

**A6.4-SB007-AA-A04**

## Concept note

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# Appeal and grievance processes under the Article 6.4 mechanism

Version 01.0



**United Nations**  
Framework Convention on  
Climate Change

## **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 provide, 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 development and approval of methodologies, the activity cycle, and other processes pursuant to chapters V.B–L and VIII of the RMPs.
3. The Supervisory Body, at its fifth meeting, requested the secretariat to prepare a concept note on the appeal and grievance procedures for consideration by the Supervisory Body at its seventh meeting.

## **2. Purpose**

4. The purpose of this concept note is to propose approaches to establishing appeal and grievance processes under the Article 6.4 mechanism, present the recommended key features of such processes, and provide considerations of their design, including in relation to the scope of authority, and the development of rules, procedures and operational modalities of the processes.

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

### **3.1. Distinction between the appeal process and the grievance process – scope and standing**

5. Paragraph 62 of the RMPs provides for two types of 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).
6. Determination of the scope of the content matter that would fall under each of the two processes is closely associated with the determination as to which "stakeholders, activity participants and participating Parties" would be eligible to initiate each of the processes – that is, having standing to file an appeal or submit a grievance.
7. The scope and standing elements of the two processes will therefore initially be discussed together below, for the purpose of defining the boundaries of each. Thereafter, each process will be elaborated separately.
8. Paragraph 62 of the RMPs 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". Accordingly, appeals and grievances referred to in paragraph 62 of the RMPs appear to be 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).

9. 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 referred to in the same paragraph as being necessarily related to Supervisory Body decisions; therefore, grievances appear to indicate the intent to request matters other than Supervisory Body decisions be addressed, so long as they concern specific A6.4 activities within the A6.4 activity cycle.
10. In order to design the appeal and grievance processes in a manner that distinguishes the two processes and determines the scope of each, the following factors and sources of information are relevant and have been taken into consideration in preparing the proposed appeal and grievance processes contained in this document:
  - (a) The intent indicated by the language and location of paragraph 62 within the RMPs, as discussed in paragraph 8 above;
  - (b) The need to strike a balance between allowing stakeholders, activity participants and participating Parties to contend matters relating to specific activities which may have adversely affected their rights on one hand, and providing activity participants with certainty, stability and confidence in the Article 6.4 mechanism, thereby encouraging participation in A6.4 activities on the other hand;
  - (c) The need to maintain the integrity, stability and efficiency of the Supervisory Body decision-making process;
  - (d) Long-standing common legal principles that customarily exist in appeal processes and grievance processes employed by international agencies and tribunals;<sup>1</sup>
  - (e) Inputs received from stakeholders, reflecting views on primary elements of appeal and grievance processes,<sup>2</sup> both in relation to the clean development mechanism (CDM) and in relation to the Article 6.4 mechanism.

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<sup>1</sup> A comprehensive comparative review can be found in FCCC/TP/2011/3 (Procedures, mechanisms and institutional arrangements for appeals against the decisions of the Executive Board of the clean development mechanism – Technical paper), available at: <https://unfccc.int/sites/default/files/resource/docs/2011/tp/03.pdf>.

Additional references can be taken from the CDM work on an appeal procedure (which ultimately was not adopted): FCCC/KP/CMP/2010/10, annex II, available at: <https://unfccc.int/documents/6393>, and FCCC/SBI/2012/33/Add.1, appendix, available at: <https://unfccc.int/resource/docs/2012/sbi/eng/33a01.pdf>.

Further resources include the World Bank:

<https://www.worldbank.org/en/projects-operations/products-and-services/grievance-redress-service> and IFC: <https://www.ifc.org/en/types/insights-reports/2000/publications-gpn-grievances>, as well as the UN Guiding Principles on Business and Human Rights: [https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf).

<sup>2</sup> Following are illustrative references to stakeholder inputs considered for the purposes of this concept note:

(a) CDM Executive Board fifty-fourth meeting, annotated agenda, annex 9 (Summary of responses to the call for inputs on appeals procedures), available at: <https://cdm.unfccc.int/EB/054/eb54annagan9.pdf>;

