal or submitting a grievance on cases under the Article 6.4 mechanism activity cycle, as well as procedural steps for processing them and resulting consequences.

## 2. Scope and entry into force

### 2.1. Scope

4. This procedure describes the administrative steps to follow for stakeholders, activity participants and Parties to file an appeal against decisions of the Supervisory Body or submit a grievance to be addressed for cases under within the Article 6.4 mechanism activity cycle, and for the UNFCCC secretariat (hereinafter referred to as the secretariat), or the appeal or grievance panel to process such appeal or grievance, and for the Supervisory Body and other relevant individuals or organizations to take actions.

### 2.2. Entry into force

5. This version of this procedure enters into force on [XX XXX XXXX].

## 3. Terms and definitions

6. The following terms apply in this procedure:

- (a) "Shall" is used to indicate requirements to be followed;
- (b) "Should" is used to indicate that among several possibilities, one course of action is recommended as particularly suitable;

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<sup>1</sup> Available at: [https://unfccc.int/sites/default/files/resource/cma2021\\_10\\_add1\\_adv.pdf#page=25](https://unfccc.int/sites/default/files/resource/cma2021_10_add1_adv.pdf#page=25).

- (c) “May” is used to indicate what is permitted;
- (d) “Activity participant” is a public or private entity that participates in an Article 6.4 project or programmes of activities activity (A6.4 activity);
- (e) “Activity standard” is the “Article 6.4 mechanism activity standard for projects” or the “Article 6.4 mechanism activity standard for programmes of activities”, as applicable;
- (f) “Activity cycle procedure” is the “Article 6.4 mechanism activity cycle procedure for projects” or “Article 6.4 mechanism activity cycle procedure for programmes of activities”, as applicable;
- (g) “Methodology procedure” is the “Procedure: Development, revision and clarification of methodologies and methodological tools”;
- (h) “Standardized baseline procedure” is the “Procedure: Development, revision, clarification and update of standardized baselines”.

## 4. Appeal process

### 4.1. Standing

7. An appeal may be filed against an appealable decision of the Supervisory Body, as defined in paragraph 9 below, by the following individuals, communities and organizations (hereinafter referred to as appellants):

***Option 1 (appeal is possible only against decisions on activities):***

- (a) [The Sstakeholders who were eligible to participate in the activity's local stakeholder consultation conducted in accordance with the activity standard;]
- (b) The Aactivity participants of the activity in question as identified in the modalities of communication submitted in accordance with the activity cycle procedure;
- (c) The designated national authorities (DNAs) of the host Party and other Parties participating in the activity through authorization of activity participants of the activity in question;

***Option 2 (appeal is possible against decisions on activities, methodologies and standardized baselines):***

- ~~(d) If the appeal is against a Supervisory Body decision on a specific A6.4 activity made in accordance with the activity cycle procedure:~~
  - ~~(i) [The Sstakeholders who were eligible to participate in the activity's local stakeholder consultation conducted in accordance with the activity standard;]~~
  - ~~(ii) The Aactivity participants of the activity in question as identified in the modalities of communication submitted in accordance with the activity cycle procedure;~~
  - ~~(iii) The designated national authorities (DNAs) of the host Party and other Parties participating in the activity through authorization of activity participants of the activity in question;~~

- ~~(e) If the appeal is against a Supervisory Body decision on a specific Article 6.4 mechanism methodology or methodological tool made in accordance with the methodology procedure:~~
- ~~(i) Stakeholders, except for those in the Parties that indicated the activity types that they would consider approving in accordance with paragraph 26(e) of the RMPs, or in the Parties that specified the methodological conditions in accordance with paragraph 27(a) of the RMPs, either of which would prevent the use of the methodology or methodological tool in question for A6.4 activities in the Parties;~~
  - ~~(ii) Activity participants of any existing/registered or proposed A6.4 activity that intends to use or has used the methodology or methodological tool, except for those of A6.4 activities in the Parties referred to in subparagraph (i) above;~~
  - ~~(iii) The DNAs of all Parties, except for those in the Parties referred to in subparagraph (i) above;~~
- ~~(f) If the appeal is against a Supervisory Body decision on a specific standardized baseline made in accordance with the standardized baseline procedure:~~
- ~~(i) Stakeholders with registered residence or domicile in the country(ies) where the standardized baseline in question is applicable;~~
  - ~~(ii) Activity participants of any existing/registered or proposed A6.4 activity in the country(ies) to which the standardized baseline in question is applicable;~~
  - ~~(iii) The DNAs of the Party(ies) of the country(ies) where the standardized baseline in question is applicable.~~

~~{end of Option 2}~~

8. An appellant may file an appeal individually or jointly with other appellants. Multiple appeals (individually or jointly) may be filed against the same appealable decision, provided that no single appellant is included in more than one appeal.

