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Good practice: Application of EN ISO 14065 (impartiality)

The Accreditation and Verification Regulation -
Outline of a process to ensure continuous
impartiality and independence of a verifier and
to manage conflicts

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This document is part of a series of documents and templates provided by the Commission services for supporting the implementation of Commission Regulation (EU) No 600/2012 of 21 June 2012 on the verification of greenhouse gas emissions reports and tonne-kilometre reports and the accreditation of verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council.

The guidance represents the views of the Commission services at the time of publication. It is not legally binding.

This example takes into account the discussions within meetings of the informal Technical Working Group on the Accreditation and Verification Regulation under WGIII of the Climate Change Committee (CCC), as well as written comments received from stakeholders and experts from Member States.

All other guidance documents and templates can be downloaded from the documentation section of the Commission's website at the following address:
http://ec.europa.eu/clima/policies/ets/monitoring/index_en.htm.

Background

This note is aimed at providing a good practice example to supplement Key guidance note II.8 on the relation between EN ISO 14065 and the AVR. Both documents are part of a suite of guidance documents developed by the Commission to explain the requirements of the EU ETS Regulation on Accreditation and Verification (AVR)¹. The suite of guidance documents consists of:

- an explanatory guidance on the articles of the AVR (EGD I), including a user manual providing an overview of the guidance documents and their interrelation with the relevant legislation;
- key guidance notes (KGN II) on specific verification and accreditation issues;
- a specific guidance (GD III) on the verification of aircraft operator's reports;
- templates for the verification report and information exchange requirements;
- exemplars consisting of filled-in templates, checklists or specific examples in the explanatory guidance or key guidance notes;
- frequently asked questions.

A verifier must establish, document, implement and maintain a process to ensure continuous impartiality and independence of:

- the verifier;
- parts of the same legal entity as the verifier;
- organisations that have relations with the verifier through common ownership, common governance, common management or personnel, shared resources, common finances, common contracts or marketing and common payment of sales commission or other inducement for the referral of new clients;
- organisations to which verification activities are outsourced; and
- all personnel and contracted persons involved in the verification.

Art. 42(6)
AVR

This requirement has been explained in section 5.2 of the Explanatory Guidance (EGD I) and section 3.2 of Key guidance note II.8 on the relationship between EN ISO 14065 and the AVR (KGN II.8). Part of this impartiality and independence process also covers the management of conflicts of interest, in particular conflicts that arise if the verification team needs to conclude that the emissions report cannot be verified as satisfactory and the team is put under pressure by internal sales/ management personnel to change their opinion to avoid annoying a paying client. The verifier should take appropriate measures to manage such conflicts and to ensure that their auditors remain independent and impartial throughout the verification process.

The example below supplements the aforementioned sections in the EGD I and KGN II.8, providing insight in what a process to maintain impartiality and independence should contain, and what measures a verifier should implement to address a possible internal conflict between denying the client a satisfactory verification opinion and avoiding that the verification team is pressured to alter that opinion because of commercial considerations.

Elements of a verifier's process to ensure continuous impartiality and independence

The impartiality and independence of the verifier may be affected at three levels:

¹ Commission Regulation (EU) No 600/2012 of 21 June 2012 on the verification of greenhouse gas emissions reports and tonne-kilometre reports and the accreditation of verifiers pursuant to Directive 2003/87/EC of the European Parliament and of the Council, OJ EU, L 181/1.

1. **On-site/client company relation level:** contact between individual EU ETS (lead) auditors, other verifier personnel and contracted personnel involved in verification.
 - All personnel and contracted persons involved in verification work must meet the impartiality requirements specified in Article 42 of the AVR. Furthermore the verifier must have formal rules and or employment contractual conditions to ensure that its personnel acts in an impartial manner (section 5.4 EN ISO 14065);
 - The verifier as a company must meet the impartiality requirements specified in the AVR and EN ISO 14065.
 - The verifier must ensure continued impartiality and independence of the following parties since these can cause risks to the impartiality and independence of the verifier itself:
 - all subsidiaries and parts of the same legal entity as the verifier;
 - organisations that have relations with the verifier through common ownership, common governance, common management or personnel, shared resources, common finances, common contracts or marketing and common payment of sales commission or other inducement for the referral of new clients;
 - organisations to which verification activities are (being) outsourced; and
 - all personnel and contracted persons involved in verification activities.
2. **Verification opinion review level:** the independent reviewer needs to be independent from the detailed verification process and the operator. The reviewer must also meet the impartiality requirements specified in Article 42 of the AVR.
3. **Company policy level:** certain measures and safeguards must be taken by the verifier to ensure continued independence and impartiality. This includes a mechanism to safeguard the impartiality of the verifier, e.g. by establishing an impartiality committee that contains members that are not direct company employees, by non-executive (board) directors specifically monitoring the impartiality of the verifier, by hiring person(s) that monitor and review impartiality of the verifier on a regular basis.

