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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:

A complaints procedure is an integral part of the work of an organisation/institute. Therefore, appeal and grievance procedures should also be considered an integral part of the Article 6.4 mechanism. These procedures must be effective in receiving and handling reports and in protecting and supporting those who raise complaints. The current draft appears to be particularly lacking on the latter point, as it does not contain provisions clarifying how reporting individuals/communities/organisations, especially local and vulnerable groups, are to be protected and encouraged to lodge appeal or grievances.

- (i) **Standing:** It is to be welcomed that clearly defined criteria have been established as to who is eligible to lodge an appeal or grievance. However, to ensure equal access to the mechanisms, we would advise widening the scope of those entitled to lodge an appeal or grievance to include local

and international civil society organisations (CSOs) (even if they are not directly affected by the mechanism). This would enable CSOs to bring cases of corruption, environmental damage, human rights violations or other issues to the attention of the Secretariat and strengthen the position of affected stakeholders, especially women and other marginalised groups, who are less likely to have the necessary means to appeal and lodge grievances. This would be a similar approach to the position of CSOs in the fight against corruption (in some countries, e.g., France), where they are able to bring corruption cases to court. The representation of CSOs can also help citizens to make collective appeals and increase public involvement in reporting. At the same time, both individual and legal entities should be allowed to submit appeal or grievance. Finally, it is crucial that the eligibility criteria and reporting options are clearly communicated and publicised to ensure accessibility, particularly for affected stakeholders. One way to achieve this is by localising the outreach channels. Currently, there does not seem to be a real strategy in place that makes it clear how local communities, community-based organisations (CBOs) and CSOs should be informed about the appeals and grievance procedures and be encouraged to come forward. For example, there are no communication options in local languages. Communication channels therefore need to be more sensitised to reach local stakeholders, women and other marginalised groups in particular. Concrete steps should also be taken to build trust in the grievance mechanism. This can be done either through direct contact with those affected or through cooperation with intermediaries (e.g., CSOs) that already enjoy the trust of those affected on the ground.

Standing for the grievance procedure: First, the three cumulative eligibility criteria are, taken together very restrictive. Ultimately, very few will be eligible to submit a grievance, which threatens the effectiveness of the process and its capacity to fulfil its objective. Moreover, if too many grievances are rejected on the ground of lack of standing, affected communities and individuals will lose trust in the process. Second, several conditions set in the second criteria (b) are subjective (“geographical area”, “substantial presence”), which will create uncertainty for potential grievant – who might decide not to use the mechanism – and challenges for the panel evaluating the standing of the grievant. Finally, the third criteria should not limit standing to the suffering of “direct” adverse effects (which again can be subject to interpretation) but extend it to “indirect” adverse effects as well.

- (ii) **Fees for filling an appeal or a grievance** can be a strong deterrent to submitting a grievance, without guaranteeing that it will reduce abuses of the process significantly. And given the proposed fees, they would disproportionately affect those with low income. Thus, representatives of indigenous peoples and least developed countries should be able to file appeals and grievances free of charge. The standard – and even reduced – fee seems to be also too high for local stakeholders in developing countries in general. It is crucial that the appeal and grievance mechanisms are available free of charge for all local stakeholders (including CSOs), which is one way to improve access to the mechanisms for the low-income sectors of society. Especially as it is likely that the low-income sectors and other disadvantaged groups in society are often the stakeholders who are to be disproportionately affected and who are likely to make the appeal or grievance.
- (iii) **Timeframes:** The current draft is considering a shorter and a longer timeframe for submitting appeal after the publication of the decision on the UNFCCC website, and shorter option for decisions referred to in paragraph 9(c). It is questionable whether local stakeholders, including indigenous people, would become aware of such decision and lodge an appeal within 28 or 14 days. The longer timeframes of 56 and 28 days should be selected. In parallel, measures to ensure that appealable decisions are disseminated to local stakeholders.
- (iv) **Scope of the appeal procedure:** The current draft considers (in brackets) to include within the scope of appeal (e) the 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 (f) the approval or rejection of a proposed new, revised or updated standardized baseline, or clarification of an approved standardized baseline) Both bracketed options should be included in the scope, as these are key aspects of the article 6.4 mechanism that will impact future decisions. In addition, at present, the scope of the procedure is very precisely defined, e.g., what can be appealed. It would be useful to point out that there are (where appropriate) appeal options for issues that do not fall under the cases listed.

