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**Legend for table 1: comments on any other elements contained in the draft procedure.**

1 = Section Number in the document or Appendix  
 2= Paragraph, table or figure number  
 3 = Nature of input is general, technical or editorial  
 4 = Comment – the actual feedback or observation, including justification for what needs changing  
 5 = Proposed change – suggest the text if possible  
 6 = Assessment of comment – secretariat to document response/action taken to comment

The Supervisory Body wishes to seek comments on the draft procedure in particular the following aspects of the appeal and grievance processes. You may wish to provide your views on any of the questions or sub-questions below (it is entirely optional).

1. How can the risk of abuse of the processes be minimized while ensuring equitable access to the processes, in terms of:
  - (i) Standing for stakeholders who may file an appeal or submit a grievance?
  - (ii) Fees for filing an appeal or submitting a grievance?
  - (iii) Timeframe for filing an appeal, taking into account potential impacts on investments?
  - (iv) Scope of appeal (which Supervisory Body decisions should be appealable)?
  - (v) Measures to ensure the finality of Supervisory Body decisions related to appeals or specific subject matters of grievances, to provide a reasonable level of certainty to activity participants regarding their A6.4 activities?
  - (vi) How should the appeals and grievances procedure relate to integrity safeguards under the Article 6.4 mechanism?

**Comments:**

Appeal and grievance mechanisms are important accountability systems to facilitate resolutions that may arise from an activity, enabling different stakeholders or group of stakeholders to raise concerns and file complaints. They are complementary to other stakeholder engagement activities and *should be scaled to risks and adverse impacts of the project, **address concerns promptly, use an understandable and transparent process that is culturally appropriate and readily accessible to all segments of the affected communities, and do so at no cost to communities and without retribution***<sup>1</sup>. Grievance mechanisms, especially when involving local communities, should be **proportional, fair, efficient, transparent, accessible, independent, inclusive, and accountable**.

As such, we recommend that the mechanisms clearly refer and commit to good practice principles consistent with the UN Guiding Principles on Business and Human Rights, as follows:

<sup>1</sup> IFC, Addressing Grievances from Project-Affected Communities, Guidance for projects and Companies on designing grievance mechanisms, , 2009.

- (i) Be independent, transparent, inclusive, and effective;
- (ii) Keep grievants and appellants abreast of progress with cases brought forward;
- (iii) Not prevent access to judicial or administrative remedies;
- (iv) Not be cost-prohibitive;
- (v) Maintain records on all cases and issues brought forward for review, with due regard for the confidentiality of complainants' identity and of information; and
- (vi) Take appropriate measures to avoid or minimize the risk of retaliation to complainants and protect the legitimacy, trust, and use of the grievance mechanism.

More specifically, to prevent abuses in the process and ensure equitable access, some recommended key elements are outlined as follows:

#### **Eligibility of stakeholders**

The requirement that several criteria are jointly met are not sufficiently inclusive. For instance, in case of appeals, requiring that only stakeholders who were invited/eligible to participate in the activity's local stakeholder consultation may file an appeal would exclude those who have erroneously been excluded from the local consultations. This may occur for example when social assessments are not properly performed and therefore some stakeholders are left out of the process. In case of grievances, it might be difficult to prove domicile/residency when land tenure is not clear or formalized. Moreover, when it comes to potential E&S impacts, there might be situations where impacts are felt far from the project area, such as for matters related to access to natural resources by communities. Under the actual proposed terms, these communities would not be eligible to file a grievance.

#### **Fees**

Fees should not be cost-prohibitive. Requiring a fee for Indigenous Peoples and Local Communities (IP&LC), as proposed in the draft procedure, would prevent those communities to have their right secured and therefore, should be excluded.

#### **Timeframe, taking into account potential impacts on investments**

The recommended timeframe should be up to two (2) years after the project conclusion for grievances, as some issues may not show up until after the activity cycle ends. However, for appeals, the timeframe should be limited to a specific period within the beginning of the activity cycle, as up to thirty (30) days after the Supervisory Body publishes its decision on a registration request.

