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"Some elements need political resolution, others can benefit from more technical work"

REPORT OF THE ECBI WEBINAR ON ARTICLE 6

15 OCTOBER 2020

Senior negotiators on Article 6 discussed key controversial elements of the Paris Agreement's Article 6 rulebook during a Webinar on 15 October 2020, organised by ecbi. The Webinar focused on five 'crunch' issues, identified in a draft ecbi policy brief that was circulated among the 29 participants in advance:

- Accounting for mitigation not covered by the Nationally Determined Contributions (NDCs) of host Parties.
- Operationalising the principle of achieving an "overall mitigation in global emissions" (OMGE).
- Generating adaptation finance through market-based cooperation.
- Using pre-2020 certified emissions reductions (CERs) from Clean Development Mechanism (CDM) activities for post-2020 NDCs.
- Setting baselines and determining additionality in the Article 6.4 mechanism.

Webinar Chair Kishan Kumarsingh, Lead UNFCCC Negotiator for Trinidad and Tobago, and Co-Chair of the ecbi Advisory Committee, laid out the expectations from the Webinar. He said national and group positions on Article 6 are well known, but it would be helpful to discuss which elements need political resolution, and

which ones will benefit from further technical discussions, particularly to inform intelligent political decision making. Kumarsingh called on participants to take into account the principles that are explicitly stated in Article 6, or generally accepted, as the basis of which decision should be taken. He also requested participants not to belabour national positions or points that are well known, but to focus on possible ways of resolving differences instead.

In a welcoming address, Tosi Mpanu Mpanu, Chair of the Subsidiary Body for Scientific and Technological Advice (SBSTA), said Article 6 is one of three issues, along with transparency and common time frames, that remains to be resolved in the Paris rulebook. Completing the work on Article 6 is a priority for SBSTA, he said, and discussions like the ecbi Webinar are necessary for progress, particularly during the current time when formal negotiations cannot take place because of the COVID-19 pandemic. He noted that negotiators were close to agreement on the Article 6 rulebook at COP25 in Madrid, and while the unresolved issues are not many, as the draft ecbi policy brief shows, they are "of high political weight". He hoped that the discussion will advance understanding on how to achieve what has been unattainable for some years.

ACCOUNTING FOR MITIGATION NOT COVERED BY NDCs

Axel Michaelowa, Perspectives Climate Group and co-author of the draft ecbi policy brief, presented the key issues that still need to be agreed on accounting for mitigation not covered by NDCs. He said there are currently two conceptually different interpretations of what “outside NDCs” means (see **Figure 1**):

- The first interpretation is based on sectoral coverage of the NDCs. Traditionally, for instance, the energy sector is covered in most NDCs, including emissions from electricity generation, the transport sector, and the industrial sector. But for various reasons, the agricultural sector is not covered in many NDCs.
- The second interpretation, applied by Brazil, refers to emissions reductions compared to business

as usual promised in NDCs. Any mitigation effort beyond this promise is deemed as being “outside NDCs”.

A second issue to be resolved, Michaelowa said, is how the emissions “outside NDCs” are linked to the “annual emissions balance” that Parties account against (see **Figure 2**). He noted that the Article 6 and transparency negotiations are not synchronised on whether the annual emissions balance and the National Inventory Reports (NIRs) are the same, or different. The transparency negotiators clearly say there is a difference between the two. For example, mitigation activities in certain sectors are not fully reflected in the NIRs, but they might be reflected in the emissions balance, and in reporting from Article 6. To understand the repercussions of the accounting of “outside NDCs” activity, he said it is important to make the link between the emissions balance and NIRs.