11. In view of the above, the following scopes and standings for the appeal process and the grievance process under the Article 6.4 mechanism are proposed for consideration:
  - (a) The appeal process shall be intended for stakeholders, activity participants and participating Parties that qualify as “appellants” to file appeals against decisions made by the Supervisory Body within the A6.4 activity cycle as referred to in the appeal process as “appealable decisions”;
  - (b) The grievance process shall serve as an avenue for stakeholders having local affinity to, or activity participants or participating Parties of, a proposed or registered A6.4 activity, to express dissatisfaction with the implementation or treatment of such 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.
12. As noted above, the determination of standing to file an appeal or submit a grievance is strongly informed by the scope defined for each process.
13. Paragraph 62 of the RMPs states that “stakeholders, activity participants and participating Parties” may appeal decisions of the Subsidiary Body or request a grievance to be addressed. Of these, it is reasonable to assume that “activity participants” and “participating Parties” are, for both the appeal and grievance processes, those relating to a specific activity regarding which an appeal is filed or a grievance is submitted. Consequently, which “stakeholders” have standing in the appeal and grievance processes remains to be decided. As a result of the above proposed distinction between the scope of the appeal process and the scope of the grievance process, “stakeholders” who would have standing to appeal could be limited to those who have a direct and active relation to the proposed or registered A6.4 activity regarding which the appealed Supervisory Body decision was made. For grievances, on the other hand, such eligibility requirement for stakeholders of direct and active relation to the proposed or registered A6.4 activity may not be necessary as a direct adverse effect may be felt by stakeholders who do not have direct and active relation to the activity, although some limitation may still be needed to ensure the integrity and efficiency of the grievance process.
14. To further draw clear boundaries between the appeal process and the grievance process, it is recommended that it be decided that a grievance shall not be submitted on the

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- (b) ERCST Roundtable on Climate Change and Sustainable Transition, Appeal procedure for the Mechanism Established by Art. 6.4 of the Paris Agreement, Christina Voigt:  
<https://ercst.org/wp-content/uploads/2021/08/20190819-Art.-6.4-Appeal-w-Letterhead.pdf>;
  - (c) Inputs from Human Rights Watch:  
<https://unfccc.int/sites/default/files/resource/SB004-call-for-input-Human%20Rights%20Watch.pdf>
  - (d) Carbon Market Watch:  
[https://unfccc.int/sites/default/files/resource/SB002\\_call\\_for\\_input\\_carbonmarketwatch\\_09092022.pdf](https://unfccc.int/sites/default/files/resource/SB002_call_for_input_carbonmarketwatch_09092022.pdf);
  - (e) Fastenaktion:  
<https://unfccc.int/sites/default/files/resource/SB003-call-for-input-Fastenaktion.pdf>;
  - (f) CDM Watch and Transparency International:  
[https://cdm.unfccc.int/public\\_inputs/2010/cmp5\\_para42\\_43/cfi/S71E746O1LKEWDX7VG76607DX8CBJ1](https://cdm.unfccc.int/public_inputs/2010/cmp5_para42_43/cfi/S71E746O1LKEWDX7VG76607DX8CBJ1) and <https://unfccc.int/resource/docs/2011/smsn/ngo/290.pdf>.

grounds eligible for an appeal. For such instances, the appeal process shall be the only and exhaustive means in accordance with the procedure and the timelines set therein.

### **3.2. Appeal process**

#### **3.2.1. General**

15. The appeal process is expressly directed at Supervisory Body decisions relating to activities within the A6.4 activity cycle. Therefore, setting a clear and predictable timeline in relation to the timing of each Supervisory Body decision is important in order for activities to proceed with subsequent steps in the A6.4 activity cycle within a reasonable timeframe, while preserving the integrity and stability of the Supervisory Body's decision-making process.

#### **3.2.2. Standing**

16. Under paragraph 62 of the RMPs, "stakeholders, activity participants and participating Parties" are eligible to file appeals against decisions made by the Supervisory Body within the A6.4 activity cycle.
17. Specifically with respect to "stakeholders" who would have standing to file an appeal, based on the consideration in paragraph 13 above, it is recommended that eligibility to file an appeal be granted to such stakeholders who have previously submitted comments in relation to the activity during the local stakeholder consultation (LSC), thereby establishing a direct and active relationship to the activity in question.
18. In this context, it is also recommended that the Supervisory Body consider whether standing would be established only in cases where the comments made by the appealing stakeholder during the LSC were on the same subject matter as the appeal being filed, or whether participation in the LSC would automatically grant the stakeholder standing to appeal on any subject matter relating to Supervisory Body decisions on the activity in question.

