

Submission on Modalities and Procedures for Article 12 of the Kyoto Protocol

(Submitted by Australia, Canada, Iceland, Japan, New Zealand, Norway, Russian Federation, Ukraine and the United States)

This paper presents draft decision language by Australia, Canada, Iceland, Japan, New Zealand, Norway, Russian Federation, Ukraine and the United States on the modalities and procedures for Article 12 of the Kyoto Protocol.

The paper is structured as COP decision language, with an Annex that includes possible appendices. The COP decision recommends to the COP/moP that it, at its first session, adopt the modalities and procedures in the Annex. The Annex includes some bracketed paragraphs where modalities, procedures, methodologies and criteria need to be further elaborated or where different options are presented.

We look forward to discussing the modalities and procedures for Article 12, as well as issues of a more technical nature, with other Parties at the upcoming session of the Subsidiary Bodies.

Decision Language on Article 12 (the Clean Development Mechanism)

The Conference of the Parties,

Recalling, in particular, Articles 3 and 12 of the Kyoto Protocol,

Noting that a clean development mechanism was defined in Article 12 of the Protocol and that the mechanism, pursuant to paragraph 4 of Article 12 of the Protocol, shall be subject to the authority and guidance of the Conference of the Parties serving as the meeting of the Parties to the Protocol and be supervised by an executive board of the mechanism,

Noting that the Conference of the Parties serving as the meeting of the Parties to the Protocol, pursuant to paragraph 7 of Article 12 of the Protocol, at its first session, shall elaborate modalities and procedures for the clean development mechanism with the objective of ensuring transparency, efficiency and accountability through independent auditing and verification of project activities, and that a process for giving recommendations to the Conference of the Parties serving as the meeting of the Parties to the Protocol was established through Decision 7/CP.4,

Noting that the purpose of the clean development mechanism shall be to assist Parties not included in Annex I in achieving sustainable development and in contributing to the ultimate objective of the Convention, and to assist Parties included in Annex I in achieving compliance with their quantified emission limitation and reduction commitments under Article 3,

Noting that Article 12 provides that Parties included in Annex I may use the certified emission reductions accruing from project activities to contribute to compliance with part of their quantified emission limitation and reduction commitments under Article 3, as determined by the Conference of the Parties serving as the meeting of the Parties to this Protocol,

Recognising that capacity building will assist developing countries' participation in the clean development mechanism,

Decides to recommend to the Conference of the Parties serving as the meeting of the Parties to the Protocol that it, at its first session, adopt the modalities and procedures in the attached Annex.

Annex

Modalities and Procedures for the Clean Development Mechanism

Definitions

1. “Article” means an Article of the Protocol, unless otherwise indicated.
2. “CERs” means certified emission reduction units as described in paragraph 34.
3. “Clean development mechanism” means the mechanism defined in Article 12 of the Protocol.
4. “Convention” means the United Nations Framework Convention on Climate Change.
5. “COP/moP” means the Conference of the Parties serving as the meeting of the Parties to the Protocol.
6. “Executive board” means the body specified in paragraph 41.
7. “Operational entity” means a public or private entity accredited by the executive board to register clean development mechanism project activities, certify reductions in emissions by sources and/or enhancements of removals by sinks, and undertake other responsibilities as specified in this Annex.
8. “Participants” means a Party, a private or public entity resident in a Party, or both, that have entered into a contractual agreement on a clean development mechanism project activity.
9. “Party” means a Party to the Protocol.
10. “Protocol” means the Kyoto Protocol to the United Nations Framework Convention on Climate Change.

Participation

11. A Party, a private or public entity resident in a Party, or both, may participate in clean development mechanism project activities.
12. A Party may develop rules or guidance for the participation in clean development mechanism project activities of that Party and of entities resident in that Party.
13. An Annex I Party may not use CERs accruing from clean development mechanism project activities if that Party is found not to be in compliance with its obligations under Articles 5 and 7.

14. [Need to address issue of whether a Party operating under Article 4 may use CERs accruing from clean development mechanism project activities if another Party operating under the same Article 4 agreement, or if a regional economic integration organisation to which the Party belongs and which is itself a Party to the Protocol, is found not to be in compliance with its obligations under Articles 5 and 7.]
15. If a Party's consistency with the requirements in paragraphs 13, 14 and 16 is called into question [by the review process under Article 8?][other?], the issue will be expeditiously resolved [through a general procedure applicable to the Protocol][through a specialised procedure].
16. [Eligibility Criteria for Participation]

Scope of Project Activities

17. Project activities under the clean development mechanism must provide a reduction in emissions by sources and/or an enhancement of removals by sinks that are additional to any that would occur in the absence of such project activities.
18. Project activities under the clean development mechanism shall cover one or more of the gases listed in Annex A of the Protocol.
19. A project activity commenced after December 11, 1997 will be eligible for consideration as a clean development mechanism project activity if it meets the criteria established in these modalities and procedures. Following project registration, resultant reductions in emissions by sources and/or enhancements of removals by sinks from the year 2000 onwards will be eligible for retrospective certification by operational entities.
20. Any project activity under the Activities Implemented Jointly (AIJ) pilot phase will also be eligible for consideration as a clean development mechanism project activity if it meets the criteria established in these modalities and procedures, and if the Parties participating in the project agree, prior to its registration as a clean development mechanism project activity, that it should be considered as a clean development mechanism project activity.

