

Article 6 para 4

Oxford, 13/Sep/2019

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PA x KP

- PA for each Party NDC is **Nationally Determined Contribution**
 - As there is no clear definition for NDC (para 14 of Decision 1/CP.20) as it is ambiguous and general
 - No gases and sectors defined and no fixed start year
 - Agreed one year before Paris w/o knowing if Paris would be a success
 - To be communicated “well in advance of COP21”
 - Achievement is a success if
 - Emission reduction achieved (for some Parties only) or Contribution is fulfilled
- KP for each developed countries there was a mitigation **commitment** that was mandatory and legally binding
 - Legally binding commitment Art 3.1
 - Gases and sectors in Annex A
 - Net changes of human-induced land-use change and forestry activities shall be used to meet the commitments of each Party (Art. 3.3)
 - QELROS percentage inscribed in Annex B (assigned amount of the base year in Annex B multiplied by 5) Art 3.7
 - Base year (1990 or Art 3.5)

CDM+ x JI

- Article 6.4 was created based on
 - Brazilian submission (proposal of CDM+)
 - Joint proposal Brazil/EU in Paris
 - Incentive to mitigation action voluntarily by the private sector
 - Projects are additional to what would occur in the absence of Article 6 of PA
- Last minute submission of EU in June 2019 in Bonn inserted paras on draft text that transformed Art 6.4 in JI like against the spirit of the Article
 - Perverse incentive for countries not to authorize Art 6.4 (corresponding adjustment like KP in JI Art 3.10 and 3.11) and not like CDM (only Art 3.12)
 - NDC would be **NOT** Nationally Defined any longer
 - Any Art6.4ER sold would reduce the NDC according to EU
 - No mention to adjustments in Art. 6.4

Para 14 of Decision 1/CP.20 (Lima)

- 14. Agrees that the information to be provided by Parties communicating their intended nationally determined contributions, in order to facilitate clarity, transparency and understanding, may include, as appropriate, inter alia, quantifiable information on the reference point (including, as appropriate, a base year), time frames and/or periods for implementation, **scope and coverage**, planning processes, **assumptions and methodological approaches including those for estimating and accounting for anthropogenic greenhouse gas emissions and, as appropriate, removals**, and how the Party considers that its intended nationally determined contribution is fair and ambitious, in light of its national circumstances, and how it contributes towards achieving the objective of the Convention as set out in its Article 2;
 - Scope and coverage (**policies and programs** defined by the Government under the NDC)
 - Methodological approaches for estimating and accounting of anthropogenic GHG emissions and removals (**economy-wide**)

Economy-wide

- In our view, economy-wide refers to the whole economy and therefore all anthropogenic emissions and removals and not to scope and coverage;
- Scope and coverage are defined in the NDC as the policies and programs implemented by the Government that are explained to clarify the methodological approach and assumptions made for the preparation of the NDC

Beyond the NDC

- Beyond NDC means that the specific activity would not be implemented under the NDC even if the sector/activity type is under the NDC
- It would not be implemented if there was no Article 6.4 under PA – it is therefore additional or beyond the NDC
 - Some project activities in an area can be inside the NDC (not additional) and at the same time other activities in the same area are not under the NDC and are additional
 - Example for **wind and solar power plants**
- There is no meaning to inside or outside NDC (terms are extraneous to Paris Agreement)
- The project activity shall be additional – it would not be implemented by the host country if there was no Article 6.4

Flexibility of use of units of Art 6.4

- Article 6.4 does not prescribe the use of the units
 - Article 6.2 refers to use of ITMOs towards NDCs
 - while under Article 6.4 it is created a mechanism for mitigation and there is only reference under item c to “resulting in emission reductions that can **ALSO** be used by another Party to demonstrate achievement of its NDC”

Article 6.4.c

- 4. A mechanism to contribute to the mitigation of greenhouse gas emissions and support sustainable development is hereby established under the authority and guidance of the Conference of the Parties serving as the meeting of the Parties to this Agreement for use by Parties on a voluntary basis. It shall be supervised by a body designated by the Conference of the Parties serving as the meeting of the Parties to this Agreement, and shall aim:
 - (a) To promote the **mitigation of greenhouse gas emissions** while fostering **sustainable development**;
 - (b) To **incentivize and facilitate participation in the mitigation** of greenhouse gas emissions **by public and private entities** authorized by a Party;
 - (c) **To contribute to the reduction of emission levels in the host Party**, which will benefit from mitigation activities resulting in emission reductions **that can also be used by another Party** to fulfil its nationally determined contribution; and
 - (d) To deliver an **overall mitigation in global emissions**.