**Appeals and grievances procedure’s integration with integrity safeguards under the Article 6.4 mechanism**

Stakeholders must be aware of safeguards through diverse communications and training methods to be able to effectively use the appeal and grievance mechanism. The activity participant should communicate in the PDD how this should be performed as part of its social and environmental assessment and monitoring obligations.

2. How can the processes ensure competence and independence of appeal and grievance panels, and their independence from the Supervisory Body, activity participants or the host Party?

**Comments:**

To ensure competence and independence of appeal and grievance panels, and their independence from the Supervisory Body, activity participants or the host Party, minimum criteria should be met, as follows:

- Minimum qualifications from panellists, with proven expertise and experience on the related matters;
- Qualifications should reflect revolving best practices and expertise;
- Set up a hiring/recruiting committee;
- Establishment of a conflicts of interest compliance assessment;
- Diversity from the panellists, as to ensure proper representation;
- Rights from grievant/appellants to refuse certain experts, in case of conflict of interests or other justified reason. This could be ensured through an open call for inputs/appeals once the panel is set up (up to 14 days).

3. How should the cost for the operation of the processes (e.g. remuneration for panel members, administrative costs for secretariat support) be funded?

**Comments:**

Projects should be advised to budget to support a functional grievance mechanism, which includes the cost of investigation and appeals. A transitional fund could be established by the Supervisory Body for low income grievant or appellants to cover fees on a need's basis.

**Table 1: comments on any other elements contained in the draft procedure**

1	2	3	4	5	6
Section no.	Para., table or figure no.	Type of input G = general T = technical E = editorial	Comment	Proposed change (Include proposed text)	Assessment of comment (Completed by secretariat)
4.4.1	9 (add 10)	G	To ensure inclusion, it must be available in different channels of communication and languages.	<b>[The appealable decisions will be made available in different channels of communication, through different formats and languages. ]</b>	

1 Section no.	2 Para., table or figure no.	3 Type of input G = general T = technical E = editorial	4 Comment	5 Proposed change (Include proposed text)	6 Assessment of comment (Completed by secretariat)
4.4.1	11	T	<p>Greater detail is needed for both the original submission and appeal sections.</p> <p><b>Grievances can also be submitted by a designated third party and requests for confidentiality will be respected.</b></p> <p><b>The mechanism should avoid lengthy deadlines and bureaucracy to be effective.</b></p> <p><b>To ensure inclusion, it must be available in different channels of communication and languages.</b></p>	<p>11. 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 <b>[28 days]</b> of the publication on the UNFCCC website <b>[and other channels of communication]</b> of an appealable decision of the Supervisory Body, <b>[made available in different languages]</b>, except for an appeal against the decision referred to in paragraph 9 above, in which case within <b>[14 days]</b> of the publication of the decision:</p> <p>(a) The name and category (stakeholder, activity participant, participating Party <b>or third party</b>) of the appellant</p> <p>(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;</p> <p>© The name and contact information (email address, phone number, physical address) of the focal point of the appellant;</p>	

1	2	3	4	5	6
Section no.	Para., table or figure no.	Type of input G = general T = technical E = editorial	Comment	Proposed change (Include proposed text)	Assessment of comment (Completed by secretariat)
4.4.1	12	T	<p>Applying any fee to Indigenous Peoples and Local Communities (IP&amp;LC) would prevent these communities to access this appeal mechanism and therefore for it to be effective and inclusive.</p> <p>Fees should be waived upon demonstration of need to ensure equal access if requested by any appellant.</p> <p>SOP or other taxes could flow to a fund to offset fees for low-income appellants. There could be an entire paragraph outlining how to access this fund.</p>	<p>(...)</p> <p><b>[No appeal fee]</b> if the appeal 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 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: (...)</p>	

Call for public input – Template for input [Draft Procedure: Appeal and grievance processes under the Article 6.4. mechanism \(ver. 02.0\)](#)

1 Section no.	2 Para., table or figure no.	3 Type of input G = general T = technical E = editorial	4 Comment	5 Proposed change (Include proposed text)	6 Assessment of comment (Completed by secretariat)
4.4.3	14	T	In case the appellant needs to gather more information, there should be the option to extend the deadline.	<p><b>[Upon receipt of the appeal fee, (unless if not applied as per 12 b))],</b> the secretariat 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 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]], <b>[unless reasonable extenuating circumstances cause delay of the submission.]</b></p>	