#### **3.2.3. Scope**

19. 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.
20. In accordance with the RMPs, the Supervisory Body is responsible for making decisions on the following in relation to specific activities within the A6.4 activity cycle:
  - (a) Registration of activities (RMPs, paragraph 49);
  - (b) Issuance of Article 6, paragraph 4 emission reductions (A6.4ERs) (RMPs, paragraph 53);
  - (c) Renewal of the crediting period of activities (RMPs, paragraph 57).
21. In addition, Supervisory Body decisions on post-registration changes as contained in the draft A6.4 activity cycle procedure<sup>3</sup> should be added to the above list as activity-specific decisions within the A6.4 activity cycle.

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<sup>3</sup> "Draft procedure: Article 6.4 activity cycle procedure for projects" (version 03.0), available at: [https://unfccc.int/sites/default/files/resource/a64-sb006-a03\\_.pdf](https://unfccc.int/sites/default/files/resource/a64-sb006-a03_.pdf)

22. For all of the activity-specific decision-making in the A6.4 activity cycle referred to in paragraphs 20 and 21 above, the Supervisory Body may decide to approve, approve with modifications or reject requests. It is reasonable to assume that these activity-specific decisions are appealable.
23. Furthermore, the RMPs state that the Supervisory Body is also responsible for making the following non-activity specific decisions relating to the A6.4 activity cycle:
- (a) Approve "other activity type" that may be recognized under the Article 6.4 mechanism, in addition to "projects" and "programmes of activities" (RMPs, paragraph 31(b));
  - (b) Approve Article 6.4 mechanism methodologies (mechanism methodologies) and standardized baselines (RMPs, paragraphs 35 and 37).
24. Approval of "other activity type" is a general policy decision and may be made very rarely. Such decision is on par with any other policy decisions that the Supervisory Body makes (e.g. adoption of standards and procedures) in terms of the impact on relevant stakeholders. Therefore, any dissatisfaction with a decision by the Supervisory Body on "other activity type" may better be addressed through a separate procedure of direct communications with the Supervisory Body<sup>4</sup> whereby any stakeholder may make comments on any policy matters relating to the Article 6.4 mechanism at anytime for the Supervisory Body to take into account.
25. The procedures for the development of mechanism methodologies and standardized baselines adopted by the Supervisory Body at its sixth meeting<sup>5</sup> contain provisions allowing multiple opportunities for the proponent of a mechanism methodology or standardized baseline and for global stakeholders to comment 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 appeals against Supervisory Body decisions would be very small. Therefore, it is recommended that Supervisory Body decisions on mechanism methodologies and standardized baselines not be included in the scope of the appeal process being discussed in this document.
26. The RMPs also state that the following elements are to be decided by the Supervisory Body. Subject to further consideration of the Supervisory Body, they appear to be better addressed by relevant mechanism methodologies, rather than be decided by the Supervisory Body on a case-by-case basis for specific activities. Therefore, this document does not assume that these are part of appealable Supervisory Body decisions:
- (a) Length and renewability of the crediting period of activities (RMPs, paragraph 31(f));
  - (b) Period for monitoring potential reversals of emission reductions (RMPs, paragraph 50).

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<sup>4</sup> For example, the "Procedure: Consideration of unsolicited letters to the Supervisory Body" adopted at the fourth meeting.

<sup>5</sup> The "Procedure: Development, revision and clarification of methodologies and methodological tools" (version 01.0) and the "Procedure: Development, revision, clarification and update of standardized baselines" (version 01.0).

27. As for accreditation of operational entities, while this is not an integral component of the activity cycle, it is a key process under the Article 6.4 mechanism for its operation. Although the Supervisory Body has not yet adopted the accreditation procedure, it is expected to include provisions for various entity-specific decision-making by the Supervisory Body within the accreditation cycle, including on initial accreditation, reaccreditation, performance assessments, and suspension and withdrawal of accreditation. Potential appellants of these Supervisory Body decisions are limited to applicant operational entities and designated operational entities. If the accreditation procedure includes the process for independent review of accreditation panel recommendations to the Supervisory Body, as is the case under the CDM accreditation process and included in the draft accreditation procedure presented to the Supervisory Body at its seventh meeting, the need for operational entities to appeal against Supervisory Body decisions on accreditation may be very small. It is therefore recommended that Supervisory Body decisions on accreditation be excluded from the scope of the appeal process being discussed in this document.

#### **3.2.4. Grounds for appeal**

28. As is customary for appeal processes, there are several primary legal elements that establish grounds for filing an appeal against a decision made by an agency or administrative body. In relation to Supervisory Body decisions made within the A6.4 activity cycle, such elements should generally be the following:
- (a) The Supervisory Body exceeded its authority or mandate (*ultra vires*);
  - (b) The Supervisory Body incorrectly implemented the RMPs or other relevant CMA decisions;
  - (c) The Supervisory Body made a procedural error, or incorrectly implemented its regulations.