Figure 1: Two different interpretations of mitigation “outside NDCs”

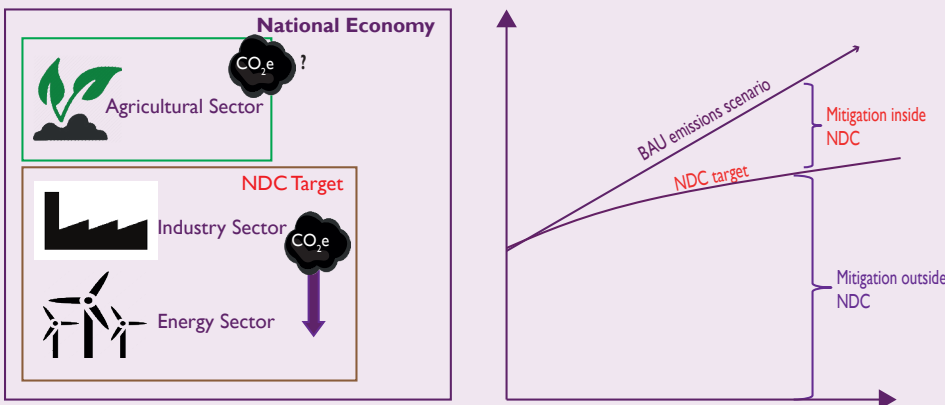


Figure 2: Accounting for emissions “outside NDCs”

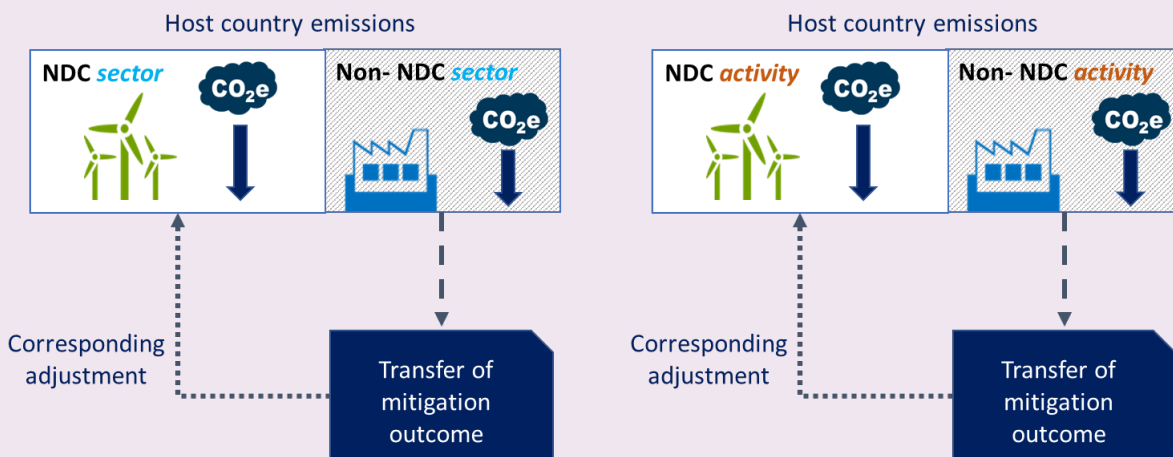
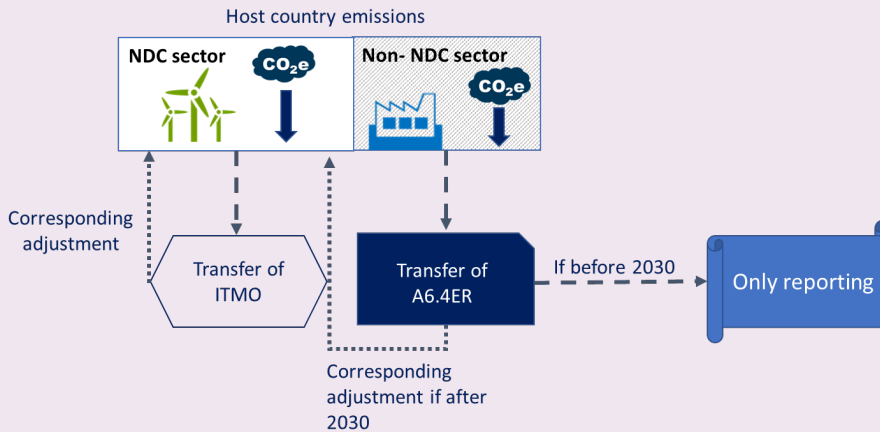