Project Registration

21. In order to qualify as a project activity under the clean development mechanism, the project activity must be registered by an authorised operational entity. Registration of a project activity is a prerequisite for certification and issuance of CERs related to that project activity.
22. A clean development mechanism project activity shall be approved by each Party participating in the project activity. A Party may develop its own

internal mechanisms and criteria for project approval based on its domestic circumstances. These mechanisms and criteria shall be made publicly accessible.

23. A decision of a host country Party to approve a clean development mechanism project activity will constitute a determination that the project activity assists that Party in achieving sustainable development in accordance with Article 12.2.
24. Participants shall, prior to registration of that project activity by an operational entity, establish a project baseline and develop provisions for project monitoring and reporting in accordance with the modalities and procedures in paragraphs 28, 30 and 37.
25. Once an operational entity receives a request to register a clean development mechanism project activity, it shall review the request in order to determine that:
 - (a) the project activity is designed to meet the requirements of Article 12.5;
 - (b) the project proposal contains a baseline and provisions for monitoring and reporting emissions by sources and/or enhancement of removals by sinks, in accordance with paragraphs 28, 30 and 37;
 - (c) the project activity has been approved by each Party participating in the project activity; and
 - (d) the project activity meets any further modalities and procedures adopted by the COP/moP.The information and data needed for this review shall be provided to the operational entity by the Participants.
26. The operational entity shall register clean development mechanism project activities that meet the requirements of paragraphs 25 and 27.
27. [Modalities and Procedures for Registration – including provision of information to operational entities, protection of proprietary information by operational entities, and provision for payment to operational entities for fees and expenses for project registration and certification, as set forth in Appendix A.]

Baselines

28. [Methodologies for Calculating Reductions in Emissions by Sources and/or Enhancements of Removals by Sinks—including for establishing baselines¹]

Project Monitoring

29. Participants shall ensure that reductions in emissions by sources and/or enhancements of removals by sinks as a result of the project activity are

¹Must include requirements for information to be provided to the operational entities, including background documentation and data needed for the operational entity to approve/accept the baseline.

monitored and that this monitoring information is reported to the relevant operational entity for certification purposes.

30. [Methodologies for Monitoring]

Certification and Issuance of CERs

31. An operational entity shall, upon request by Participants in a project activity, certify reductions in emissions by sources and/or enhancements of removals by sinks that have resulted from a registered clean development mechanism project activity. Certification shall be conducted at regular intervals and in accordance with the modalities and procedures for the certification of CERs.
32. Operational entities shall use the monitoring data collected by Participants for certifying reductions in emissions by sources and/or enhancement of removals by sinks from a project activity. Should such data be inadequate or insufficient, the operational entity may use additional data from other sources in order to certify emissions by sources and/or enhancement of removals by sinks from a project activity.
33. [Modalities and Procedures for Certification and Issuance of CERs]
34. CERs shall be denominated in standardised units of one metric tonne of carbon dioxide equivalent, calculated using the global warming potentials defined by Decision 2/CP.3 or as subsequently revised in accordance with Article 5. Each CER shall be identified by a serial number that includes information on the host country, the project activity, the year of issuance and the certifying operational entity, and shall be trackable through the registry system established in paragraph 38.
35. An operational entity shall issue CERs upon certification of reductions in emissions by sources and/or enhancements of removals by sinks resulting from a clean development mechanism project activity.
36. CERs resulting from a clean development mechanism project activity shall be distributed in accordance with the agreement among Participants in such a project activity after fulfilling the COP/moP requirements related to a share of proceeds specified in paragraph 57.

Reporting

37. [Modalities and Procedures for Reporting]

Registry

38. [Registry System]

Institutional Arrangements

COP/moP

39. The clean development mechanism shall be subject to the authority and guidance of the COP/moP.
40. The COP/moP shall:
 - (a) determine the modalities and procedures governing the operation of the clean development mechanism;
 - (b) specify additional procedures for the operation of the executive board;
 - (c) ensure that periodic reviews of the operations of the executive board, operational entities and entities for independent auditing are performed;
 - (d) review and approve methodologies for determining baselines and monitoring,
 - (e) review and approve modalities and procedures for verification, certification and reporting; and
 - (f) ensure that a share of proceeds from certified project activities is used to cover administrative expenses as well as assist developing country Parties that are particularly vulnerable to the adverse effects of climate change to meet the costs of adaptation.