#### **3.2.5. Procedural steps**

##### **3.2.5.1. Filing an appeal**

29. Primary elements of the process of filing an appeal customarily comprise rules on the documents and information to be provided, payment of fees, and the timeframe within which the appeal must be filed.
30. Setting a time limit for filing an appeal is particularly important, considering the need to provide activity participants, participating Parties and other stakeholders with certainty on the finality of Supervisory Body decisions within the A6.4 activity cycle, thus allowing them to rely on the conclusiveness of the process once the time period for filing appeals has elapsed.
31. If an appeal is submitted within such time limit, effecting the Supervisory Body's decision should be suspended until the appeal panel issues a ruling on the appeal. Taking into consideration that Supervisory Body decisions at different stages of the A6.4 activity cycle have different procedural and substantive implications, it is recommended that time limits be differentiated for different types of appealable decisions. Supervisory Body decisions on issuance of A6.4ERs are particularly time-sensitive due to subsequent actions for and movements of the units within and outside the mechanism registry, which may not be reversible, and potential heavy reliance of activity participants on obtaining A6.4ERs for

compliance within a required time frame, or for other purposes under ever-fluctuating carbon market conditions. Therefore, it is recommended that the time limit for appeals against decisions on issuance be set at 14 days from the date of publication of the respective decisions. The timeframe for appeals against other appealable Supervisory Body decisions could be set somewhat longer – for example, at 28 days from the date of publication of the respective decision.

### **3.2.5.2. Completeness check and eligibility verification**

32. In the interest of efficiency and effectiveness of the process, the appeal panel (see section 3.4 below) should commence its deliberation of the appeal only once the completeness of the submission of the appeal and the eligibility of the appellant to appeal have been confirmed.
33. To this end, the secretariat may be tasked with conducting a completeness check, which is a technical verification that the required documents and information have been submitted and the appeal fee has been paid by the appellant, in order to proceed with consideration of the appeal. In this capacity, the secretariat shall be able to request the appellant to complete the submission in order for the case to proceed.
34. An additional preliminary verification would need to be made of the appellant's eligibility to file the appeal. As this determination requires consideration on the merits of the appellant's standing to appeal, such verification cannot be made by the secretariat and should therefore be undertaken by the appeal panel appointed to consider the appeal in question itself. The appeal panel shall have the authority to contact the appellant and any other party it deems necessary to make its determination on eligibility.

### **3.2.5.3. Response of the Supervisory Body**

35. Once the completeness check and the eligibility verification have been successfully completed, the Supervisory Body should review the appeal and prepare a written response within a given time frame.

### **3.2.5.4. Consideration by and ruling of the appeal panel**

36. In considering the appeal, the appeal panel should be limited to the specific documents and information that the appeal panel has determined to be relevant to such proceeding under the appeals process.
37. As for the appeal panel's scope of discretion, it is possible to set a rule of deference under which the panel must defer to the findings of the facts and the implementation by the Supervisory Body of the RMPs and any other relevant CMA decisions within the Supervisory Body decision under appeal, unless such findings or implementation are clearly erroneous or unreasonable. Similar rules of deference are considered common in appeal processes of an administrative nature, against decisions of agencies.
38. The appeal panel should be granted the authority to approach the appellant, the Supervisory Body and any other party it may deem relevant, to request additional information or clarifications for the purpose of making its ruling on the appeal. Such request should be made within a predetermined timeframe.
39. The appeal panel should be granted the authority to rule in one of two specific ways: affirming the Supervisory Body decision, thereby rejecting the appeal; or remanding the



matter to the Supervisory Body for reconsideration of the decision. The appeal panel should elaborate the reasoning for its ruling.

