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Matters relating to the mechanisms under the Kyoto Protocol

Review of the joint implementation guidelines

Review of the joint implementation guidelines

Recommendations by the Joint Implementation Supervisory Committee

Summary

This document presents the further recommendations of the Joint Implementation Supervisory Committee on the review of the joint implementation guidelines for consideration by the Subsidiary Body for Implementation at its forty-fourth session. The recommendations provide options for addressing concerns raised by stakeholders and the requirement for validation by an accredited independent entity of post-registration changes to the activity as described in the project design document.

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Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction	1–3	3
A. Mandate	1–2	3
B. Possible action by the Subsidiary Body for Implementation	3	3
II. Comparative analysis of other mechanisms and schemes	4–16	3
A. Concerns raised by stakeholders	4–12	3
B. Validation of post-registration changes by an accredited independent entity.	13–16	5
III. Recommendations to the Subsidiary Body for Implementation	17–22	6
A. Concerns raised by stakeholders	18–21	6
B. Validation of post-registration changes	22	7

I. Introduction

A. Mandate

1. The Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP) at its first session adopted the “Guidelines for the implementation of Article 6 of the Kyoto Protocol” (hereinafter referred to as the JI guidelines).¹ CMP 8 requested the Subsidiary Body for Implementation (SBI) at its thirty-eighth session to prepare revised JI guidelines for consideration at CMP 9.² The SBI has since deliberated on this matter at each session. Over the past years, the Joint Implementation Supervisory Committee (JISC) has provided recommendations on the review of the JI guidelines to the CMP and to the SBI.

2. SBI 43 agreed to continue its consideration of the review of the JI guidelines at SBI 44 on the basis of the draft text of the “Modalities and procedures for the implementation of Article 6 of the Kyoto Protocol”.³ Furthermore, CMP 11 requested the JISC to submit recommendations in the context of the review of the JI guidelines for consideration at SBI 44,⁴ *inter alia*, on options to address:

- (a) Concerns raised by stakeholders;
- (b) Validation by an accredited independent entity of post-registration changes.

B. Possible action by the Subsidiary Body for Implementation

3. The SBI may wish to consider the recommendations of the JISC when making recommendations to the CMP on the possible revision of the JI guidelines.

II. Comparative analysis of other mechanisms and schemes

A. Concerns raised by stakeholders

4. Under the current rules of the clean development mechanism (CDM), stakeholders are given the opportunity to comment on project activities on two occasions during the CDM project cycle:

(a) Prior to validation: project participants are required to conduct local stakeholder consultation before the start of the project activity. The feedback that local stakeholders provide during that consultation, together with information on how the stakeholders’ comments have been considered and addressed by the project participants, is reported in the project design document (PDD) and submitted to a designated operational entity (DOE) for validation. After the completion of the local stakeholder consultation, local stakeholders may submit a complaint to the designated national authority of the host Party (or Parties) if they believe that the outcome of the local stakeholder consultation has not been appropriately taken into account;

¹ Decision 9/CMP.1.

² Decision 6/CMP.8, paragraph 14.

³ As contained in the appendix to the annex to document FCCC/SBI/2015/L.30.

⁴ Decision 7/CMP.11, paragraph 5.

(b) During validation: upon receipt of the PDD from the project participants, the DOE makes it publicly available for global stakeholder consultation for 30 days on the UNFCCC CDM web pages.⁵

5. The validating DOE determines whether the project participants have taken due account of all comments received from stakeholders during the local and global stakeholder consultations, and provides its conclusion in the validation report.

6. The CDM does not require that stakeholders be consulted in case of post-registration changes to the project activity as described in the PDD or during verification.

7. The CDM provides, by means of the local stakeholder consultation, for key groups affected by the project activity to have a meaningful opportunity to participate in the consultation and for their comments, where applicable, to be taken into account and reflected in the project design. Flexibility is afforded to the project participants to determine how best to structure the consultation. However, the JISC notes that it is rare for project participants to receive project-specific comments that contribute to improving project design during the global stakeholder consultation; some stakeholders assert that the only impact of the 30-day global stakeholder consultation period is to prolong the validation process and delay project activity registration.