#### 4.2. Scope

9. An appeal may be filed against ~~only one any~~ of the following Supervisory Body decisions made in accordance ~~with~~ the activity cycle procedure (hereinafter referred to as appealable decisions):
- (a) Approval or rejection of a request for registration of a proposed A6.4 activity or inclusion of a proposed component project (CP) in a registered A6.4 programme of activities (PoA) (hereinafter, registration and inclusion are collectively referred to as registration);
  - (b) Approval or rejection of a request for approval of a post-registration change to a registered A6.4 activity, or approval or rejection of a notification of inclusion of a CP in a registered A6.4 PoA;
  - (c) Approval or rejection of a request for issuance of Article 6, paragraph 4, emission reductions (A6.4ERs) for a registered A6.4 activity;
  - (d) Approval or rejection of a request for renewal of the crediting period or PoA period of a registered A6.4 activity (hereinafter, renewal of the crediting period and the

PoA period are collectively referred to as renewal), or approval or rejection of a notification of renewal of the crediting period of a CP included in a registered A 6.4 PoA;

~~(e) [Approval or rejection of a proposed new or revised Article 6.4 mechanism methodology or methodological tool, or clarification of an approved Article 6.4 mechanism methodology or methodological tool;]~~

~~(f) [Approval or rejection of a proposed new, revised or updated standardized baseline, or clarification of an approved standardized baseline.]~~

### 4.3. Grounds

10. The grounds for an appeal shall be one or more of the following:

- (a) The Supervisory Body exceeded its authority or mandate as defined in the RMPs and other relevant CMA decisions;
- (b) The Supervisory Body's application of one or more provisions in the RMPs, of other relevant CMA decisions<sup>2</sup> or of applicable standards and procedures adopted by the Supervisory Body, was either incorrect or unreasonable, such that if applied correctly, it would have resulted in a materially different outcome;
- (c) The Supervisory Body made an error in relation to a material fact, irrespective of whether such fact was available to the Supervisory Body at the time of its decision, and the error affected the appealable decision on its merits;
- (d) [The information provided by the designated operational entity (DOE) or the activity participants on which the Supervisory Body made the decision contained an error or misstatement that materially affected the decision.]
- ~~(e) [The reasoning for the Supervisory Body's decision was not sufficiently clear or detailed.]~~

### 4.4. Procedure

#### 4.4.1. Filing an appeal

11. An appellant or its authorized representative (hereinafter collectively referred to as an appellant) may file an appeal by submitting, through a dedicated interface on the UNFCCC website, a duly completed "Appeal form" (A6.4M-APP-FORM)<sup>3</sup> covering the following information within ~~[28]~~ ~~[56]~~ days of the publication on the UNFCCC website of an appealable decision of the Supervisory Body, except for an appeal against the decision referred to in paragraph 9(c) above, in which case within ~~[14]~~ ~~[28]~~ days of the publication of the decision:

- (a) The name and category (stakeholder, activity participant or participating Party) of the appellant. The appellant may indicate if the personal identification and data shall be treated as confidential;

<sup>2</sup> For example, decision 7/CMA.4, annex I, available at: [https://unfccc.int/sites/default/files/resource/cma2022\\_10a02\\_adv.pdf#page=37](https://unfccc.int/sites/default/files/resource/cma2022_10a02_adv.pdf#page=37).

<sup>3</sup> The secretariat may convert the form into an electronic interface.



- (b) The relationship of each individual and organization listed as the appellant to the activity in question to demonstrate the standing of the appellant as per the requirements of paragraph 7 above;
  - (c) The name and contact information (email address, phone number, physical address) of the focal point of the appellant. If an authorized representative of the (original) appellant files the appeal, the evidence of such authorization (signature of the appellant). The appellant may indicate if the personal identification and data shall be treated as confidential;
  - (d) The Supervisory Body decision being appealed, indicating its decision category referred to in paragraph 9 above;
  - (e) The ground(s) for the appeal as referred to in paragraph 10 above and a declaration in the form of an affidavit on the ground(s) and relevant facts and arguments that form the ground(s);
  - (f) A detailed statement of the relevant facts and arguments that form the grounds for the appeal;
  - (g) References to supporting documents, which may be attached, and other sources of information, with an explanation as to how the supporting documents and other information support the arguments made in the appeal.
12. The secretariat shall issue a statement of the appeal fee due and the bank transfer instructions, and shall communicate this to the appellant. The appellant shall pay the appeal fee within 30 days of receipt of such statement. The appeal fee shall be determined as follows:
- (a) Standard appeal fee of USD [5,000] [2,500];
  - (b) [Reduced appeal fee of USD [2,500] [No appeal fee] if the appeal is submitted by indigenous peoples or the appeal is in relation to the activities located in least developed countries, small island developing States or specially underdeveloped zones in developing countries as designated by the host Party governments in an official notification for development assistance, including for planning, management or investment, satisfying any one of the following conditions using most recent available data:
    - (i) The proportion of the population in the zone with income of less than USD 2.15 per day, adjusted by purchasing power parity, is greater than 50 per cent;
    - (ii) The gross national income per capita of the country is less than USD 3,000 and the population of the zone is among the poorest 20 per cent in the poverty ranking of the host country as per the applicable national policies and procedures;
    - (iii) The proportion of the population in the zone with income of less than the national poverty line used by the host country for reporting on the Sustainable Development Goals is greater than 50 per cent.]
13. Notwithstanding sub-paragraph 12(b) above, the appellant shall deposit a bond in the sum of the standard fee if the appeal is filled against a Supervisory Body decision referred to in paragraph 9(c) above.

