

JI-JISC38-AA-A04

Draft Recommendation

Proposed further recommendations on the review of the joint implementation guidelines

Version 01.0

DRAFT



COVER NOTE

1. Procedural background

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” (the joint implementation (JI) guidelines).¹ In 2012, the CMP requested the Subsidiary Body for Implementation (SBI) to prepare revised JI guidelines for consideration by the CMP.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. At SBI 43 (November-December 2015), Parties agreed to continue discussions on the review of the JI guidelines at SBI 44 (May 2016), on the basis of the proposed draft JI modalities and procedures contained in the annex to the decision.³ Furthermore, CMP 11 (November-December 2015) 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 (AIE) of post-registration changes.

2. Purpose

3. The purpose of this paper is to provide the JISC with draft recommendations on the review of the JI guidelines that it may wish to submit to SBI 44 in accordance with the CMP 11 request, referred to in paragraph 2 above, on options to address:
 - (a) Concerns raised by stakeholders;
 - (b) Validation by an accredited independent entity of post-registration changes.

3. Key issues and proposed solutions

4. The secretariat has analysed options to address the concerns raised by stakeholders, taking into account the process for stakeholder consultation under the clean development mechanism (CDM), which consists in two steps: prior to the validation and during the validation of projects; and the process for stakeholder consultation under other standards (Verified Carbon Standard, Gold Standard, etc.). The secretariat proposes four recommendations for consideration by the JISC to be submitted to SBI 44.

¹ Decision 9/CMP.1.

² Decision 6/CMP.8, paragraph 14.

³ FCCC/SBI/2015/L.30.

⁴ Decision 7/CMP.11, paragraph 5.

5. Regarding validation by an AIE of post-registration changes, the secretariat analysed the process for validation of post-registration changes under the CDM, which has two procedural tracks: prior approval and issuance; and the process under other standards. The secretariat proposes a recommendation for consideration by the JISC to be submitted to SBI 44.

6. Subsequent work and timelines

6. Following the consideration and possible amendment by the JISC of the draft recommendations contained in the appendix, the secretariat will include the agreed recommendations in a draft document for submission to the SBI, which will be finalized in consultation with the Chair and Vice-Chair of the JISC.

7. Recommendations to the JISC

7. The secretariat recommends that the JISC consider, amend as appropriate, and agree on its recommendations to SBI 44, on the basis of the draft recommendations contained in the appendix.

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Appendix . Draft further recommendations on the review of the joint implementation guidelines

1. Concerns raised by stakeholders

1.1. Key issues

1. The current proposed draft joint implementation (JI) modalities and procedures¹ (JI M&P) include local stakeholder consultation (LSC) during the project development phase. At the validation stage, there is a 30-day Parties and stakeholder consultation. Provisions for stakeholder consultations during the verification phase are square-bracketed in the draft JI M&P. The Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP) has requested the Joint Implementation Supervisory Committee (JISC) to make an analysis of the potential role of stakeholder consultations and to make recommendations for consideration by the Subsidiary Body for Implementation (SBI) at its forty-fourth session (SBI 44).
2. An analysis of the provisions for stakeholder consultations under the clean development mechanism (CDM) and other standards is provided below, followed by approaches that the JISC may wish to consider recommending to SBI 44.

1.1.1. Stakeholder consultation under the clean development mechanism

3. Under the current CDM rules, stakeholders are given the opportunity to comment on project activities on two occasions during the CDM project cycle:
 - (a) Prior to validation. Project participants conduct LSC before the start date of the project activity. The feedback that they provide during the LSC are reported in the project design document (PDD) and submitted to a designated operational entity (DOE) for validation, including information on how stakeholders' comments have been considered and addressed. After the completion of the LSC, local stakeholders may submit a complaint to the designated national authority of the host Party(ies) if they find that the outcome of the LSC is not appropriately taken into account;
 - (b) During validation. Upon receipt of the PDD from the project participants, the DOE makes it publicly available for 30 days on the UNFCCC CDM website for global stakeholder consultation (GSC).
4. The validating DOE determines whether the project participants have taken due account of all comments received from stakeholders during the LSC and the GSC, and provides its conclusion in the validation report.
5. The CDM does not require stakeholder consultation in case of post-registration changes or during verification.
6. The CDM provides by means of the LSC for key groups affected by the project activity to have a meaningful opportunity to participate in the consultation and for their comments,

¹ FCCC/SBI/2015/L.30.

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, it is noted that it is rare for project participants to receive project-specific comments that contribute to improving project design during the GSC; some stakeholders assert that the only impact of the 30-day GSC period is to prolong the validation process and delay project activity registration.