8. Under the Verified Carbon Standard scheme, no mandatory requirement is set for local stakeholder consultation during project development and validation. The Verified Carbon Standard rules⁶ only require project participants to summarize the outcomes of any stakeholder consultations undertaken where required to do so by law in the host country or where the project participants do so voluntarily. The project participants are not required to demonstrate how they have taken due account of each comment. Other programmes, such as the American Carbon Registry and the Climate Action Reserve, also leave it to the project participants to decide on the form and substance of stakeholder consultations, without stipulating any relevant requirements in their standards. None of these schemes provide for a 30-day global commenting opportunity available on their websites during project validation or verification; nor do they require stakeholder consultation in case of post-registration changes to the project.

9. The above approach streamlines the project development process and recognizes that the project participants likely have a good sense of the project-specific conditions that may dictate the structure of any consultation. It leaves it to the project participants to demonstrate how stakeholders have been given a meaningful opportunity to express their views on the project. However, it does not make it mandatory for the project participants to demonstrate that any comments received from stakeholders have been duly taken into account.

10. The Climate, Community and Biodiversity Standards⁷ and the Gold Standard⁸ set out more explicit and prescriptive rules for local stakeholder consultation, specifying how consultations are to be conducted and what elements are to be presented to and discussed with stakeholders. This approach has the benefit of ensuring that all projects conduct their local stakeholder consultations in a consistent and structured manner. Such detailed rules may also lead to a more robust consultation, as the project participants are required to exert appropriate levels of effort to ensure that the programme rules have been met. The Gold Standard requires a second round of local consultation, during the PDD development, whereby stakeholders can give feedback on how their comments have been taken into

⁵ <<http://cdm.unfccc.int/Projects/Validation/index.html>>.

⁶ Available at <<http://www.v-c-s.org/program-documents>>.

⁷ See <<http://www.climate-standards.org/ccb-standards/>>.

⁸ See <<http://www.goldstandard.org/>>.

account and integrated in the PDD.⁹ In case of post-registration changes, both standards require local stakeholder consultation, but the Gold Standard limits it to changes that include the addition of new project sites or the selection of different sites from those that had been envisaged at the time of registration. The Climate, Community and Biodiversity Standards require the publication of both the PDD and the monitoring report during validation and verification respectively for a global commenting period of at least 30 days.

11. The Gold Standard approach sets out strict requirements on the local stakeholder consultation that ensure that the final project design reflects inputs from groups and communities affected by the project. The time taken by the project participants in conducting a thorough and strict stakeholder consultation during the project development phase is counterbalanced by a streamlined validation phase, which does not provide for a global commenting period during validation or verification.

12. The table below summarizes the phases of the project development cycle during which stakeholder consultation occurs under the different standards mentioned above.

Phases of project cycle that include stakeholder consultation, comparison of standards

	<i>CDM</i>	<i>VCS</i>	<i>ACR</i>	<i>CAR</i>	<i>CCB</i>	<i>GS</i>
At PDD development	Yes	Yes	Yes	Yes	Yes	Yes
At validation	Yes	-	-	-	Yes	-
After registration, in case of post-registration changes	-	-	-	-	Yes	Yes
At verification	-	-	-	-	Yes	-

Abbreviations: ACR = American Carbon Registry, CAR = Climate Action Reserve, CCB = Climate, Community and Biodiversity Standards, CDM = clean development mechanism, GS = The Gold Standard, PDD = project design document, VCS = Verified Carbon Standard.