1 Section no.	2 Para., table or figure no.	3 Type of input G = general T = technical E = editorial	4 Comment	5 Proposed change (Include proposed text)	6 Assessment of comment (Completed by secretariat)
4.4.3	19	T	Confidentiality should always be ensured if requested and no form of retaliation should be tolerated. Those are essential aspects to ensure the efficacy of the mechanism and respect the rights from appellants.	<p>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, unless otherwise expressly agreed by the appellant. <b>[Confidentiality requests should always be ensured if requested.]</b></p> <p><b>[Any form of retaliation will not be tolerated against those who report concerns in good faith. The SB will take all feasible actions to protect appellants against retaliation. Anyone who has made a report of suspicious conduct of an activity participant’s employee and who subsequently believes he or she has been subjected to retaliation of any kind should immediately report it by the same channels as noted herein.]</b></p>	
4.4.5	24	T	Reasonable deadlines are important to ensure the process is effective and not too lengthy.	The ruling of the appeal panel shall conclude in one of the following ways and provide the rationale for its conclusion <b>[in no more than 14 days]</b> .	

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4.4.6	32	G	If harm is found, who has responsibility to remediate or make whole the appellant?	N/A	
4.4.6	33	G	It might be useful to clarify and acknowledge that appellants, if unsatisfied with the result, can still have recourse to other avenues, such as the relevant national court systems.	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 [ <b>to the Supervisory Body. This does not exclude recourse to other avenues by the appellant, such as national court systems, if applicable.</b> ]	

1 Section no.	2 Para., table or figure no.	3 Type of input G = general T = technical E = editorial	4 Comment	5 Proposed change (Include proposed text)	6 Assessment of comment (Completed by secretariat)
5.1	34	T	<p>It might be difficult to prove domicile/residency when land tenure is not clear or formalized and therefore, residency or domicile should not be criteria.</p> <p>It would be worth it to also define 'substantial presence' and how this would be assessed, providing appropriate means for affected people with insecure tenure or migrants.</p> <p>Indirect effects should also be included, as many impacts to local communities might also occur, such as preventing access to natural resources (eg. water).</p>	<p>A grievance may be submitted by individuals, communities, and organizations (hereinafter referred to as grievants) that meet all the following eligibility requirements:</p> <p>(a) [They are connected to the jurisdiction, by means <b>[of potentially affected by the project, regardless of physical residence location]</b>.</p> <p>(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;]</p> <p>c) they suffer direct <b>[or indirect adverse effects]</b> 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, <b>[cultural heritage]</b>, or other interest.</p>	

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1	2	3	4	5	6
Section no.	Para., table or figure no.	Type of input G = general T = technical E = editorial	Comment	Proposed change (Include proposed text)	Assessment of comment (Completed by secretariat)
5.2	35	T	Same comment as above. Indirect consequences should also be included, as many impacts to local communities might also occur, such as preventing access to natural resources (eg. water), and/or harm from much of economic displacement.	A grievance may be submitted only on adverse effects of a social, economic or environmental nature suffered by the local individuals, communities or businesses as a direct or [ <b>indirect</b> ] 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].	

1 Section no.	2 Para., table or figure no.	3 Type of input G = general T = technical E = editorial	4 Comment	5 Proposed change (Include proposed text)	6 Assessment of comment (Completed by secretariat)
5.3.1	37 c)	T	<p>Confidentiality should be ensured when required.</p> <p><b>To ensure inclusion, a grievant should be allowed to file a grievance through different channels of communication and in other languages than English.</b></p>	<p>A grievant may submit a grievance, through a dedicated interface on the UNFCCC website [<b>or other channels of communication to be determined by the SB, in UN languages</b>], 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:</p> <p>(a) The name and category (e.g. individual, community, organization) of the grievant;</p> <p>(b) The relationship of each individual, community and organization listed as the grievant to the activity in question to demonstrate the eligibility requirements of the grievant as per the requirements of paragraph 34 above;</p> <p>© The name and contact information (email address, phone number, physical address) of the focal point of the grievant, [<b>and preference regarding the confidentiality of the grievant</b>].</p>	

