

**A6.4-SB008-A09**

## Draft Procedure

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# Appeal and grievance processes under the Article 6.4 mechanism

Version 02.0

DRAFT



**United Nations**  
Framework Convention on  
Climate Change

## 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 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 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 draft "Procedure: appeal and grievance processes under the Article 6.4 mechanism" (hereinafter referred to as draft procedure) contained in this document for use for this call for public inputs.

### 2. Purpose

4. The purpose of developing an appeal and grievance procedure is to operationalize appeal and grievance processes under the Article 6.4 mechanism.
5. This cover note firstly provides the context that the appeal and grievance processes are in to help understand the specific functions that are expected from the appeal and grievance processes, and limitations that they may have.
6. This cover note then sets out key questions that the Supervisory Body is particularly interested in hearing views from stakeholders, while appreciating comments on any other aspects of the appeal and grievance processes proposed in the draft procedure.

### 3. Context

7. Based on the regulatory documents that the Supervisory Body already adopted, the Article 6.4 mechanism provides the following avenues for interactions with stakeholders on specific Article 6.4 mechanism (A6.4) activities:
  - (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) Assessment of environmental and social and other sustainable development impacts of proposed A6.4 activities, and monitoring of such impacts after their registration under the Article 6.4 mechanism, using the sustainable development tool;
8. In addition, any stakeholder may communicate 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, by sending an unsolicited letter following the "Procedure: Consideration of unsolicited letters to the Supervisory Body".
9. Therefore, the appeal and grievance processes are additional and complementary to the already agreed avenues for interactions with stakeholders. The key components of these processes proposed in the draft procedure are:
- (a) Scope (what Supervisory Body decisions may be appealed or what issues may be submitted as a grievance);
  - (b) Standing (which stakeholders may file an appeal or submit a grievance, in addition to activity participants and participating Parties);
  - (c) Process (submission of appeal/grievance – eligibility check – consideration and conclusion by an independent panel – actions by the Supervisory Body, activity participants or the host Party);
  - (d) Establishment of roster of experts and selection of members of an appeal or grievance panel.

#### **4. Key questions**

10. The Supervisory Body wishes to seek comments on the draft procedure in particular the following aspects of the appeal and grievance processes:
- (a) 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?
  - (b) 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?

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

11. The Supervisory Body also welcomes any comments on any other elements contained in the draft procedure.

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

12. The Supervisory Body requested the secretariat to provide analysis of the following issues, to be presented in conjunction with a revised draft procedure at its tenth meeting:

- (a) Issues related to fees, including implications on the accessibility to the appeal and grievance processes and different options for funding the appeal and grievance processes;
- (b) Relations of the appeal and grievance processes with the existing measures for safeguarding integrity of A6.4 activities contained in the activity standard and activity cycle procedure;
- (c) How members and alternate members of the Supervisory Body can raise issues or concerns through processes other than the appeal and grievance processes;
- (d) Options for limiting vexatious appeals and grievances;
- (e) How to manage multiple appeals or grievances are filed/submitted regarding the same activity or on the same ground across multiple A6.4 activities using the same methodology.

13. The Supervisory Body will take the comments received into account when revising the draft procedure with a view to adopting it at its tenth meeting.

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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, 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 objective of the "Procedure: Appeal and grievance processes under the Article 6.4 mechanism" (hereinafter referred to as this procedure) is 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 the Article 6.4 mechanism, 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 [1 March 2024].

## 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 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) [Stakeholders who were invited-eligible to participate in the activity's local stakeholder consultation conducted in accordance with the activity standard;]
- (b) Activity 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):***

- (a) If the appeal is against a Supervisory Body decision on a specific A6.4 activity made in accordance with the activity cycle procedure:
  - (i) [Stakeholders who were invited-eligible to participate in the activity's local stakeholder consultation conducted in accordance with the activity standard;]
  - (ii) Activity 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;



- (b) 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) ~~Global~~ 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 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 or proposed A6.4 activity that intend to use or have 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;
- (c) 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 or proposed A6.4 activity in the country(ies) where 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 of the following Supervisory Body decisions made in accordance 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 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;
  - (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);
- (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 ~~incorrectly implemented application of~~ one or more provisions in the RMPs, ~~of other relevant CMA decisions<sup>2</sup> and or of applicable standards and procedures adopted by the Supervisory Body, in a way that is unreasonable and, was either incorrect or unreasonable, such that if implemented differently applied correctly,~~ 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 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;

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<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;
  - (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;
  - (f) A detailed statement of the relevant facts and arguments that form the grounds for the appeal, including a statement on the nature of the claimed direct adverse effect on the interests of the appellant due to the Supervisory Body decision in question;
  - (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 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.]

#### 4.4.2. Temporary suspension of processing cases

13. 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

14. [Upon receipt of the appeal fee,] 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]].
15. [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.]
16. 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.
17. The chair of the appeal panel shall, in consultation with 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 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.
18. 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.~~
19. 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]

20. [The Chair of the Supervisory Body, in consultation with the 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

21. 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 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.
22. 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 18 above, including the references to supporting documents and other sources of information;
  - (b) Clarification provided by the DOE, or any other individual or organization, of the information contained in the appeal form in accordance with paragraph 21 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).
23. 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 ~~implementation of applicable~~ application of standards and procedures adopted by the Supervisory Body, unless ~~they are such application is claimed to be either incorrect or unreasonable in light of the text of the RMPs or other relevant CMA decisions and past rulings of appeal panels under the appeal process in accordance with paragraph 10(b) above.~~
24. 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).