Executive Board

41. An executive board shall supervise the clean development mechanism.
42. The executive board shall:
 - (a) function as a separate standing body of the COP/moP and report to the COP/moP;
 - (b) be subject to the authority and guidance of the COP/moP;
 - (c) accredit operational entities based on guidance from the COP/moP;
 - (d) review and audit operational entities as well as revoke, in accordance with a process to be determined by the COP/moP, the accreditation of operational entities which fail to comply with modalities and procedures determined by the COP/moP;
 - (e) review reports submitted by operational entities and provide synthesis reports to the COP/moP;
 - (f) maintain a publicly available list of operational entities;
 - (g) ensure that information on baselines, including standardised baselines, used for project evaluation is publicly accessible; and
 - (h) call on experts for technical advice if deemed necessary.
43. The executive board may, as appropriate, make arrangements for administrative support necessary for its activities, under the guidance of the COP/moP.
44. The executive board shall, in accordance with Article 12.8, receive a share of proceeds from certified project activities to cover its administrative expenses.

45. The executive board shall consist of [X]² members and shall comprise an equal number of representatives from Annex I and non-Annex I Parties. Annex I and non-Annex I Parties shall select Parties for membership of the executive board respectively.
46. [Procedures for the Operation of the Executive Board—including the length of term of its members, provision for the alternation of the Chair and Vice-Chair and nomination of members]

Operational Entities

47. Operational entities shall be:
- (a) accredited by the executive board based on criteria for selection specified in paragraph 51; and
 - (b) subject to modalities and procedures specified in applicable decisions of the COP/moP.
48. The functions of an operational entity shall include:
- (a) registration of clean development mechanism project activities in accordance with paragraphs 25, 26 and 27;
 - (b) certification of reductions in emissions by sources and/or enhancements of removals by sinks which have resulted from clean development mechanism project activities in accordance with paragraphs 31, 32 and 33;
 - (c) issuance of CERs in accordance with paragraphs 33 and 35; and
 - (d) transferral of a share of proceeds to [...] to cover administrative expenses and to [...] to assist developing country Parties that are particularly vulnerable to the adverse effects of climate change to meet the costs of adaptation.
49. Operational entities shall submit annual activity reports to the executive board in accordance with the modalities and procedures for reporting.
50. To avoid conflicts of interest, operational entities that register project activities and certify reductions in emissions by sources and/or enhancements of removals by sinks shall not participate in project development, promotion, financing or implementation.
51. [Modalities, Procedures and Guidelines for Operational Entities – including criteria for the accreditation of operational entities]

The Secretariat

52. The UNFCCC Secretariat may, on request by the executive board, provide administrative and secretariat assistance to the executive board. This assistance

² A possible model for the executive board of the clean development mechanism might be the Executive Committee of the Secretariat of the Multilateral Fund for the Implementation of the Montreal Protocol. In this case, the executive board would be comprised of seven members each from Annex I and non-Annex I Parties, each member serving two-year terms with the ability to serve consecutive terms. The chair and vice-chair of the executive board would alternate each year between the two groups.

could include compiling, synthesising and disseminating information related to clean development mechanism activities, including in relation to Article 12.6, and performing other secretariat functions as requested by the executive board.

Independent Auditing and Verification

53. [Modalities and Procedures for Independent Auditing and Verification of Project Activities and Operational Entities]

Compliance

54. [Compliance Related Issues]
55. [No determination of the term “part of”]

Share of Proceeds

56. A share of proceeds from certified project activities shall be used to cover administrative expenses to support the operation of the executive board as well as to assist developing country Parties that are particularly vulnerable to the adverse effects of climate change to meet the costs of adaptation.
57. [Calculation of a Share of Proceeds: a share of proceeds should be calculated on the basis of the CERs generated by a particular project³]
58. A share of proceeds devoted to meeting the costs of adaptation shall be administered by [.....].
59. Parties not included in Annex I that consider themselves particularly vulnerable to the adverse effects of climate change and wish to receive proceeds from the clean development mechanism for adaptation purposes shall report on such effects and their vulnerability to these effects.
60. [Modalities, Procedures and Criteria for Disbursement of a Share of Proceeds: devoted to meeting administrative expenses and costs of adaptation]

Appendices:

Appendix A: Modalities and Procedures for Registration⁴

Appendix B: Modalities and Procedures for Certification and Issuance of CERs

Appendix C: Modalities and Procedures for Reporting

³ A share of proceeds should be restricted to a limited amount.

⁴ Will include methodologies for calculating reductions in emissions by sources and/or enhancements of removals by sinks and methodologies for establishing baselines and for monitoring.

Appendix D: Procedures for the Operation of the Executive Board

Appendix E: Modalities, Procedures and Guidelines for Operational Entities – including criteria for the accreditation of operational entities

Appendix F: Modalities and Procedures for Independent Auditing and Verification of Project Activities and Operational Entities

Appendix G: Modalities, Procedures and Criteria for Disbursement of a Share of Proceeds: devoted to meeting administrative expenses and costs of adaptation