

# Views on Sustainable Development provisions in the Art. 6 ‘rulebook’ draft from COP25 in Madrid

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Linkages to SDGs

Stakeholder Consultation

Grievance Mechanism

Assessment / Monitoring of SD

Environmental Safeguards

Social Safeguards



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Article 6 of the Paris Agreement is one of the facilitative measures to enable the voluntary cooperation of countries to achieve GHG reductions jointly. This would allow for higher ambition in mitigation and adaptation actions and promote sustainable development (SD) and environmental integrity.

The Paris decision mandated all countries to conclude the Paris Agreement rulebook during COP24 in 2018. This mandate was fulfilled except for Art. 6. The final Presidential Proposal on Art. 6 was very weak on SD<sup>1</sup>. The topic had a difficult stand, since it was neither on the priority list of the Polish presidency, nor was it considered crucial by influential voices in SBSTA at the time. Looking back from today, it can be concluded that for SD, the no-decision in Katowice was for the better.

The SDI analysed the views of all countries that submitted written information ahead of formal rulebook negotiations in 2017. The result was the identification of six high level options to promote SD as shown in the table and further explained in six Policy Briefs available [here](#).

Governance	Safeguards	Stakeholder Inclusivity	SD Assessment	MRV of SD	Reporting
National Prerogative, Disclosure of Information	Requirements that prevent and/or mitigate negative, unintended consequences that may arise from an activity	Opportunity for stakeholders to engage, incl. grievance mechanisms	Alignment with SDGs, Baseline setting, Impact assessment approach	Monitoring scopes include ex-ante and ex-post scope, Verification	Aggregation of Information, Reporting

High level options to promote SD in Art. 6 identified in respective submissions from countries in 2017

The analysis at hand examines the status of these options in the negotiation drafts as of today (2020). It compares the drafts of the rulebook elaborated during the meeting of SBSTA in Bonn (2019) with the last versions of the draft texts contained in the Presidential Proposals at COP25 in Madrid (2019). The aim of the analysis is to inform Article 6 negotiators and relevant stakeholders, which of the high-level SD options (or their respective notions) has made it into the current drafts.

### **Art. 6.2 is weaker than before with a focus on reporting of SD information**

The SBSTA drafts (Bonn 2019) on guidance for Art. 6.2 view SD as an element that falls under countries' reporting obligations in context of the Biennial Transparency Reports. However, it would be an over statement to give this reference the attribute of 'SD guidance'. At best, it is a repetition of what is already stated in the Art. 6.2 text of the Paris Agreement. While the Paris Agreement in Art. 6.2 states that Parties shall (...) promote sustainable development consistent with guidance adopted by the COP, the current draft guidance assumes, SD is promoted with no more than a statement, such as a Letter of Approval, the cooperative approach is consistent with the host countries defined SD objectives<sup>2</sup>. Yet, what happens, if the host country has never communicated its SD objectives? Is the SD statement a pure formality or would the absence of information on SD objectives be considered inconsistent with the guidance? Given that governance and determination of SD objectives and priorities is a clear prerogative of the host country, it is questionable, if missing information will have any impact on the eligibility of host parties to use Art. 6.2. As is, SD is currently seen in the text, as purely a reporting element.

<sup>1</sup> See p. 31ff of Presidential Proposal (COP24) [https://unfccc.int/sites/default/files/resource/Informal%20Compilation\\_proposal%20by%20the%20President\\_rev.pdf](https://unfccc.int/sites/default/files/resource/Informal%20Compilation_proposal%20by%20the%20President_rev.pdf)

<sup>2</sup> See iteration 3, Paragraph 22 lit. g) [https://unfccc.int/sites/default/files/resource/DT.CMA2\\_i11a.v3\\_0.pdf](https://unfccc.int/sites/default/files/resource/DT.CMA2_i11a.v3_0.pdf)



The SDI recommends, SD should not (only) be anchored as a reporting element. The determination of country specific SD objectives should be a requirement in the Initial Report.

What is the Initial Report? The current draft of Art. 6.2 considers an Initial Report, as the tool to determine, what is considered to be consistent with COP guidance. Under the Kyoto Protocol, Annex B countries had to demonstrate their capacity to account for their emissions and assigned amounts. Was the GHG inventory based on good quality data and was a working registry system in place? Only then would they be

considered Kyoto eligible. The proof that these requirements had been met had to be made in the Initial Report. Hence, including publicly accessible SD objectives as a requirement in the Initial Report would lead to coherence with its associated reporting obligations.