25. 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**

26. If the ruling by the appeal panel is a remand ruling referred to in paragraph 24(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.
27. 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.
28. 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.
29. The secretariat shall promptly resume the suspended process and publish the reconsideration decision 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.
30. 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.
31. [If the ruling of the appeal panel is a remand ruling referred to in paragraph 24(b) above, the secretariat shall reimburse the appeal fee in full to the appellant.]
32. 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 paragraph 31 above].
33. [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

34. 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;]
  - (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

35. 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 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].
36. 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

37. 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;
  - (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;
  - (c) The name and contact information (email address, phone number, physical address) of the focal point of the grievant;

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

- (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;
  - (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.
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:
- (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.]

### 5.3.2. Completeness and eligibility checks

39. [Upon receipt of the grievance fee,] 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]].
40. [If the grievant does not pay the grievance fee within the timeframe referred to in paragraph 38 above, the grievance shall be deemed as withdrawn and the secretariat shall notify the grievant accordingly.]
41. 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. The secretariat shall forward the grievance form and any supporting documentation submitted by the grievant to the members of the grievance panel.
42. The chair of the grievance panel shall, in consultation with other members of the panel, determine within seven days of receipt of the grievance from the secretariat whether the grievant is eligible for submitting the grievance in accordance with paragraph 34 above and the grievance is within the scope referred to in paragraph 35 above. If the chair of the grievance panel determines that the grievant or the grievance does not satisfy the



respective eligibility requirement for grievances, he or she shall reject the grievance. In this case, the secretariat shall promptly inform 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 38 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.

43. Once the chair of the grievance panel has confirmed that the grievant and the grievance satisfy the respective eligibility requirement for grievances, the secretariat shall publish the grievance on the UNFCCC website and immediately notify the Supervisory Body of the publication of the grievance.
44. 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.
45. 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

46. The grievance panel shall consider the grievance and prepare recommendations or reject the grievance within 14 days after 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.
47. 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 46 above is not provided by the specified deadline particularly for the grievant;
  - (c) The grievant organization's legitimacy to represent [potentially] affected individuals, entities or communities is not explicit and proven, as applicable.
48. If the grievance panel ~~decides to prepare recommendations~~ does not reject the grievance, it shall outline its findings ~~and~~, considerations ~~that led to the~~ 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;]
  - (c) 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 renewal until the host Party or the activity participants demonstrated that they have addressed the issue raised in the grievance;

(d) General recommendations to the Supervisory Body on revisions of Article 6.4 mechanism rules and regulations, including on the activity cycle, methodologies and accreditation;

(e) The grievance was found not substantiated on its merits.

49. 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).

50. [If the grievance panel issues recommendations referred to in paragraph 48(a) or (c) above, the secretariat shall reimburse the grievance fee in full to the grievant [if the grievance fee has been paid in accordance with paragraph 38 above]. For all other cases, the grievance fee shall not be reimbursed.]

51. 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 50 above].

~~52. Recommendations of the grievance panel shall not be appealable.~~

53. [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 subject to a new grievance.]

#### **5.3.4. Monitoring of outcome of recommendations**

54. [If the grievance panel issued recommendations referred to in paragraph 48(a) above, 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.]

55. If the grievance panel issued recommendations referred to in paragraph 48(c) 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.

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

### **6.1. Roster of experts**

56. The roster of experts shall comprise 30 experts, serving for both the appeal and grievance processes in accordance with this procedure.

57. 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.

58. 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.
59. 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 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 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.
60. 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.
61. Experts on the roster shall have no pecuniary or financial interest in any aspect of the Article 6.4 mechanism activity, any DOE or any matters considered by the appeal or grievance panel for a specific case.
62. Experts on the roster shall ensure confidentiality in line with relevant best practice and decisions of the CMA and the Supervisory Body.
63. 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.

64. 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.
65. An expert on the roster may resign from the roster by notifying the secretariat. The resignation shall take effect immediately.
66. The secretariat may suspend an expert on the roster in the event of breach of the requirements referred to in paragraphs 59–63 above.

## **6.2. Organization of panels**

67. For each appeal filed or grievance submitted for which the secretariat successfully concluded the completeness check in accordance with paragraph 14 or paragraph 39 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 16 or 41 above, respectively. The appointment shall be done in a manner that ensures the required expertise for considering the case in question, and that ensures the impartiality and independence of any panel member with respect to the case in question.
68. 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.
69. 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.
70. Internal discussions, and communications, such as—and drafting of rulings or recommendations within an appeal or grievance panel shall be kept confidential.
71. 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 80 below, such information cannot be claimed proprietary or confidential.
72. 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.
73. 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**

74. 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.

75. 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.
76. 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**

77. The secretariat shall provide all administrative support to the appeal and grievance processes.
78. 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.
79. 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 38 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**

80. 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 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**

81. 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.

82. 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.]

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**Document information**

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<i>Version</i>	<i>Date</i>	<i>Description</i>
02.0	2 November 2023	Published as an annex to the meeting report of SB 008. This version takes into account the guidance provided by the Supervisory Body at SB 008 (SB 008 meeting report, para. 17) and will be published for a call for inputs.
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