1.1.2. Stakeholder consultation under other standards

7. Under the Verified Carbon Standard (VCS) scheme, no mandatory requirement is set for LSC during the project development and validation. The VCS rules only require all project types to summarize the outcomes of any stakeholder consultations undertaken where required to do so by the host country law or where the project participants voluntarily does so. 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 (ACR) and the Climate Action Reserve (CAR) also leave to the project participants on the form and substance of stakeholder consultations, without introducing any relevant requirements in their standards. None of these schemes provide for a 30-day global commenting period hosted on their website during validation or verification; nor do they require for stakeholder consultation in case of post-registration changes.
8. This 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 the consultation. It leaves 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 the comments received from stakeholders have been taken in due account.
9. The Climate, Community and Biodiversity Alliance (CCB) Standards and the Gold Standard (GS) set out more explicit and prescriptive rules for LSC, 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 LSCs 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 GS requires a second local consultation, during the PDD development, during which stakeholders can give feedback on how their comments have been taken into account and integrated in the PDD; In case of post-registration changes, both standards require LSC, but the GS limits it to changes that include addition of new project sites or the selection of different sites from those that had been envisioned at the time of registration. The CCB 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.
10. The GS approach sets out strict requirements on the LSC that ensure 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.

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

Table. Phases of project development cycle with stakeholder consultation

	CDM	VCS	ACR	CAR	CCB	GS
At PDD development	X	X	X	X	X	X
At validation	X				X	
After registration, in case of post-registration changes					X	X
At verification					X	

1.2. Proposed recommendations

12. Based on the analysis of the approaches in the CDM and other standards and in light of the current draft JI M&P, the JISC may wish to consider the following recommendations:

- (a) Recommendation 1: In paragraph 46(b) the bracketed text should be accepted as this represents best practice across the CDM and other standards;
- (b) Recommendation 2: In paragraph 50, it should include a clarification that the summary of comments and how due account was taken on these comments refers to those comments received under the paragraphs 46(b) and 48;
- (c) Recommendation 3:
 - (i) Option 1: To accept the bracketed text in paragraphs 55 and 58, in order to ensure transparency and involvement of stakeholders at the verification stage, noting that including these requirements would go beyond the current common practice across the CDM and other standards;
 - (ii) Option 2: Not accept the bracketed text in paragraphs 55 and 58, in order to not introduce potential delays and possible increases in transaction costs. This is consistent with the current common practice across the CDM and other standards;
- (d) Recommendation 4:
 - (i) Option 1: To include a period for stakeholder commenting in respect of post-registration changes to the activity (including validation on how due account was given to comments received). This would increase transparency and involvement of stakeholders, but would go beyond the current common practice across the CDM and other standards;
 - (ii) Option 2: Not include a period for stakeholder commenting in respect of post-registration changes to the activity. This would be consistent with the current common practice across the CDM and other standards and would avoid the introduction of potential delays and possible increases in transaction costs.

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

2.1. Key issues

13. During the implementation of a registered project activity, there may be changes to the project design and monitoring modalities that were not planned or known at the time of registration. Changes can range from minor corrections to design changes caused by, for example, market unavailability of the planned technology, change to monitoring set-up, change of market or regulatory conditions, or a company's organizational issues.
14. The current draft JI M&P contain provisions for post-registration changes but has not elaborated any requirements for their acceptance. The CMP has requested the JISC to make an analysis of the potential for validation of post-registration changes and to make recommendations for consideration at SBI 44. An analysis of the provisions for post-registration changes under the CDM and other standards is provided below, followed by approaches that the JISC may wish to consider recommending to SBI 44.

2.1.1. Validation of post-registration changes under the clean development mechanism

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

- (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 (the 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. Prior approval for post-registration changes is additional cost and time factors 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 prior approval from 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 enjoy the use of a streamlined process and do not result in high transaction costs for the project participants.

2.1.2. Validation of post-registration changes under other standards

16. The GS follows a post-registration changes process 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 GS project qualifications. The changes are described in the monitoring report and validated by the verifying DOE. For changes that have a significant impact, the GS reserves the right to review the changes through the request for review process (additional period of four weeks). This process benefits from enhanced flexibility and reduced procedural steps.

17. The VCS and the ACR follow an approach similar to the GS; 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.
18. The CCB Standards requires an additional round of validation at the time of verification if significant changes occur from the validated PDD. When the 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.

2.2. Proposed recommendation

19. Based on the analysis of the approaches in the CDM and other standards and in light of the current draft JI M&P, the JISC may wish to consider the following recommendation:
 - (a) Option 1: To include validation requirements for post-registration changes. This is consistent with the current common practice across the CDM and other standards;
 - (b) Option 2: Not to include validation requirements for post-registration changes, in order to not introduce potential delays and possible increases in transaction costs. This would be inconsistent with the current common practice across the CDM and other standards.

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