14. If the appellant does not pay the appeal fee, if applicable, within the timeframe referred to in paragraph 12, the appeal shall be deemed as withdrawn and the secretariat shall notify the appellant accordingly.

#### 4.4.2. Temporary suspension of processing cases

15. Upon receipt of an appeal, the processing of the case within the respective procedure shall be suspended immediately until the conclusion of the appeal proceedings made in accordance with sections 4.4.3–4.4.6 below. The secretariat shall immediately notify the Supervisory Body of the receipt of the appeal and the suspension of the process.

#### 4.4.3. Completeness and eligibility checks

16. Upon receipt of the appeal fee, if applicable, the secretariat within 7 days shall undertake the completeness check to determine whether the submitted appeal form contains all required information referred to in paragraph 11 above. If the secretariat finds the information contained in the appeal form is incomplete, it shall request the appellant, by providing the reason for incompleteness, to submit a revised form to fill the gap within 14 21 days. In this case, if the appellant does not submit a revised form within this timeframe, or the submitted revised form is still found to be incomplete, the appeal shall be deemed withdrawn and the secretariat shall notify the appellant accordingly, reimbursing the appeal fee after deducting USD 500 if the appeal fee has been paid in accordance with paragraph 12 above.

~~16. If the appellant does not pay the appeal fee within the timeframe referred to in paragraph 12 above, the appeal shall be deemed as withdrawn and the secretariat shall notify the appellant accordingly.~~

17. Upon successful conclusion of the completeness check, the secretariat shall establish an appeal panel to review this specific appeal by appointing three experts from the roster established for the appeal and grievance processes under this procedure, taking into account the specificity of the case and the expertise of each expert, and designating one of them as the chair of the panel. The secretariat shall forward the appeal form and any supporting documentation submitted by the appellant to the members of the appeal panel.

18. The chair of the appeal panel shall, in consultation with all other members of the panel, determine within seven days of receipt of the appeal from the secretariat whether the appellant is eligible for filing the appeal in question in accordance with paragraph 7 above, the appeal is against appealable decisions referred to in paragraph 9 above, and the grounds for the appeal as claimed by the appellant are one or more of those referred to in paragraph 10 above. If the chair of the appeal panel determines that the appellant or the appeal does not satisfy any of these eligibility requirements for appeals, he or she shall reject the appeal. In this case, the secretariat shall promptly inform the appellant accordingly, and reimburse the appeal fee after deducting USD 1,000 if the appeal fee has been paid in accordance with paragraph 12 above. In order to determine the eligibility, the chair of the appeal panel may, through the secretariat, request the appellant and/or any other individual or organization it deems necessary for that purpose to provide additional information.

19. Once the chair of the appeal panel has confirmed that the appellant and the appeal satisfy all of the eligibility requirements for appeals, the secretariat shall publish the appeal on the UNFCCC website and immediately notify the Supervisory Body of the publication of the appeal. The personal identification and data indicated by appellant as confidential as per sub-paragraphs 11(a) and 11(c) above shall not be published.

20. Over the entire course of the processing of the appeal, the appellant's personal details (name and contact information) shall be made available only to limited members of the secretariat as necessary, unless otherwise expressly agreed by the appellant.

#### 4.4.4. Initial response by the Supervisory Body

21. The Chair of the Supervisory Body, in consultation with the its Vice-Chair, may provide the background and/or reasoning of the Supervisory Body decision in question to the appeal panel within 14 days of the publication of the appeal on the UNFCCC website.