Figure 3: Compromise proposal – a transition period until 2030



Michaelowa concluded by describing a compromise proposal on the table: to have a transition period during which accounting of mitigation occurring in sectors “outside NDCs” will be allowed, but corresponding adjustments will not take place. Article 6.4 emissions reductions from sectors “outside NDCs” would simply be reported (see **Figure 3**). Different end dates for the transition have been proposed, he noted, but 2030 has been used in the draft policy brief for simplification.

Michaelowa called on participants to reflect on how to define mitigation activities “outside NDCs”; how to reflect them in annual emissions balances and NIRs; and the length of the transition period when it would not be necessary to do a corresponding adjustment.

In the discussion, Webinar participants:

- Highlighted that a requirement for all Article 6 activities to come from “inside NDCs” would have the same de-facto outcome as a requirement to account for all Article 6 activities on the annual emissions balance, even if they stem from “outside NDCs” (although this hinges on the assumption that corresponding adjustment need to be made).
- Disagreed whether it will be possible to easily assess whether an activity is “inside” or “outside” NDCs.
- Did not think an opt-out transition period for corresponding adjustments is a good option, as it allows for double counting.

Participants from LDCs stated their preference to have Article 6 units generated only from mitigation activities that are within NDCs, and not have unaccountable elements that are outside NDCs.

A developed country participant sought to explore whether the question on the connection between the NIRs and annual emissions balance can be re-framed to circumvent disagreement. He said the answer is clear to him: most countries assume in their submissions to the UNFCCC that the NIR is corrected to reflect Article 6 activities, and that corrected version is then the emissions balance. He also said that it will be difficult to test whether a certain activity is “inside” or “outside” the NDC, given the lack of detail in NDCs. Regardless of whether an activity is inside or outside, he said, if a country authorises a transfer, then it will have to account for it. The only way to deal with the “inside”/“outside” question, he concluded, is to let the country decide whether it wants to authorise a transfer or not. If it does, then it has to account for it.

A developing country participant said a transition period during which corresponding adjustments will not be made is essentially an endorsement of double counting, which Parties have committed not to allow under the Paris Agreement.

A developed country participant asked why a country would want to sell something and apply a corresponding adjustment if it can't count it. On a practical level, he said, this would be the same as not allowing activities that are

not covered under an NDC, if the actors are rational. On the technical aspect of identifying whether something is inside or outside an NDC, he said there is guidance on the scope of an NDC, but very clear language in the Article 6 guidelines will be needed if a differentiation is made between “inside” and “outside” NDCs. He agreed that a transition grace period would be an endorsement of double counting, and that corresponding adjustments should be required for any mitigation outcomes are transferred, whether they are inside or outside NDCs.

Another developed country participant referred to §77(d) of the modalities, procedures, and guidelines of the enhanced transparency framework under Article 13 of the Paris Agreement, which states that Parties will report on information related to Article 6 in the context of the structured summary on NDC implementation. He asked if an opt-out period was even a possible compromise under the circumstances, or whether the divisions were more fundamental than that.

OPERATIONALISING OVERALL MITIGATION IN GLOBAL EMISSIONS

This discussion was kicked off by a presentation by Aglaja Espelage, Perspectives Climate Group and co-author of the draft ecbi policy brief on Article 6. Espelage said there are two main issues in negotiations related to OMGE:

- What is the definition of OMGE and how to operationalise it under Article 6.4.

- Does OMGE only relate to Article 6.4, or is it an underlying principle of Article 6 that should also apply to Article 6.2.