The table below outlines the areas that a verifier should address when establishing a process to ensure continued impartiality and independence

<i>Areas that the verifier should address to ensure continued impartiality and independence</i>	<i>Implementation in the verifier's operations, work processes and documentation</i>
Availability of a written statement of the company's policy on impartiality and how the verifier manages potential conflicts of interests.	The verifier should regularly review its impartiality policy document and assess whether that policy is practicable and its company's impartiality policy is made available to the public. Please see also section 5.4 of EN ISO 14065 (explained in section 3.2 KGN II.8)
Existence of a process to analyse and manage potential risks to impartiality.	The verifier should ensure that it has a formal process in place to analyse and manage potential risks to impartiality and that this process is appropriate and effective. The process is usually described in the verifier's quality manual, and should ideally: <ul style="list-style-type: none"> ▪ address the three levels of impartiality (see above); ▪ apply to all staff/advisory committee members/senior management

	<p>that are directly or indirectly involved in the verification process;</p> <ul style="list-style-type: none"> ▪ be monitored by top management of the verifier; ▪ be regularly reviewed by the impartiality committee or any other mechanism in place to ensure continued impartiality; ▪ include a requirement on its personnel to sign a declaration of impartiality and independence and abstain from personal relationships with clients; ▪ include a declaration of business relationships with clients; ▪ address how the verifier manages risks involved when contracting work out to non-staff personnel (contracted personnel are often also consultants which can entail a potential risk to impartiality); ▪ address how it manages financial risks; the risks for verifier is increased if it is dependent on income from a small number of large clients that could exert undue influence; ▪ address the company’s financial soundness: a financially sound company should not be totally dependent on a ‘successful verification’ and should minimise the risk involved; ▪ address periodic rotation of EU ETS (lead) auditors to ensure familiarity risks to impartiality are not an issue; or justify why this is not necessary; ▪ address other safeguards to mitigate and prevent (potential) risks (More useful information is provided in EN ISO 14065 and section 5.2 of the Explanatory Guidance (EGD I)); ▪ ensure that other (potential) risks are identified, analysed, recorded and rated; and that actions are taken to mitigate these risks. <p>The verifier must carry out these activities in line with the process, the AVR and EN ISO 14065.</p>
<p>Impartiality committee (or equivalent mechanism which should deliver similar outcomes)</p>	<p>The verifier should ensure that:</p> <ul style="list-style-type: none"> ▪ there is evidence of meetings of the impartiality committee (or equivalent oversight mechanisms); ▪ there is evidence of agenda points/ minutes demonstrating that the issue of impartiality was discussed in relevant senior level meetings; including review of the oversight process itself, outcomes of analysis of potential risks (e.g. from large client accounts), and that pro-active actions was taken to manage impartiality and independence risks etc.; ▪ there is a written impartiality company policy and that the impartiality committee (or equivalent mechanism) has been made aware of its responsibilities in this area – e.g. there should be relevant terms of reference; ▪ the impartiality committee or equivalent oversight mechanism contains members that are not employees of the verifier (i.e. they should have an independent viewpoint on the activities of the verifier itself); ▪ the committee members or members of an equivalent mechanisms are sufficiently competent and experienced to supervise the impartiality of the verifier, its personnel, related organisations and contracted persons; ▪ the committee members or members of an equivalent mechanism have access to the relevant information, are properly informed, and are free to investigate/ enquire wherever they consider relevant;