#### 4.4.5. Review and ruling

22. The appeal panel shall review the appeal to consider the merits of the matter and prepare a ruling within 14 28 days after the publication of the appeal on the UNFCCC website. In doing so, the appeal panel may, through the secretariat, request the designated operational entity (DOE) that validated or verified the request, or the Methodological Expert Panel that recommended on a methodology, methodological tool or standardized baseline, regarding which the Supervisory Body has made the decision in question, or any other relevant individual or organization that is independent from the appellant, to clarify any of the information contained in the appeal form. If the appeal panel has made such request for clarification, the deadline shall be extended accordingly.

23. The appeal panel shall take into account only:

- (a) The information in the appeal form provided by the appellant and published in accordance with paragraph 19 above, including the references to supporting documents and other sources of information;
- (b) Clarification provided by the DOE, Methodological Expert Panel, or any other individual or organization, of the information contained in the appeal form in accordance with paragraph 22 above, as applicable;
- (c) The Supervisory Body's decision under appeal and any previous decisions of the Supervisory Body within the activity cycle;
- (d) The RMPs, other relevant CMA decisions, and standards and procedures adopted by the Supervisory Body;
- (e) Any appeal or response that was previously filed by the same appellant as part of a previous appeal in relation to the activity methodology, methodological tool or standardized baseline in question and the previous appeal is deemed materially relevant;
- (f) Any factual information from a source, the accuracy of which cannot be questioned (e.g. the day of the week on a certain date).

24. In reviewing the appeal and preparing a ruling, the appeal panel shall also:

- (a) Defer to the Supervisory Body's finding of facts, unless they are claimed by the appellant to be erroneous in accordance with paragraph 10(c) or 10(d) above;
- (b) Defer to the Supervisory Body's application of standards and procedures adopted by the Supervisory Body, unless such application is claimed by the appellant to be either incorrect or unreasonable in accordance with paragraph 10(b) above.

25. The ruling of the appeal panel shall conclude in one of the following ways and provide the rationale for its conclusion:
  - (a) Affirming the decision of the Supervisory Body;
  - (b) Remanding the matter to the Supervisory Body for reconsideration (hereinafter referred to as remand ruling).
26. The appeal panel, through the secretariat, shall notify the Supervisory Body and the appellant of its ruling. The secretariat shall promptly publish the ruling on the UNFCCC website.

#### **4.4.6. Reconsideration by the Supervisory Body upon remand**

27. If the ruling by the appeal panel is a remand ruling referred to in paragraph 25(b) above, the Supervisory Body shall reconsider its decision under the appeal and conclude its reconsideration within 30 days of the notification of the remand ruling to the Supervisory Body.
28. In concluding its reconsideration (hereinafter referred to as the reconsideration decision), the Supervisory Body shall either:
  - (a) Issue a revised decision replacing the original decision; or
  - (b) Decide that the original decision stands as is.
29. The Supervisory Body shall provide the rationale for the reconsideration decision, including:
  - (a) The facts and any interpretation of the facts that formed the basis of the reconsideration decision;
  - (b) The RMPs, other relevant CMA decisions, or relevant standards and procedures adopted by the Supervisory Body applied to the facts and their interpretation;
  - (c) The interpretation of the RMPs, other relevant CMA decisions, or relevant standards and procedures adopted by the Supervisory Body as applied to the facts;
  - (d) How the reconsideration decision took into account the remand ruling.
30. The secretariat shall promptly resume the suspended process and publish the reconsideration decision **together with the provided rationale** on the UNFCCC website, and notify the appellant and, if applicable, the activity participants, the DOE and the participating Parties, through their DNAs of the publication of the reconsideration decision.
31. If the Supervisory Body issued a revised decision, the processing of the case in question shall be treated as if the revised decision were the original decision in terms of the effectiveness of the decision.
32. **If the ruling of the appeal panel is a remand ruling referred to in paragraph 25(b) above, the secretariat shall reimburse the appeal fee in full to the appellant.**
33. **If the ruling of the appeal panel is a remand ruling referred to in paragraph 25(b) above the secretariat shall reimburse the standard fee deposited with a bond as per paragraph 13 above to the appellant.**

34. The appeal panel shall not have the authority to award any monetary compensation for damages to the appellant or any other individual or organization ~~other than the reimbursement of the appeal fee as referred to in paragraphs 32 above.~~
35. ~~The~~ conclusions by the appeal panel, including ruling on, or rejection of, the appeal shall be final and shall not be further considered or subject to a new appeal.

## 5. Grievance process

### 5.1. Standing

36. A grievance may be submitted by individuals, communities and organizations (hereinafter referred to as grievants) that meet all the following eligibility requirements:
- (a) ~~They are connected to the jurisdiction, by means of residency or domicile, where the activity in question is implemented;--In the absence of documentary evidence, the residency or domicile can be proven by any other means that demonstrate the grievant's connection to the jurisdiction;~~
  - (b) ~~They have substantial presence in the geographic area, by means of their business activity or community-related activity, which is directly affected by the activity in question;~~
  - (c) They suffer direct adverse effects from the implementation or treatment of the activity in question within the activity cycle under the Article 6.4 mechanism by way of concrete, tangible and particularized claim of harm to the health, property, local environment or other interest.