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

40. Reconsideration by the Supervisory Body of its decision on remand should have one of two possible outcomes: the issuance of a revised decision that replaces the original one; or the decision that the original decision stands, providing the reasons for not following the recommendations of the appeal panel.
41. In the first instance, by which a revised decision is issued by the Supervisory Body, it is recommended that the revised decision not have any impact on registration, post-registration change, issuance, and renewal of the crediting period of the activity in question compared to the hypothetical scenario where the Supervisory Body had made the “correct” decision in the original decision – for example, in relation to the effective date of the decision.
42. In this context, there are two possible ways to render ultimate decision-making authority on the cases where Supervisory Body decisions are appealed against: the Supervisory Body or the appeal panel. The former option preserves the authority of the Supervisory Body entrusted by the CMA with the supervision of the Article 6.4 mechanism and with making decisions on specific activity cases under the A6.4 activity cycle. The latter option would create an additional layer of authority above the Supervisory Body (and below the CMA) that is not explicitly established by the RMPs. Besides, giving the ultimate authority on the 6.4 mechanism (despite limited to decisions on specific activity cases under the A6.4 activity cycle) to the appeal panel who is not accountable to the CMA over the Supervisory Body who are selected by the CMA and accountable to the CMA, demoting Supervisory Body decisions within the A6.4 activity cycle to secondary, may not be appropriate. Therefore, in this concept note, the former option is chosen to describe the consequence of a ruling of the appeal panel.

### **3.2.5.6. Reimbursement of fees, no compensation for damages**

43. In the event that the appeal panel rules to remand the Supervisory Body to reconsider the original decision, which resulted in issuing a revised decision, the appeal fee should be reimbursed to the appellant.
44. It should also be clarified that monetary compensation for any damages is not possible, and claims of such nature shall not be considered by the appeal panel.

## **3.3. Grievance process**

### **3.3.1. General**

45. The grievance process is intended as an avenue for stakeholders having local affinity to a proposed or registered A6.4 activity and the activity participants and the participating Parties regarding the activity, to express dissatisfaction in relation to the implementation or treatment of the activity within the A6.4 activity cycle, if they believe such implementation or treatment has or is likely to have a direct adverse effect on their local community or local environment, or on the business interest of the activity participants.

### **3.3.2. Standing, scope and grounds for grievance**

46. The grievance process should be characterized by the range of stakeholders who would be eligible to submit a grievance, which would be broader than those eligible to file an appeal. However, the purpose of broadening the range of stakeholders eligible to submit a grievance is also connected to the main purpose of the grievance process as described in paragraph 45 above. Still, such stakeholders would have to establish local affinity to the activity in question, in such manner that its implementation or treatment within the activity cycle has or is likely to have a direct adverse effect of environmental, social or economic nature on the grievant.
47. Consequently, the scope of grievances would be to express dissatisfaction of the implementation or treatment of proposed or registered A6.4 activities within the A6.4 activity cycle, and to request actual or likely direct adverse effect on local communities or environment, or business interest be addressed.
48. For clarity of the scope of the grievance process, it is recommended that the Supervisory Body include provisions for the determination of the following elements of a grievance in the grievance procedure:
  - (a) Local affinity of the grievant to the activity. Local affinity may be established, for example, through demonstration of domicile or residence of the grievant individual, organization or corporation, in the country where the activity is implemented;
  - (b) Implementation aspects of the activity;
  - (c) Treatment of the activity within the A6.4 activity cycle;
  - (d) Actual or likely direct adverse effect on the local community or environment, or business interest. A direct adverse effect may be demonstrated through submission of evidence of direct injury, harm or damage, whether monetary or otherwise, resulting from the implementation or treatment of the activity in question.
  - (e) As noted in paragraph 14 above, a grievance is not intended as an alternative to an appeal. As such, under circumstances where an appeal could have been filed by a party on the grounds being claimed, submitting a grievance should not be allowed.

### **3.3.3. Procedural steps**

#### **3.3.3.1. Submitting a grievance**

49. Primary elements of the process for submitting a grievance could comprise rules on the documents and information to be provided, payment of fees, and the timeframe within which the grievance must be submitted.
50. Due to the scope and subject matter of grievances, the timeframe for their submission should naturally be longer than that for appeals. However, to make submitting grievances meaningful as well as to maintain the integrity of the Article 6.4 mechanism, it is recommended that the submission of grievances be restricted to during the valid crediting period of the A6.4 activity in question.
51. In order to facilitate effective resolution of matters raised in grievances, it is recommended that grievants be required to include in the submission information regarding how the

grievants would propose the matter to be resolved and information regarding attempts made to resolve the matter prior to the submission of the grievances such as resorting to the legal system in the host Party.

### **3.3.3.2. Completeness check and eligibility verification**

52. The purpose of this step is to determine whether the grievant is eligible to submit a grievance and whether the grievance submission contains all information required in order to continue processing the grievance.
53. Similar to the appeal process, it is recommended that within the grievance process the secretariat be tasked with the completeness check of the submitted grievance and the grievance panel be tasked with eligibility verification.
54. Both the secretariat and the grievance panel may contact the grievant, the host Party, the Supervisory Body, the secretariat or other related parties to obtain additional information they deem necessary.