During the procedure, appellants should be informed, if necessary, that their concern does not fall within the scope of application and be given the reasons for this decision and possible alternative channels for pursuing their complaint. Furthermore, it is not entirely clear whether the appellant can appeal against more than one decision. We recommend clarifying in the text that the appellant should have the possibility to appeal against several decisions (albeit maybe through separate submissions).

Scope of the grievance procedure: The scope should include broader adverse effects suffered by the local individuals, communities or businesses, not only effects of social, economic or environmental nature – or at the very least include human rights violations – as well as any breach of law. It is in the interest of the credibility and sustainability of the Article 6.4 mechanism to detect and address such adverse effects and violations.

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:

The fact that the Supervisory Body can overrule the remand decision of the panel by simply deciding that its original decision stands as a serious flaw in the process (section 4.4.6, paragraph 27(b)), with the Supervisory Body being ultimately judge and party to the appeal. Consider establishing a due process that addresses these issues, including to ensure that those deciding on the reconsideration do so independently and are not in a conflict of interest (possibly by involving independent experts, civil society, etc.).

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:

An appeal and grievance mechanism is an essential element of an organisation's work. A clearly defined mandate and a sufficient number of resources, both in terms of staff and funding, must be made available to ensure its smooth functioning. The current scheme for funding of a grievance or appeal mechanism, which is only envisaged through fees, can risk interference in the outcome of complaints and/or compromise inclusive access to the process from the outset.

If a revenue stream is needed to keep the system running, you could set up a service that invites potential complainants to submit "applications" to determine their eligibility for free or reduced fees. This process should be as simple and straightforward as possible so as not to discourage anyone from making a complaint.

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)
General		G	<p>A complaints procedure is an integral part of the work of an organisation/institute. Therefore, appeal and grievance procedures should also be considered an integral part of the Article 6.4 mechanism. These procedures must be effective in receiving and handling reports and in protecting and supporting those who raise complaints.</p> <p>The current draft appears to be particularly lacking on the latter point, as it does not contain provisions clarifying how reporting individuals/communities/organisations, especially affected and vulnerable groups, are to be protected and encouraged to lodge appeal or grievances.</p>	<p>Include provisions specifying how appellants and grievant will be protected in case they suffer retaliation, beyond the confidentiality their identity.¹ Consider gender-sensitive reporting mechanisms (For example, anonymity is often more important for women than for men when it comes to reporting²).</p>	
4.4.1 & 5.3.1	11 & 37	G	<p>Currently, there is only one channel for reporting grievances and appeals, which can lead to bias and could create additional barriers, particularly for local stakeholders. To ensure greater inclusivity, it is important to provide a variety of channels for reporting, not only an online reporting channel.</p>	<p>Include multiple and diverse channels that enable reporting in writing and orally (for example hotlines, post, dedicated staff (such as ombudsmen or helpdesks) and others.</p>	

¹ For example, Transparency International has published a best practice guide on how to organise complaints procedures:

<https://knowledgehub.transparency.org/product/complaint-mechanisms-reference-guide-for-good-practice>

² See our publication on gender sensitivity in corruption reporting and whistleblowing: <https://knowledgehub.transparency.org/helpdesk/gender-sensitivity-in-corruption-reporting-and-whistleblowing>