### 5.2. Scope

37. A grievance may be submitted only ~~on the basis of~~ adverse effects of a social, economic or environmental nature suffered by local individuals, communities or businesses as a direct consequence of the implementation or treatment of a registered A6.4 activity within the activity cycle under the Article 6.4 mechanism ~~or suffered by communities or businesses in the countries where an approved Article 6.4 mechanism methodology, methodological tool or standardized baseline is applicable as a consequence of approval of such methodology, methodological tool or standardized baseline.~~
38. A complaint on the design and operation of the Article 6.4 mechanism, including in relation to the governance, the activity cycle, the methodology and standardized baseline development process and the accreditation process, shall not be submitted as a grievance under this procedure, but may be submitted under the "Procedure: Consideration of unsolicited letters to the Supervisory Body".

### 5.3. Procedure

#### 5.3.1. Submitting a grievance

39. A grievant or ~~its authorized representative~~ (hereinafter collectively referred to as a ~~grievant~~) may submit a grievance, through a dedicated interface on the UNFCCC website,

a duly completed “Grievance form” (A6.4M-GRI-FORM)<sup>4</sup> covering the following information within the valid crediting period of the Article 6.4 activity in question:

- (a) The name and category (e.g. individual, community, organization) of the grievant.; The grievant may indicate if the personal identification and data shall be treated as confidential;
- (b) The relationship of each individual, community and organization listed as the grievant to the activity in question to demonstrate the its eligibility requirements of the as grievant as per the requirements of paragraph 36 above;
- (c) The name and contact information (email address, phone number, physical address) of the focal point of the grievant.; If an authorized representative of the (original) grievant submits the grievance, the evidence of such authorization (signature of the grievant). The grievant may indicate if the personal identification and data shall be treated as confidential;
- (d) The title and UNFCCC reference number of the A6.4 activity in question;
- (e) Description of the [potential or] actual direct adverse effect on the grievant and how it is related to the implementation of the Article 6.4 activity in question and a declaration in the form of an affidavit on the actual direct adverse effect and its relation to the implementation of the Article 6.4 activity;
- (f) Description of a suggested remedy;
- (g) References to supporting documents, which may be attached, and other sources of information, with an explanation as to how the supporting documents and other information support the arguments made in the grievance;
- (h) Reference to or evidence of any previous or ongoing attempt to resolve the issue directly with any other individual or organization.

40. The secretariat shall issue a statement of the grievance fee due and the bank transfer instruction, and shall communicate this to the grievant. The grievant shall pay the grievance fee within 30 days of receipt of such statement. The grievance fee shall be determined as follows:

**Option 1 (differentiated by grievant):**

- (a) Standard grievance fee of USD [5,000][2,500];
- (b) [Reduced grievance fee of USD [2,500]][No grievance fee] if the grievance is submitted by indigenous peoples or is in relation to the activities located in least developed countries, small island developing States or specially underdeveloped zones in developing countries as defined in paragraph 12(b) above.]

**Option 2 (differentiated by grievance type):**

- (a) Standard grievance fee of [5,000] [2,500];

<sup>4</sup> The secretariat may convert the form into an electronic interface

**(b) No fee if the grievance is:**

- i. Pertaining to violations of human rights as defined by the national law of the host Party to enforce the United Nations Universal Declaration of Human Rights;
- ii. Associated with access to land, land acquisition, and resettlement and infringements of free, prior informed consent;

**(c) Half fee [2500] [1250] if the grievance is:**

- i. Associated with deterioration of environmental or social conditions due to the implementation or treatment of the A6.4 activity in question;
- ii. Associated with [violations][non-compliance] of implementation of planned remedial measures of negative impacts, if any, during and after the implementation of the A6.4 activity in question in accordance with the "Article 6.4 sustainable development tool";

41. If the grievant does not pay the grievance fee within the timeframe referred to in paragraph 40, the grievance shall be deemed as withdrawn and the secretariat shall notify the grievant accordingly.

**5.3.2. Completeness and eligibility checks**

42. Upon receipt of the grievance fee, if applicable, the secretariat shall undertake the completeness check within 7 days to determine whether the submitted grievance form contains all required information referred to in paragraph 39 above. If the secretariat finds that the information contained in the grievance form is incomplete, it shall request the grievant, by providing the reason for incompleteness, to submit a revised form to fill the gap within 44 21 days. In this case, if the grievant does not submit a revised form within this timeframe, or the submitted revised form is still found to be incomplete, the grievance shall be deemed withdrawn and the secretariat shall notify the grievant accordingly, reimbursing the grievance fee after deducting USD 500 if the grievance fee has been paid in accordance with paragraph 40 above.