### **3.3.3.3. Consideration and recommendation by the grievance panel**

55. In considering the grievance, the grievance panel may inform the grievant of the need for an extension of a pre-determined time frame to reach a recommendation.
56. In its recommendation, the grievance panel may recommend that:
  - (a) The designated national authority of the host Party of the activity in question consider taking corrective actions in relation to the implementation of the activity, which may address the grievance;
  - (b) The Supervisory Body consider taking decisions on the activity in question in accordance with the relevant provisions in the A6.4 activity cycle procedure;

### **3.3.3.4. Consequences of a grievance panel's recommendation**

57. To establish an effective grievance process, it is advisable to consider possible consequences of a grievance panel's recommendations. This could include authorization of the Supervisory Body to suspend issuance of A6.4ERs, to request follow-up information from the host Party through its designated national authority, or to request the secretariat to analyse the relevant processes and make recommendations on process improvements.

### **3.3.3.5. Monitoring and evaluation of the grievance process**

58. Due to the potentially broad implications of the grievance process and the body of recommendations developed during its operation, it is important to maintain records of all grievance submissions, grievance panel recommendations and the actions taken based on the recommendations, so that the grievance procedure can be reviewed from time to time to adjust it, as needed.

## **3.4. Appeals and grievances panels**

59. Due to the nature of the appeal and grievance processes, which is reflected in paragraph 62 of the RMPs as relating to proposed or registered A6.4 activities and Supervisory Body decisions in relation to such activities within the A6.4 activity cycle, the appeal and grievance processes should be operated independently from the Supervisory Body.

60. It is therefore recommended that an expert panel appointed ad hoc from a specific roster of experts established for this purpose for each appeal or grievance be granted to consider appeals and grievances and rule or make recommendations on them to the Supervisory Body. For efficiency and availability of appointees to serve on panels, it is proposed that the secretariat be further tasked with registering 30 experts on a joint roster of experts on appeals and grievances. The registration of experts on the roster should be based on terms of reference elaborating pre-determined criteria, to be agreed by the Supervisory Body and included in the Supervisory Body's annual report to the CMA.
61. From this roster, the secretariat should appoint a three- to five-person panel for each appeal filed or grievance submitted. The appointment should be made strictly considering the factor of legal and technical expertise which may be required for the specific appeal, and experience in mediation which may be required for the specific grievance.<sup>6</sup>
62. In designing the terms of reference for the roster and ad hoc expert panels, the importance of independence of the appointees and their impartiality should be reflected.
63. Additionally, it is recommended that rules on collegiality be considered, due to the importance of creating a consistent body of rulings and recommendations over the course of time.

### **3.5. Other elements relating to appeal and grievance processes**

64. Additional elements relating to the appeal and grievance processes that may need to be developed include finality of rulings or recommendations, confidentiality of identities of appellants and grievants and the information provided in appeals and grievances, their publication, and communications.

## **4. Impacts**

65. Appeal and grievance processes are integral parts of the A6.4 activity cycle as reflected in paragraph 62 of the RMPs; hence, the development of these processes is indispensable for the implementation of the A6.4 activity cycle. The appeal and grievance processes should help enhance the integrity and transparency of the A6.4 activity cycle.

## **5. Subsequent work and timelines**

66. The secretariat will prepare a draft appeal and grievance procedure based on the guidance provided by the Supervisory Body on this concept note, and present it at the Supervisory Body's eighth meeting.

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

67. The secretariat recommends that the Supervisory Body provide guidance to the secretariat for the preparation of the draft appeal and grievance procedure, on the possible elements of such procedure discussed in this concept note or any other relevant elements.

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<sup>6</sup> Additional aspects of appointment of experts may be viewed at FCCC/PA/CMA/2018/3/Add.2, Chapter VII, Section I – Technical expert review team and institutional arrangements, available at: [https://unfccc.int/sites/default/files/resource/CMA2018\\_03a02E.pdf#page=18](https://unfccc.int/sites/default/files/resource/CMA2018_03a02E.pdf#page=18).

**Document information**

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<i>Version</i>	<i>Date</i>	<i>Description</i>
01.0	25 August 2023	Published as an annex to the annotated agenda of SB 007.

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Decision Class: Regulatory  
Document Type: Information note  
Business Function: Governance  
Keywords: A6.4 mechanism, Article 6.4 Supervisory Body, A6.4 projects, appeals or grievances

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