B. Validation of post-registration changes by an accredited independent entity

13. According to the current CDM rules, two different procedural tracks are defined for approving post-registration changes to projects:¹⁰

(a) **Prior approval track:** changes that are not deemed minor (i.e. changes that affect project additionality and scale, methodology applicability or have permanent impact on the monitoring plan) require prior approval from the CDM Executive Board, for which the project participants must hire a DOE to validate the changes and submit its opinion to the Board. This is an essential step in the cycle before the project participants can proceed with the request for issuance that will be affected by the changes. Since the Board approval process follows similar steps and timelines as for registration, the processing time for requests for post-registration changes can be long. Obtaining prior approval for post-registration changes entails additional cost and time for project participants;

(b) **Issuance track:** limited types of post-registration changes that are minor and do not have significant impact on the project design and monitoring system do not require the prior approval of the Board. These changes are validated by the verifying DOE, which incorporates its conclusion on the post-registration changes in the verification report for submission together with the request for issuance. These types of post-registration changes

⁹ See <<http://www.goldstandard.org/our-work/innovations-consultations>>.

¹⁰ See <<http://cdm.unfccc.int/Reference/index.html>>.

enjoy the use of a streamlined process and do not result in high transaction costs for the project participants.

14. The Gold Standard follows a process for post-registration changes similar to the issuance track under the CDM, with a particular emphasis on changes that have an impact on claimed emission reductions and on the Gold Standard project qualifications. The changes are described in the monitoring report and validated by the verifying DOE. For changes that have a significant impact, the Gold Standard reserves the right to review the changes through the request for review process (an additional period of four weeks). This process benefits from enhanced flexibility and reduced procedural steps.

15. The Verified Carbon Standard and the American Carbon Registry follow an approach similar to that of the Gold Standard: where project-specific changes that require revision to baseline or additionality assessments occur after the initial validation, these changes must be disclosed in the monitoring report and validated at the subsequent verification.

16. The Climate, Community and Biodiversity Standards require an additional round of validation at the time of verification if significant changes from the validated PDD occur. When such new validation is required, the audits must be successfully completed and a validation statement issued before, or concurrent with, the completion of the next verification.

III. Recommendations to the Subsidiary Body for Implementation

17. Based on the comparative analysis of the approaches in the CDM and other relevant standards and in the light of the current draft “Modalities and procedures for the implementation of Article 6 of the Kyoto Protocol”, the JISC recommends that the SBI consider the following recommendations.

A. Concerns raised by stakeholders

18. Amendment of paragraph 46(b): “Documentation on how input from local stakeholders was invited and taken into account, ensuring that any concerns that have been raised have been considered and sufficiently addressed.”

19. Amendment of paragraph 50: “The accredited independent entity shall make its validation report publicly available through the secretariat, together with an explanation and justification of its findings, including a summary of stakeholder comments and a report on how due account was taken of those comments referred to in paragraphs 46(b) and 48 above.”

20. In paragraphs 55 and 58: Parties may wish to consider the inclusion of stakeholder consultations during the verification stage based on the following assessment by the JISC:

(a) Such inclusion would increase transparency; possible increases in transaction costs may be marginal compared to the positive value experienced by stakeholders through a greater involvement at the verification stage;

(b) However, such inclusion would go beyond the current common practice across the CDM and other standards, although the most recently developed standard, the Climate, Community and Biodiversity Standards, does include stakeholder consultation at the verification stage. Such a step could introduce additional delays at the request for issuance stage and could increase the transaction costs for project participants.

21. Insertion of paragraph 53 bis: “Where the post-registration changes to the activity would have a significant impact on stakeholders, the activity participants shall invite comments from stakeholders and document how any concerns that have been raised have been considered and sufficiently addressed. The accredited independent entity shall include in its validation of post-registration changes a summary of the stakeholder comments received and a report on how due account was taken of those comments.”

B. Validation of post-registration changes

22. Amendment of paragraph 53: “Any post-registration changes to the activity shall be validated by an accredited independent entity and deemed final unless the JISC requests a review in accordance with its rules and procedures within 30 days.”