~~41. If the grievant does not pay the grievance fee within the timeframe referred to in paragraph 40 above, the grievance shall be deemed as withdrawn and the secretariat shall notify the grievant accordingly.~~

43. Upon successful conclusion of the completeness check, the secretariat shall establish a grievance panel to review this specific grievance by appointing three experts on the roster referred to in paragraph 17 above, taking into account the specificity of the case and the expertise of each expert, and designating one of them as the chair of the panel. The secretariat shall forward the grievance form and any supporting documentation submitted by the grievant to the members of the grievance panel.

44. The chair of the grievance panel shall, in consultation with all other members of the panel, determine within seven days of receipt of the grievance from the secretariat whether the grievant is eligible to for submitting the grievance in accordance with paragraph 36 above and the grievance is within the scope referred to in paragraph 37 above. If the chair of the grievance panel determines that the grievant or the grievance does not satisfy any of these the respective eligibility requirements for grievances, he or she shall reject the grievance. In this case, the secretariat shall promptly inform the grievant of the rejection to the grievant accordingly, and reimburse the grievance fee after deducting USD 1,000 if the grievance fee has been paid in accordance with paragraph 40 above. In order to determine the eligibility, the chair of the grievance panel may, through the secretariat,

request the grievant and/or any other individual or organization it deems necessary for that purpose to provide additional information.

45. Once the chair of the grievance panel has confirmed that the grievant and the grievance satisfy **all of the respective** eligibility requirements for grievances, the secretariat shall publish the grievance on the UNFCCC website and immediately notify the Supervisory Body of the publication of the grievance. **The personal identification and data indicated by the appellant as confidential as per sub-paragraphs 39(a) and 39(c) above shall not be published.**
46. If the grievance contains accusations against specific individuals or organizations that may trigger legal actions under the relevant domestic laws, the chair of the grievance panel shall decide whether to make publicly available the grievance or any specific information therein, and request the secretariat not to publish the grievance or to publish a partially redacted version.
47. Over the entire course of the processing of a grievance, the grievant's personal details (name and contact information) shall be made available only to limited members of the secretariat as necessary, unless otherwise expressly agreed by the grievant.

### 5.3.3. Consideration and recommendations

48. The grievance panel shall consider the grievance and prepare recommendations or reject the grievance within 14 days **after the publication of the grievance on the UNFCCC website its establishment.** In doing so, the grievance panel may, through the secretariat, request the grievant or other relevant individual or organization to provide additional information, specifying the deadline that the grievance panel deems reasonable for the grievant or other individual or organization to prepare such additional information.
49. The grievance panel shall reject the grievance if:
  - (a) Insufficient information is provided to prepare a recommendation (e.g. the information is too general, unspecified and therefore non-actionable);
  - (b) Additional information requested in accordance with paragraph is not provided by the specified deadline in accordance with paragraph 48 above **particularly for from** the grievant;
  - (c) The grievant organization's legitimacy to represent **[potentially]** affected individuals, entities or communities is not explicit and proven, as applicable.
50. If the grievance panel does not reject the grievance, it shall outline its findings, considerations and recommendations as appropriate. The findings or recommendations may include:
  - (a) Recommendations to the activity participants on corrective actions which may address the grievance;
  - ~~(b) [Recommendations to the national authority of the host Party, through its DNA, of the activity in question on corrective actions which may address the grievance;]~~
  - (b) Recommendations to the Supervisory Body on consideration of decisions on the activity in question within the activity cycle under the Article 6.4 mechanism, such as temporary suspension of issuance **and** or renewal until the **host Party or the** activity participants demonstrated **]** that they have addressed the issue raised in the grievance;



- (c) General recommendations to the Supervisory Body on revisions of Article 6.4 mechanism rules and regulations, including on the activity cycle, methodologies and accreditation;
  - (d) The grievance was found not substantiated on its merits.
51. The secretariat shall promptly publish the outcome of the consideration of the grievance panel – that is, either to issue recommendations or reject the grievance – on the UNFCCC website, and communicate the outcome to the grievant, and if there are recommendations, also to the relevant individual(s) and/or organization(s).
52. Within 14 days upon receipt of the communication on the outcome of the consideration of the grievance, the grievant may request, by email through a dedicated email address to the secretariat, that the secretariat, along with the members of the grievance panel, make a call to the grievant to provide clarifications on the outcome, limited to the relevant procedural provisions. Only one such request, regardless of the requesting grievant, shall be allowed per submission of grievance. In this case, the grievant shall provide the contact details of the person to be called and the preferred time slots. The secretariat shall ensure that, if requested by the grievant, the identity of the identified person shall be kept confidential. The secretariat shall fix an appointment for the call within three days of receipt of the request. The secretariat shall record the call and, if needed, classify it as confidential.
53. If the grievance panel issues recommendations referred to in paragraph 50(a) or (b) above, the secretariat shall reimburse the grievance fee in full to the grievant [if the grievance fee has been paid in accordance with paragraph 40 above]. For all other cases, the grievance fee shall not be reimbursed.
54. The grievance panel shall not have the authority to recommend awarding any monetary compensation for damages to the grievant or any other individual or organization, other than the reimbursement of the grievance fee as referred to in paragraph 53 above.
55. The conclusion by the grievance panel, including recommendations on, or rejection of, the grievance shall be final and unappealable, and shall not be further considered or subject to a new grievance.