Corresponding adjustment and Double counting

- There is no mention to “corresponding adjustments” under Article 6 and hence Art 6 para 4
- There is only mention of “avoidance of double counting” under Article 6.2 (equivalent of Art. 17 in KP)
 - Solved easily by the use of ITL
- There is NO mention under Article 6.4
 - On the contrary, **Article 6.4.c** states “... in the host Party, which will benefit from mitigation activities resulting in emission reductions that can also be used by another Party to demonstrate achievement of its NDC”

Double counting

- Emissions reductions of Project activities are counterfactuals
 - Based on baselines of what would occur in the absence of the project
 - Are NOT real and measurable – they are assumptions
 - It is not possible to add emission reductions (counterfactuals) to the emission inventories (done in accordance with IPCC guidelines) or reduce NDC by hypothetical emission reductions
 - Solar and wind power have no emission and EU mantra (avoid double count) would imply to add “emission reductions “ from hypothetical fossil fuel power plants to the inventories (directly or indirectly)
 - These emissions reduction do not exist – they were never counted (projects are additional)– how can be that there is double count?
 - From perspective of atmosphere is a global mitigation
- Effort to implement the NDC will be increasing each time a Party authorize an Article 6.4 project activity – nor incentivize neither facilitate the participation of private and public entities
 - Parties should not authorize participation if they want to accomplish their NDC
 - Create hurdle to participation (voluntary?)
 - Increasing of the effort is **not Nationally Determined** but subject to decisions of the Board regarding counterfactual baselines and methodologies
- Emissions of project activities are already covered in the inventory

Article 6.5

- **5. Emission reductions** resulting from the mechanism referred to in paragraph 4 of this Article shall not be used to demonstrate achievement of the host Party's nationally determined contribution if used by another Party to demonstrate achievement of its nationally determined contribution.
 - Literally taken is tautological
 - If it is assumed that is referring to units it is easily solved by the use of ITL
 - EU mixed the literal use of emission reductions in the first part of the paragraph with the use of units in the second part even if creating a “shadow” accounting of the NDC

Consequences for corresponding adjustment and double counting

- Corresponding adjustments under emissions trade were already stated under Kyoto Protocol Articles 3.10 and 3.11 (reference to Article 17)
 - This is correct in our view for transfers between national registries
 - Not for transfer from the SDM registry to a national registry
- Under Article 6.4 there is NO mention to corresponding adjustments (illegal!)
 - If the Party authorizes the private sector it will be modifying the accounting for the achievement of the NDC so it is **NOT nationally determined contribution** but compulsory by the regulation imposition proposed by EU
 - It is not a voluntary participation any longer and has implication on the ratification by the Congress in the Brazilian case
 - Consequence: Parties should not authorize the participation of the private sector and therefore no additional incentive for mitigating climate change
 - It is better for the Party not to participate in Article 6 unless it has hot-air
 - Go against the idea of “incentivize participation of public and private entities”
 - Will decrease the potential for overall mitigation (no additional activities beyond NDC)

Final remarks

- Project activity that would not be implemented under the NDC (additional)
- Implemented by private sector (not under the control of the government) – not part of the NDC
- With support of another country in a small part of the investment (burden most to PP and revenues of ER are just marginal and improve IRR)
- It would imply in a modification of the NDC by a counterfactual amount (not foreseen in the ratification with cost implications) that would not correspond to reality
 - Wind Power and Solar Power have no emissions
 - Counterfactual fossil fuel will increase the cost of achieving NDC
 - This counterfactual fossil fuel fired power plant was a means to create value for CERs in CDM and has no real existence and cannot be attributed to the emissions reductions of the country