She said differences on the definition of OMGE had narrowed down to two in the negotiation texts (see

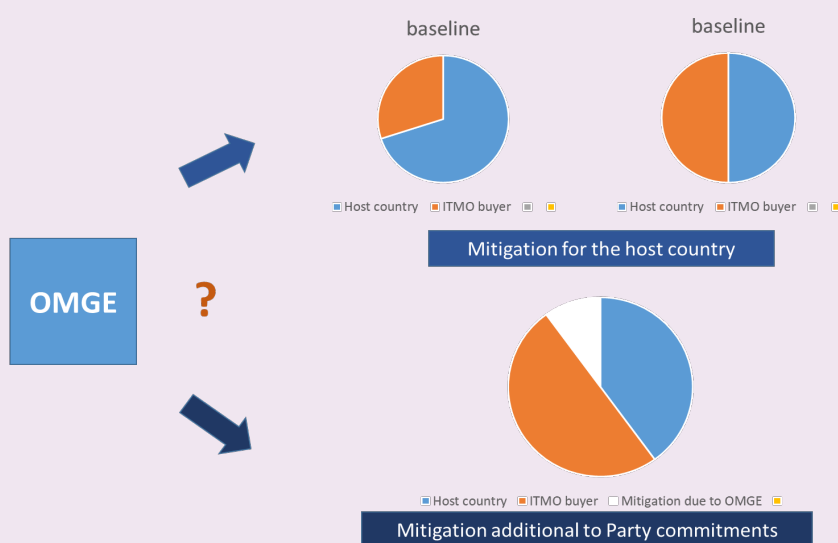
Figure 4):

- OMGE refers to the use of “overly” conservative baselines, to ensure that less mitigation is credited to the buyer and more is left for the host country. This will be captured in the host country’s NIR and accounted towards its NDC compliance.
- OMGE refers to achieving mitigation that is not claimed by the buyer or used by the host country to achieve its NDC, but is set aside to benefit the atmosphere. This would mean that a certain part of the emission reductions achieved would be cancelled, either mandatorily or voluntarily in the context of results-based climate finance. This will ensure a benefit for the atmosphere beyond Parties’ targets, and also benefit those Parties that are not participating in Article 6 mechanisms.

Espelage said a further question is whether there should be only one interpretation allowed, or more; and if so, if the same will also apply to Article 6.2. She asked participants to consider who should benefit from OMGE, and why.

Before opening the floor for discussions, Chair Kishankumar said his first reaction would be to say the atmosphere should benefit from OMGE.

Figure 4: Compromise proposal – a transition period until 2030



Participants discussed whether OMGE only relates to a mitigation benefit not claimed by anyone (“true” global benefit); and/or includes the requirement that the term mitigation is re-defined from a comparison with BAU, to a comparison with an emission path that is in line with Paris ambition. (The latter interpretation is linked to another crunch issue, of baseline setting).

A developing country participant said Parties in Madrid had come to appreciate that OMGE is about global benefits, and the actual outstanding issues in the negotiations relate to the percentage that should be applied for OMGE, and whether OMGE should apply to Article 6.2. She also noted that the description of OMGE in the context of conservative baselines is an issue of environmental integrity.

A developing country participant agreed that the OMGE issue had progressed beyond definitions in Madrid, and the discussion had moved on from the conceptual level.

A developed country participant agreed that the existing negotiating text presents agreement on OMGE as a lever to deliver overall mitigation, but said it is absolutely clear that the world cannot deliver carbon neutrality through BAU trajectories. Therefore, he felt part of the OMGE issue is to challenge the BAU trajectories, and find another reference point.

GENERATING ADAPTATION FINANCE

Michaelowa said Parties have not yet agreed on:

- The amount to be levied, or what “share” of the proceeds from Article 6.4 should go towards funding adaptation and for administrative purposes.
- The form of the levy – whether it should be a percentage share of the credits, or a monetary levy, or a combination of the two as in the case of the Kyoto Protocol’s Clean Development Mechanism.
- Whether the share of proceeds should also apply to Article 6.2, and whether such an application should be voluntary or mandatory.