#### 5.3.4. Monitoring of outcome of recommendations

~~54. If the grievance panel issued recommendations referred to in paragraph 0, the secretariat shall, three months after the issuance of such recommendations, contact the DNA of the host Party to inquire about actions taken by the national authority based on the recommendations, report its findings to the Supervisory Body, and publish the outcome of the inquiry on the UNFCCC website.~~

56. If the grievance panel issued recommendations referred to in paragraph 50(b) above, the Supervisory Body shall either:
- (a) Take actions within the activity cycle as it deems appropriate; or
  - (b) Decide not to take actions regarding the activity in question within the activity cycle.

2. If the Supervisory Body takes action within the activity cycle in accordance with paragraph (a) above a notification on the course of action shall be provided to the DNA of the host Party.

## 6. Roster of experts and appeal and grievance panels

### 6.1. Roster of experts

57. The roster of experts shall comprise 30 experts, serving for both the appeal and grievance processes in accordance with this ~~procedure~~ section.
58. The secretariat shall make a public call for experts to appoint them on the roster based on the terms of reference contained in this ~~procedure~~ section.
59. The secretariat shall appoint experts on the roster initially for a period of four years for 15 experts and for a period of two years for the remaining 15 experts to ensure continuity. Thereafter, the secretariat shall appoint all experts for a period of four years. Experts on the roster shall remain under appointment until their successors are appointed.
60. Experts on the roster shall perform any duties and exercise any authority in an honourable, independent, impartial and conscientious manner as follows:
- (a) They shall serve in his or her personal capacity and shall enjoy full independence;
  - (b) They shall observe at all times and from the date of their appointment the highest standards of ethical conduct in the performance of their duties and functions. Such duties and functions shall be performed in accordance with the Charter of the United Nations and ~~these rules of this~~ procedure;
  - (c) They shall treat all persons involved in the appeal and grievance processes under this procedure with dignity and respect and conduct themselves in line with the values of the United Nations;
  - (d) They shall not abuse their authority or directly or indirectly accept, offer or provide any gift, advantage or reward that can be reasonably perceived as intended to influence the performance of their functions ~~and or~~ their independence;
  - (e) They shall not engage in any form of discrimination or harassment, including sexual harassment;
  - (f) They shall possess relevant experience in international law and administrative law with the knowledge of carbon markets, environmental and socioeconomic fields, and scientific fields relevant to climate change.
61. Experts on the roster shall avoid actual, potential and perceived conflicts of interest and shall:
- (a) Declare any actual, potential or perceived conflict of interest at the appointment as members of the appeal or grievance panel for a specific case;
  - (b) Refrain from participating in the appeal or grievance panel for a specific case, in relation to which they have an actual, potential or perceived conflict of interest;
  - (c) Refrain from behaviour that may be incompatible with the requirements of independence and impartiality.

62. Experts on the roster shall have no pecuniary or financial interest in any aspect of the Article A6.4 mechanism activity, any the validating or verifying DOE or any matters considered by the appeal or grievance panel for a specific case.
63. Experts on the roster shall ensure confidentiality in line with relevant best practice and decisions of the CMA and the Supervisory Body.
64. Experts on the roster shall take a written oath of service, witnessed by the Executive Secretary of the UNFCCC or an authorized representative when accepting the appointment on the roster, that he or she shall be independent and impartial, shall avoid direct or indirect conflicts of interest and shall respect the confidentiality of the appeal and grievance proceedings. Electronic submission of the signed oath of service by experts on the roster is sufficient to fulfil the requirements of these terms of reference.
65. An expert on the roster shall not be a member or alternate member of the Supervisory Body, or a member or employee of its support structure, DOE or DNA.
66. An expert on the roster may resign from the roster by notifying the secretariat. The resignation shall take effect immediately.
67. The secretariat may suspend an expert on the roster in the event of breach of the requirements referred to in paragraphs 60-63 above.