Unfortunately, the reporting element is the only SD link in the current draft “guidance” of Art. 6.2. This stands as a missed opportunity to support countries, who need it, with guidance on how SD assessment and MRV could be anchored in the 2030 Agenda SDGs. Many Article 6 negotiators still see the SDGs as a threat to the national prerogative rather than a framework that actually supports domestic efforts. Hence, there is still no provisions for guidance, on how to assess and promote host country SD objectives.

It is incomprehensible that neither stakeholder consultations nor provisions on safeguards have made it into the current draft text. It is good practice to report on how stakeholders have been considered in the planning and implementation of cooperative approaches. Stakeholder consultations, including grievance mechanisms are crucial to support public acceptance of Art. 6.2 activities. In the runup to COP25 in Madrid the draft on Art. 6.2 guidance still contained options on safeguards to prevent negative environmental or social impacts. One option also required cooperative approaches to respect human rights in their application. The draft at hand after Madrid does not contain any safeguards. The Presidencies Proposal to have no safeguard at all could undermine Art. 6.2 credibility from the start. Moreover, the logic of the proposal to postpone a decision on safeguards until after a SBSTA review of the guidance by 2028<sup>3</sup> is not clear.

**Conclusion:** Art. 6.2 is a framework, where countries engage in voluntary cooperation that will eventually lead to internationally transferable mitigation outcomes. The SDI understands that for this to happen participating countries need some leeway for domestic implementation. However, as it stands now, there is a risk that Art. 6.2 may start with a severe social acceptance risk from its beginning. Without any safeguards the draft guidance on cooperative approaches exposes an open flank on SD. In fact, this draft text weakens the initial mandate on SD given by Art. 6.2 of the Paris Agreement. The current draft on guidance for Art. 6.2 gives rise to a shadow on the perspectives of SD for cooperative approaches.

<sup>3</sup> See iteration 3, Paragraph 9lit. e)

## Art. 6.4 is better than expected with SD embedded in the operating architecture

The status on text provisions to promote SD and its linked elements in the draft for rules and procedures of the mechanism of Art. 6.4 is considerably brighter, compared to the guidance on Art. 6.2.



SD is embedded in the operating architecture of Art. 6.4. Providing information on SD is a participation requirement. All Host Parties shall, before engaging in the mechanism, ensure that (...) they have indicated publicly, how their participation contributes to SD<sup>4</sup>. The obligation to publicly indicate how the mechanism's activity contributes to SD is a clear improvement compared to the CDM of the Kyoto Protocol. The draft rules and procedures reflect these participation requirements coherently in the approval

process, where the host party has to confirm and explain, how the activity fosters SD<sup>5</sup>. The explanation requirement is new and states another considerable improvement compared to the CDM<sup>6</sup>.

However, the provisions that establish principles or minimum guidance on SD assessment and MRV are not part of the draft rules of procedures for Art. 6.4. To enable SD assessment and MRV of impacts, the Supervisory Body could be mandated to come up with voluntary guidance.

In contrast to the draft guidance on Art. 6.2, the latest draft on rules and procedures of the Art. 6.4 mechanism contains safeguards. Every Art. 6.4 activity shall avoid negative environmental and social impacts<sup>7</sup>. However, an earlier reference to human rights vanished.

The mechanism would also address stakeholder consultation. The draft laid out in the Presidential Proposal requires any Art. 6.4 activity to undergo local (...) stakeholder consultation consistent with applicable domestic arrangements in relation to public participation, local communities, and indigenous peoples<sup>8</sup>. The role of stakeholders is further strengthened by the establishment of a grievance mechanism. Stakeholders, activity participants and participating Parties may appeal decisions of the Supervisory Body or request that a grievance be addressed by the Supervisory Body<sup>9</sup>.

Compared to the CDM, where only Parties (countries) were able to ask for a request for review, the draft provisions now extended the scope of eligible applicants considerably. The grievance mechanism, however, comes with the caveat that the Supervisory Body will have to examine its own decisions. This arrangement carries the risk that the Supervisory Body may not be objective in the grievance processes. Parties should be aware of and try to mitigate this risk, when they come together to agree on future decisions on the grievance mechanism<sup>10</sup>.