He invited participants to consider how things would work from an institutional and process point of view if

Parties agree that adaptation finance should also be generated through Article 6.2.

In the discussion, participants recognised that the issue of assigning a share of proceeds from Article 6.2 for adaptation is a very political issue, but agreed that the process of generating adaptation finance through Article 6.2 is not clear, if there is eventual agreement on this issue or even a strong recommendation. As bilateral cooperation under Article 6.2 can take many different forms (not only projects, for instance, but also linking of emissions trading systems) the same ‘mechanics’ as Article 6.4 mechanism cannot be applied, and new solutions must be found.

A developed country participant said the question of applying a share of proceeds to Article 6.2 is very political, in part because finance is always political and in part because the finance discussions in the coming couple of years will be ramping up, and Parties want to keep as many hooks as they can for that discussion. So a technical discussion about generating adaptation finance among market experts may not be helpful, he felt. He further noted that there is no agreement among the countries that prioritise the issue on how it would actually work under Article 6.2; and reiterated his national position that there is nothing in the Paris Agreement about Article 6.2 raising adaptation finance.

Another developed country participant agreed the politics is important, and Parties are divided among those that say it is not in the Paris Agreement, and therefore it can’t be done, and it’s about broader finance discussions; and those that say it needs to be done for the sake of balance between Article 6.2 and 6.4, and it would perhaps be detrimental to Article 6.4 if it doesn’t also apply to Article 6.2. Out of that conundrum, he said, what emerged in Madrid in the third iteration text is a strong encouragement, not a requirement, for Article 6.2. He also noted it is a strong encouragement to *commit*, not a strong encouragement to *contribute*.

A developing country participant said there was progress on this issue in Madrid, towards an acceptance that there would be adaptation finance from both Article 6.4 and 6.2, with some nuances in the language. The critical issue

that remains to be resolved is a mechanical one, related to when the share of proceeds is taken out.

Another developing country participant agreed, saying he was surprised to see the question on whether the share of proceeds should apply to Article 6.2 in the draft policy brief. He noted that Article 6.1 is quite clear in stating that we need to have the highest level of adaptation, much like we need to have the highest level of mitigation ambition. He said agreement that the share of proceeds should apply to Article 6.2 was a substantial win in Madrid, and important enough to be mentioned by his delegation in the closing plenary of the Conference. He cautioned against going backwards.

Chair Kumarsingh asked participants to brainstorm on how share of proceeds can be applied to Article 6.2.

Another developing country participant agreed that quite a range of countries, not just developing countries, came together and contributed to the progress on this issue in Madrid. She said it is not really a political issue at all, but a very practical issue, to ensure that Article 6.4 is not disadvantaged in comparison to Article 6.2. While the mechanics for generating share of proceeds from Article 6.4 are clearly laid out in the text, how it will operate under Article 6.2 still needs to be decided.

A developed country participant pointed to practical difficulties in applying share of proceeds to bilateral agreements where there may be no units that are tradeable. If a country allows fossil fuel importers to compensate their emissions with activities carried out abroad, he said, it is not logical to then ask the country to then pay into the Adaptation Fund.

Another developed country participant said his country was brought right up to its red line on the question of share of proceeds on Article 6.2, and he was now hearing participants say that the red line should be a starting point for further concessions. The answer is no, he said, but if a country wishes to use a cooperative approach as a tool to help raise adaptation finance, then they are free to do so. He also reminded participants that the amount of

money involved here would be quite small compared to the overall amount of climate finance, so the issue is not about the money, but the language around the requirements.

A developed country participant said at the end of the Madrid Conference, there was no agreement on which version of the negotiating text was the basis for negotiations. He said the question is whether a political compromise is possible on the Article 6.2 share of proceeds issue, and this is not a technical discussion.