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

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 & 5.3.1	11 (a) & 37 (a)	G	<p>The system should offer the possibility of submitting complaints on an anonymous basis. This is crucial for the protection of the complainant, if necessary. It seems like this is not possible under the current draft. Without this option, vulnerable stakeholders, e.g., women, may be discouraged from reporting a complaint or grievance.</p> <p>In addition, the system should fulfil data protection requirements when collecting, using, disclosing, and storing information.</p> <p>Ideally, at least one channel of the mechanism should allow communication with a complainant, even if the complaint has been submitted anonymously. For example, Transparency International’s Advocacy and Legal Advice Centres (ALACs), which receive corruption complaints from citizens, are using the GlobalLeaks³ online reporting platform for this. It allows for two-way communication between an anonymous complainant and the ALAC lawyer/complaint recipient.</p>	<p>Include option for anonymous reporting, for example: The name and category (stakeholder, activity participant or participating Party) of the appellant / <u>anonymous</u>;</p>	
4.4.3 & 5.3.2	19 & 45	G	<p>Confidentiality is essential to safeguard the integrity of the process and protect the appellant or grievant against possible pressure and threats. It should apply not only to the name of the appellant, but also to any “identifying information”, that is, information from which the identity of the appellant may be directly or indirectly deduced.</p>	<p>19. Over the entire course of the processing of the appeal, the appellant’s personal details (name and contact information) <u>and any identifying information</u> shall be made available only to limited members of the secretariat as <u>strictly</u> necessary, unless otherwise expressly agreed by the appellant.</p> <p>45. Over the entire course of the processing of a grievance, the grievant’s personal details (name and contact information) <u>and any identifying information</u> shall be made available only to limited members of the secretariat as <u>strictly</u> necessary, unless otherwise expressly agreed by the grievant.</p>	
4.4.4	21	G	<p>If the Supervisory body provided an initial response, this response should be shared with the appellant, who should have the right to comment on it, within a reasonable timeframe</p>	<p>(...) This initial response should be promptly communicated to the appellant, who will have 7 days to provide comments to the appeal panel.</p>	

³ <https://www.globaleaks.org/>

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

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4.4.5	22	G	Previous appeal by the same appellant should not be taken into account in the review and ruling of the appeal, which should be made solely the present appeal owns merit. Such possibility would go against fundamental rule of law principles.	Delete paragraph 22 (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;	
4.4.6.	29	G	Ideally, the decision communicated to appellants should include information that their appeal has helped to uncover a problem and that actions can be taken to achieve a lasting change in relevant policies and practices.	The secretariat shall promptly resume the suspended process and publish the reconsideration decision on the UNFCCC website, and notify the appellant <u>of the decision and the planned measures</u> and, (...).	
5.3.1	37	G	The requirement to indicate the title and UNFCCC reference number of the A6.4 activity in question in the grievance form will hinder access the process by those who might have difficulties accessing this information.	Delete paragraph 37(d)	
5.3.3	53	G	The possibility to submit a new grievance should be left open in cases where new information or circumstances have emerged. The current languages in paragraph 53 might be interpreted as not allowing a new submission in that case.	[The conclusion by the grievance panel, including recommendations on, or rejection of, the grievance shall be final, unappealable and shall not be further considered or, <u>unless new facts have emerged</u> , subject to a new grievance.]	
7.3.	81	G	In addition to the annual reporting on the summary of complaints and redress procedures, it is recommended to publish statistics on complaints submitted and their resolution: Number of complaints received, handled or rejected cases; potentially the most frequently contested issues. This can increase trust and transparency in the complaints and redress procedure.	<u>The secretariat publishes annual statistics on the appeals and grievances submitted and their resolution.</u>	
7.3	82	G	Currently, appeals and grievances shall be submitted in English or one of the other five official UN languages, which can create additional barriers to access and discriminate against people, especially affected stakeholders with limited knowledge of these languages. It is important that all complaints are processed, regardless of whether the complainant submits them in English or in another national language, and additional administrative costs for the translation of materials are calculated and included in the budget.	The working language of the appeal and grievance mechanism shall be English. However, An appeal may also be filed or a grievance may also be submitted in any of the other five United Nations official languages; <u>as well as local languages of affected communities.</u>	