**Conclusions:** The provisions on SD in the Presidential Proposal of Art. 6.4's rules and procedure state a clear improvement, especially compared to the drafts of the Polish Presidency from 2018. The SDI acknowledges this improvement. At the same time, it should be flagged that Art. 6.4 can and most likely will play a role model in the design of national climate policies in the future. This may also apply for domestic arrangements under Art. 6.2. In that context it would be helpful to mandate the Supervisory Body to develop voluntary tools/approaches that may support SD assessment and its monitoring over time.

<sup>4</sup> See iteration 3, Paragraph 26 lit. d) [https://unfccc.int/sites/default/files/resource/CMA2\\_11b\\_DT\\_Art.6.4\\_.pdf](https://unfccc.int/sites/default/files/resource/CMA2_11b_DT_Art.6.4_.pdf)

<sup>5</sup> The explanation requirement was integrated in the 3rd iteration of the Presidential Proposal, see Paragraph 39 lit. a).

<sup>6</sup> The CDM only asks for a confirmation of SD contribution in the Letter of Approval issued by the host country, an explanation is not required.

<sup>7</sup> See iteration 3, Paragraph 31 lit. d) (iii) 3

<sup>8</sup> See iteration 3, Paragraph 31 lit. e)

<sup>9</sup> See iteration 3, Paragraph 59

<sup>10</sup> See iteration 3, Paragraph 8 lit. e)

## Non-Market Approaches no longer provides for development of an SD tool

The “rulebook” work under Art. 6.8 is still in early stage of clarifying its role. Negotiations take place under the title “Work programme under the framework for non-market approaches”. For the implementation of the work programme the draft text establishes the NMA Forum. The forum has an important function for the interpretation of the work programme of non-market approaches. The provisions framing the work programme state that Art. 6.8 assists participating countries in achieving their NDCs by (...) contributing to sustainable development and poverty eradication<sup>11</sup>. To facilitate the design of such SD contributions, earlier versions of the draft work programme suggested the development of tools for promoting (and even measuring) SD contribution. This proposal went missing in the latest drafts. The current proposal only speaks of identifying and sharing relevant information (...) on how to leverage and generate mitigation co-benefits that assist the implementation of NDCs<sup>12</sup>. With the disappearance of an SD tool, the draft has lost its most tangible outcome. Sharing information on co-benefits will take place with or without non-market approaches. A voluntary tool to demonstrate how SD contributes to the implementation of NDCs, could give Art. 6.8 a relevance to also promote assessment and MRV of SD in Art. 6.2 and 6.4.

The latest draft lists examples of potential focus areas of non-market approaches. Such areas may be (...) the avoidance of GHG emissions, adaptation benefit mechanism, ecosystem-based adaptation, or integrated water management. Other focus areas may be sustainable management of forests, social ecological resilience and energy efficiency schemes<sup>14</sup>. The listing of these elements shows the general potential of Art. 6.8 to link climate action to the SDGs (e.g. Food, Water, Forests, Energy) and its indicators.

Procedural elements linked to SD such as safeguards, or grievance mechanisms are not embedded in the draft text of the work programme. Stakeholder consultation is, however, mentioned as a modality of the work programme itself and may include meetings with public and private sector stakeholders (...), publication of the outcomes of such meetings; and submissions from public and private sector stakeholders<sup>15</sup>.

**Conclusions:** Art. 6.8 still needs to find its ultimate destination. The text of the draft work programme contains a series of links to SD. However, the nature of non-market approaches is not comparable to its siblings in Art. 6.2 and Art. 6.4. It is therefore not possible to analyse the role of SD the same way. The proposed NMA forum may serve as an important place for sharing information but nothing more.

<sup>11</sup> See iteration 3, Paragraph 2 lit. b) (ii) [https://unfccc.int/sites/default/files/resource/DT.CMA2\\_i11c.v3.pdf](https://unfccc.int/sites/default/files/resource/DT.CMA2_i11c.v3.pdf)

<sup>12</sup> See iteration 3, Paragraph 8 lit. b) (ii) d)

<sup>13</sup> See iteration 3, Paragraph 7 lit. a) (ii)

<sup>14</sup> See iteration 3, Paragraph 5 lit. a), b) and d)

<sup>15</sup> See iteration 3, Paragraph 7 lit. b) and c)

The Sustainable Development Initiative (SDI) for Art. 6 aims at promoting strong provisions on sustainable development for the rulebook of Art. 6. The initiative is a collaboration of UNEP DTU Partnership and the Gold Standard Foundation supported by Belgium, Finland, Germany, Norway and Sweden. Views stated are those of the authors of this document and do not represent any consensus among the Parties involved.

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