USING PRE-2020 CERTIFIED EMISSIONS REDUCTIONS (CERs) FOR POST-2020 NDCs

Espelage presented on this topic, saying the issue relates to whether certified emissions reductions (CERs) that were generated under the CDM before 2020 should be allowed to transition into the Article 6.4 mechanism, and used to meet post-2020 NDC targets. It was a one of the most controversial issues before Madrid, she said, but significant progress was made during the COP25 negotiations.

She described the two main options for limiting the carry over CERs in the negotiation text:

- Setting a cut-off criterion for the eligibility of units based on the underlying project registration date (different from the vintage of emissions reductions). Espelage said several dates were proposed by Parties, without much room for compromise.
- The time period by which CERs could be used. Some Parties proposed a short period, until 2023, others proposed 2025, and others proposed 2030.

Espelage listed other potential options to limit CERs that were discussed earlier in the negotiations:

- Limiting the vintage of the emission reduction that give rise to CERs (underlying monitoring period).
- Limiting the project types.
- Limiting the use of the CERs to the host countries where the CERs were generated, and to a certain period of time.

- Not using CERs for NDCs, but using them for other purposes, such as results-based climate finance, voluntary markets, etc.

She noted that a discussion paper considered the implications of the options. In particular in the context of Programmes of Activities (PoA), setting the cut-off date as the registration date of the overarching programme would mean that Component Project Activities (CPAs) that were included to an older PoA after 2016 could not deliver CERs to be transitioned. If the cut-off relates to the single CPA inclusion date, a significant CER transition would be possible, especially from hitherto under-represented regions. She noted that the amount of CERs issued, cancelled, or retired is only known on an aggregate level. However, it is not known to what vintage or project these CERs relate. It is also unclear how many more potential further units could be issued for monitoring periods until 2020, so Parties have been trying to find a good way of limiting carry-over and finding a compromise for this period. Espelage noted there are many unknowns in this equation.

She concluded by asking participants to consider how much carry-over can be allowed in Paris Agreement NDCs, keeping in mind that the Doha Amendment has recently come into force; and who should profit from it.

In the discussion, participants referred to the solution found under the International Civil Aviation Organization (ICAO) for its pilot phase over 2021-2023, where pre-2020 CERs are accepted with activity start dates and emission reduction vintage cut-off dates. They highlighted the importance of understanding: differences in parameters for which cut-offs could be undertaken; the potential transition volumes that would be available given different cut-off times and parameters; and the scale of units eligible under NDCs and the demand for using these units in post-2020 carbon markets.

Some argued that using pre-2020 CERs would further lower ambition and not provide incentives for new mitigation action in 2020. They also noted that the issue is linked to the question of legal grounds for the CDM to continue operating after 2020, and that post-2020 CERs

are currently being discussed by the CDM Executive Board.

A developing country participant said carrying over units is not constructive in the Paris Agreement, where efforts should focus on moving forward and developing new project activities. It is functionally a diminishment in ambition, she said, and she did not think that "who should profit from it" is a legitimate question in this context.

Another developing country participant said the Kyoto Protocol and Paris Agreement are two separate international legal instruments that don't relate to each other. There is nothing in the Paris Agreement that allows Kyoto Protocol elements to continue functioning under the Paris Agreement, and the low ambition in the current NDCs will be diminished further by introducing units generated from another legal instrument. He cautioned against reinventing what is in the Paris Agreement, and said there are serious legal issues about the use of CERs within an agreement that doesn't have a basis for it. He said Parties in Madrid came close a compromise to have some procedure for allowing some projects created under the Kyoto Protocol to get accreditation under the Paris Agreement, possibly thorough a simplified accreditation process, instead of an automatic transfer.

A developed country participant noted that the ICAO pilot phase will allow some pre-2020 units to be transferred for activities that started in 2016, without closing the door for a similar arrangement in future phases. He said this was done because different programmes under ICAO have different registration procedures, so there wasn't really a common line for registration across all programmes. It may however be possible to use the registration date for CDM projects, if Parties are open to a transition of units.