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Section no.	Para., table or figure no.	Type of input G = general T = technical E = editorial	Comment	Proposed change (Include proposed text)	Assessment of comment (Completed by secretariat)
5.3.1	38	T	<p>Applying any fee to Indigenous Peoples and Local Communities (IP&amp;LC) would prevent these communities to access this grievance mechanism and therefore for it to be effective and inclusive.</p> <p>Fees should be waived upon demonstration of need to ensure equal access if requested by any grievant.</p> <p>SOP or other taxes could flow to a fund to offset fees for low-income grievants. There could be an entire paragraph outlining how to access this fund.</p> <p>Alternative language to be proposed in case a transition fund is established or if the requirement is added to the budget of the activity participant.</p>	<p>(a) Standard grievance fee of <b>[USD 2,500]</b>;</p> <p>(b) <b>[No grievance fee]</b> 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.]</p> <p>38. [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:</p>	

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1 Section no.	2 Para., table or figure no.	3 Type of input G = general T = technical E = editorial	4 Comment	5 Proposed change (Include proposed text)	6 Assessment of comment (Completed by secretariat)
5.3.2	39	T	The deadline can be waived under extenuating circumstances.	<p><b>[Upon receipt of the grievance fee, (unless if not applied as per 38 b))],</b> the secretariat shall undertake the completeness check to determine whether the submitted grievance form contains all required information referred to in paragraph 37 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 14 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 38 above]], <b>unless reasonable extenuating circumstances cause delay of the submission.</b></p>	

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5.3.2	41	T	Grievant has the right to be made aware of any potential conflicts of interest for panel members and oppose panel member recommendations with just cause.	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 16 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. <b>[A conflict of interests' assessment will be developed and made public.]</b> The secretariat shall forward the grievance form and any supporting documentation submitted by the grievant to the members of the grievance panel. <b>[Grievants will have the right to oppose panel members appointments within 14 (fourteen days).]</b>	



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5.3.3	Add 48 f)		A stronger assessment and recommendations provided by the Supervisory Body is essential to prevent abuses in activities and proper remediation by activity proponents.	<p><b>[48 (f) will define the risk level of the grievance to determine the appropriate actions, based on indicative categories (provide Table of examples). The results of the risk assessment of the grievance should be documented and recorded by the appeal panel/SB per site-specific procedures. Where human rights abuses are alleged to have occurred, the SB shall escalate to (a select appeal panel). All relevant information (allegation, correspondence, etc) including the proposed management actions will be sent to the SB.</b></p> <p><b>High Risk Grievances with, or with the potential to have, a significant adverse impact on, and interaction with, stakeholders. These may include:</b></p> <ul style="list-style-type: none"> <li>• repeated, cumulative (<i>not the same</i>) grievances;</li> <li>• clear/strong evidence of (or threat of) violence, loss of life or liberty, attacks on persons; or</li> <li>• clear/strong evidence of illegal activity, victimization, discrimination, degrading treatment or corruption, etc.]</li> </ul>	

1 Section no.	2 Para., table or figure no.	3 Type of input G = general T = technical E = editorial	4 Comment	5 Proposed change (Include proposed text)	6 Assessment of comment (Completed by secretariat)
5.3.3	49	G	The appeal panel recommendations will be communicated to the grievant for consideration.	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). <b>[Upon agreement to proceed with the recommendations, the secretariat shall promptly publish the decision to carry out recommended actions.]</b>	
6.1	62	T	Gender-based violence and harassment - GBVH would only be properly assessed and addressed if there are panellists with this specific expertise and an appointed female person to lead the case.	Experts on the roster shall ensure confidentiality in line with relevant best practice and decisions of the CMA and the Supervisory Body. <b>[The experts on the roster shall include persons who have demonstrated experience in addressing highly sensitive complaints related to Gender-based violence and Harassment (GBVH), ensuring that a female person would be appointed to lead the case.]</b>	