	<ul style="list-style-type: none"> ▪ the outcomes of the committee’s or equivalent mechanism’s evaluations and meetings are reported to senior executive management for action; and the actions taken and outcomes are reported back to the impartiality committee or equivalent mechanism for their response/challenge.
Independent review of verification work	<p>The verifier should ensure that:</p> <ul style="list-style-type: none"> ▪ there are statements in its quality manual on the requirements for independent review in this area and competence of independent reviewers; ▪ formal statements in relation to confidentiality, impartiality and independence are included in contracts or other signed statements; ▪ the independent reviewer has confirmed the inclusion of impartiality concerns in the team selection process and as part of the formal strategic review and risk analysis tasks; ▪ that, in the case of contracted staff, the independent review has addressed and checked previous business relationships; contractors working as both consultant and verifier in different circumstances; that an appropriate length of time has elapsed between an individual holding verification/ consultancy appointments for the same client; ▪ that verifier’s files contain evidence showing the implementation of the company impartiality and independence policies (including the independence of the person conducting the internal independent review).
Independence of the verification team on site/ contact with client	<p>The verifier should ensure that:</p> <ul style="list-style-type: none"> ▪ the tasks related to contract review, strategic and risk analysis include a formal assessment of the independence to account for changing circumstances over time (e.g. in the period between submitting a proposal and the commencement of the work: the impartiality and independence status of a selected team member in the pre-contract stage could have changed during the verification, so each team member’s status should be considered again at the strategic analysis and risk analysis stage). There should thus at least be a confirmation that an assessment was made to ensure impartiality/ avoidance of a conflict of interest and that no issues or conflicts were identified or, if issues were identified, documentation of the issue concerned and the measures taken; ▪ there are signed statements/ declarations on impartiality and independence by the individual EU ETS (lead) auditors and other staff involved in the verification; ▪ that, in the case of contracted staff, the impartiality policy should address previous business relationships of that staff; risks involved when staff is working as consultant/ verifier; appropriate length of time between verification/ consultancy appointments. This should be evaluated at contract review and re-confirmed during independent review stages of an individual verification; ▪ files contain evidence of implementation of the stated impartiality policy²;

² The verifier should hold files that provide evidence of the existence and application of the impartiality process described in this note. The internal verification documentation should show that the impartiality

	<ul style="list-style-type: none"> ▪ it manages impartiality risks concerning over-familiarity with the site/client etc.. The verifier’s independence process should have a documented policy on auditor rotation to address this issue; including justification of why rotation is not required, if relevant.
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2. Example of addressing internal conflicts of interest

The verifier must have a process to manage possible internal conflicts of interest within its own organisation, internal structures and procedures. First of all the verifier shall document all verification activities performed, conclusions and findings in the internal verification documentation. This documentation must contain a clear track record supporting the conclusions in the verification report, including identification of what issues were found and whether those issues had material effect on the emission data; along with justification of the assessed risks and subsequent actions taken by the verification team during its work. The internal verification documentation must also give a complete overview of whether the operator or aircraft operator was compliant with the requirements, and whether the verification team has identified and acted upon non-compliance issues.

The verifier must maintain a high quality internal verification documentation and, in particular, check whether its verification opinion statements are supported by evidence provided in the internal verification documentation. If for some reason the verification opinion statement is changed or altered at the end of the process (e.g. after the independent review), there should be evidence of it in the updated copies of relevant records in the internal verification documentation thus ensuring traceability and justification of the change to a positive verification opinion statement.

To manage these risks the verifier should carry out the following activities:

- Establish and implement a procedure on how to handle internal disputes/ appeals in line with EN ISO 14065.
- Establish and implement a procedure to document the entire verification process from start to finish, ensuring it will be difficult to ‘hide’ or alter documents and change the verification opinion. The verifier must implement documentation procedures in line with Article 40(1) of the AVR (e.g. use of standard template work papers, safeguarding confidentiality of client files and other internal verification documentation).
- Properly define who within the verifier’s organisation is ultimately responsible for the handling of internal conflicts of interests and implement these responsibilities within the verifier’s quality management system as required by Article 40(2) of the AVR.
- Establish and implement an escalation process for the handling of internal disputes on conflicts of interest as well as a documented system for dealing with these disputes. This should be part of the internal corrective action process.
- Define and implement clear impartiality/independence criteria/thresholds and document these in its quality management system with the aim of avoiding that the impartiality and independence of the verification team is compromised as a result of undue pressure from within the verifier. The management and procedures for internal conflicts should be included in its management system and should also be part of the process to ensure continued impartiality (see above).

evaluation process has been applied to the verification engagement concerned (e.g. impartiality of the verification team members).

- Have a training and education process in place to ensure that all its personnel are aware of the implications for the verifier of interfering with the verification process, and that potentially the financial implications of improper verification are far greater than losing one client. Furthermore, the verifier shall make all personnel aware that the verification opinion will also be scrutinised by the NAB/ NCA and that the CA will cross-check verification opinion statements when assessing the verified emissions reports.
- Avoid to rely too much on any particular client as this will affect the financial stability of the verification body and create risks to its impartiality.