Another developed country participant called for a better understanding of what is being proposed, and the impact of the scale of units being transferred. He said a lot of time has been spent on discussing how to transition units from the past, with hardly any time spent on designing a system that delivers more ambition in the future. Those holding on to CERs had a very clear perspective of what their returns would be post-2020,

he added, because there has been no demand for them from at least 2011. Information on the level of demand post-2020 is still missing, and it is not clear whether there will be any new activities at all. Noting a discussion under the CDM Executive Board, he said there are now active proponents in the Board of having post-2020 CERs, and the CDM operating post-2020 as well, which is not possible and unhelpful in terms of the negotiation dynamic. While there is some flexibility, he called for clarity on exactly how many units will be transferred under an exemption. As a trade-off, he said, the rest of the Article 6 framework will have to allow for ambition.

BASELINES AND ADDITIONALITY IN THE ARTICLE 6.4 MECHANISM

Michaelowa listed the generic methodological principles included in the draft negotiation texts (see **Table 1**), along with some questions – including whether the reference to “increasing ambition” applies to the activity, or to the host country; and whether the determination of appropriateness in the reference to “as appropriate” will be determined by the Article 6.4 Supervisory Body.

He noted that based on the experience gained under the CDM, benchmarks are more appropriate for certain homogeneous sector; while for sectors that are diverse, definitions of best available technologies and different

regulatory regimes work better. He asked if the reference to “below business-as-usual” (BAU) will be enough to guide a “menu” of approaches, noting that past experience indicates that the proposed definitions may only be applicable to certain sub-sectors.

On additionality testing, he noted proposals to continue using the definitions that have been used under the CDM, with consideration of new policies and laws; and the link to NDCs and long-term strategies remain unclear.

In conclusion, Michaelowa invited participants to discuss specific elements of methodologies that are needed, given the rapid changes of commercial attractiveness of technologies. For instance, he said, while solar PV is the lowest cost option in many places, international carbon market programmes still don’t include them in their baselines.

In the discussion, participants agreed that a central question relating to the reference to “ambition” is whether this refers to the ambition through the mechanism, or to the ambition of host countries in the NDCs with the mechanism as an implementation tool. This will need to be resolved to answer the question of appropriate baselines. Some argued that the Article 6.4 mechanism must deliver on carbon neutrality pathways, and so baselines /additionality should be derived from national decarbonisation pathways, rather than linked to

Table 1: Generic methodological principles in listed in the draft negotiation texts

PROVISION	RELATED TO	QUESTIONS
“Shall”	Transparency, conservativeness	
“Should”	Encourage increasing ambition over time	Within the same activity? In the host country?
“Should take into account, as appropriate”	Uncertainty, leakage, relevant policy, consistency with developing country participant, contribution to reducing emission in host Party, low-emissions development strategies of Party, long-term Paris Agreement target	Who determines “appropriateness”?

the characteristics of specific activities and technologies (which are used to date in CDM methodologies and additionality tests). Others argued that the Article 6.4 mechanism should not be used to test new concepts, but should stick to lessons learnt. Participants agreed on the need to clarify terminology.

A developed country participant disagreed that this is a technical issue, saying it is the core to the design of the Paris framework and its ambition. He said the use of credits, under whatever mechanism, for improvements on BAU cannot deliver carbon neutrality, or even achieve the NDCs, and does not distribute the benefits of mitigation between hosts and buyer in any way that delivers a benefit to the buyer. BAU cannot be the reference point, he said, and a process and language needs to be found to allow for the host countries to take the benefits of the mitigation that has been invested in, and to preserve room for progression, because crediting periods go beyond existing NDCs. The default has to be a more ambitious approach, not more conservative baselines or changes to additionality rules.

The participant called for principles or standards that the Article 6.4 mechanism will apply, to deliver mitigation benefits that are long term, and will not tie Parties into levels of emissions that are too high, or commitments to selling levels of emissions they cannot afford. He said it is important to have references to future-oriented standards based on the best available performance benchmarks. The question therefore is, he said, do we have a BAU or backward looking approach to crediting under the mechanism, or do we have something that demands something more? And how do we get to the language that sets out that standard in an objective way?