## **6.2. Organization of panels**

68. For each appeal filed or grievance submitted for which the secretariat successfully concluded the completeness check in accordance with paragraph 16 or paragraph 42 above, respectively, the secretariat shall establish an appeal or grievance panel by appointing three experts from the roster, including one of them as the chair of the panel, in accordance with paragraph 17 or 43 above, respectively. The appointment shall be done in a manner that ensures the required collective expertise of the panel for to considering the case in question, and that ensures the impartiality and independence of any panel member with respect to the case in question.
69. If multiple appeals are filed on the same Supervisory Body decision, the secretariat may request an appeal panel to cover all such appeals as a package. If a different grievance on the same A6.4 activity is submitted after a grievance panel initiated and before concluding its work, the secretariat may request the grievance panel to also cover the new grievance as a package. In this case, the timeframe for completion of the work of the grievance panel shall be extended accordingly.
70. The chair of an appeal or grievance panel shall lead and conclude the consideration of the appeal or grievance, seeking the consensus of all panel members or conducting voting as the last resort. The chair shall also act as the focal point for communication with the appellant, the grievant, the Supervisory Body, the secretariat, host Parties or any other individual or organization in accordance with this procedure.
71. Internal discussions and communications, such as drafting of rulings or recommendations within an appeal or grievance panel shall be kept confidential.
72. Members of an appeal or grievance panel shall not disclose information obtained by the panel marked as proprietary or confidential without the written consent of the provider of the information unless the panel determines that, in accordance with paragraph 81 below, such information cannot be claimed proprietary or confidential.

73. If a member of an appeal or grievance panel becomes unable to continue to serve on the panel, the secretariat may, taking into account the progress of the duty of the panel, select another expert to replace the outgoing member.

74. Members of an appeal or grievance panel shall be remunerated for their duties in the panel in accordance with the United Nations rules and regulations.

### **6.3. Consistency in ruling and recommendations by panels**

75. The secretariat shall keep all experts on the roster informed of all CMA decisions on the Article 6.4 mechanism and all rules and regulations developed by the Supervisory Body for the operation of the Article 6.4 mechanism.

76. The secretariat shall notify all experts on the roster of the publication on the UNFCCC website of rulings, recommendations and rejections concerning all appeals and grievances that have progressed to the consideration by appeal or grievance panels, including eligibility checks.

77. To ensure consistency and coherence in rulings of appeal panels, recommendations of grievance panels, and rejections, and to enhance individual and collective expertise of the roster, the secretariat shall regularly organize in-person or virtual workshops, inviting all experts on the roster to discuss relevant matters relating to the appeal and grievance processes.

## **7. Other matters**

### **7.1. Administrative support**

78. The secretariat shall provide all administrative support to the appeal and grievance processes.

79. Staff members of the secretariat assigned to support the appeal and grievance processes shall be independent from those supporting the Supervisory Body, be impartial to any appeal or grievance, avoid direct or indirect conflicts of interest, and observe the confidentiality of the proceedings of the appeal and grievance processes in accordance with United Nations rules and regulations.

80. Expenses for the establishment and operation of the appeal and grievance processes shall be funded [by appeal or grievance fees charged in accordance with paragraphs 12 and 40 above, supplemented] by funding for the operation of the Article 6.4 mechanism if necessary, and shall be allocated in a way to ensure the independence and impartiality of the appeal and grievance processes.

### **7.2. Confidential and proprietary information**

81. Information marked as proprietary or confidential that is obtained from appellants, grievants, activity participants or any other individuals and organizations for the purpose of processing appeals and grievances in accordance with this procedure shall not be disclosed by appeal and grievance panels, the Supervisory Body ~~and or~~ the secretariat without the prior written consent of the provider of the information. In this context, the following information shall not be considered as proprietary or confidential:

- (a) Information required to be disclosed by the national law of the host Party;

- (b) Information required to be disclosed by relevant provisions in the rules and regulations of the Article 6.4 mechanism;
- (c) Information used to support assessments on environmental and social impacts and contribution to sustainable development.

### 7.3. Other

82. The secretariat shall report annually to the CMA on the summary of the operation of the appeal and grievance processes, including the numbers of appeals filed and grievances submitted, and the budgetary situation to support the processes.
83. The working language of the appeal and grievance mechanism shall be English. ~~However, an appeal may be filed or a grievance may be submitted in any of the other five United Nations official languages.]~~ However, the Supervisory Body should coordinate with the DNA of the host Party of the A6.4 activity in question to explore approaches to facilitating the access to translation, including through funding for local translators.

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12 February 2024	<a href="#">A6.4-SB010-AA-A03</a> - Information note: Compilation of the public inputs on appeal and grievance and additional analysis of issues mandated by SB 008. (v01.0)
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