A developing country participant agreed that the discussion is less about the technicalities and more about the long-term pathways of Parties. He called for recognition that this is a fundamentally different mechanism from the CDM, because it has a fundamentally different objective. It is the only market where you don't play *against* other market participants, but you play explicitly *with* other market participants. If one party's market strategy causes another stakeholder

in this market to fail in their objectives, then the party's market strategy fails with them. This means that relationships have to be stronger and deeper, he said, with consideration of whether support for that activity fits into long-term strategies and how they are looking into getting to zero emissions within the timeframe that is set by science. He concluded that units should not have value in and of themselves, but rather have value as a transition tool between where we are now and where we need to go – as a group, not as individual countries.

Another developed country participant said this is more of a technical issue for him. He noted that the discussion in Madrid indicated that there is a concern about hot air in the CDM, and discomfort with some of the CDM's baseline setting approaches. Parties therefore wanted to take the CDM approaches and update them to solve these problems. The literature on CDM that criticises certain project approvals, he said, either proposes negative lists by activity type, which would be challenging to negotiate, or macro approaches where, for instance, the NDC trajectory would be used as a crediting baseline. There is no literature that proposes incremental improvements to the modalities or procedures for baseline approaches, as set out in the CDM, to resolve these issues.

He agreed that to get to carbon neutrality, eventually crediting for reductions will have to be supplanted by crediting for removals, as Article 4.1 calls for a balance between emissions and removals, not for a balance between emissions and reductions. The question, he said, is how to get there over time, and what this means for the design of the Article 6.4 mechanism, and for baseline approaches and additionality. He listed elements necessary for all baselines, including transparent assumptions, parameters, conservativeness, reflecting best practices identified in the literature, regular updates, and increased stringency over time. But he said, there are no concrete proposals for how to turn Article 6.4 into a more transformative mechanism, and he was wary about using the mechanism to experiment. He concluded that the issue of baselines and additionality is technical, with

some non-technical concerns, but those non-technical concerns need to be made more concrete, so that we can assess them, rather than just trying to sneak them into what is otherwise a technical discussion about how to design a crediting mechanism.

A developing country participant said there is language recognising the need for special consideration for LDCs, and LDCs were hoping to have a discussion in the work programme on how to operationalise those words. LDCs fared poorly with the CDM, he noted, and therefore sought exemptions to additionality or standardised baselines, but that needs to be considered in a work programme.

A developing country participant said the additionality assessment done under the CDM is very problematic because developing countries did not have commitments under the Kyoto Protocol, and so any action was additional. She called for additionality testing that is beyond that, based on the broader goals of the Paris Agreement. She said one of the concerns about the benchmarks based on best available technologies is the capacity of some countries to undertake these

approaches but taking a BAU approach will not resolve the issue of capacity *per se*. She agreed with previous comments on the need for more stringent additionality testing and baseline setting.

A developed country participant said one way of framing the concerns voiced by participants is to consider what the relationship is between the Article 6.4 mechanism and mitigation ambition generally. He noted this is a dividing line in the negotiations, between Parties who see the mechanism as a tool to increase ambition, and others who see it just as a tool to implement NDCs, and called for further discussions between now and COP26.

Concluding the Webinar, Chair Kumarsingh thanked participants and said the Webinar had identified some issues that require more thought; some that need political resolution; and others that need political resolution but can benefit from technical discussions going forward. He noted that discussions in the chat indicated convergence of views on some issues, and encouraged participants to share their notes with each other to advance progress on the Article 6 rulebook.

European Capacity Building Initiative

Annexe Offices, Linton Road, Oxford OX2 6UD, United Kingdom
Phone: +44 (0) 1865 284 413
e-mail: administrator@oxfordclimatepolicy.org