

Re: Article 6.4 Sustainable Development Tool (“SD Tool”), version 0.80

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Ms. Maria Al Jishi
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Ministry of Energy
Saudi Arabia

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Submitted electronically to A6.4mechanism-info@unfccc.int

Dear Chair Al Jishi,
Dear Vice Chair Hession,

The Institute for Agriculture and Trade Policy (IATP),¹ an accredited observer organization, appreciates this opportunity to submit comments on unresolved differences in the SD Tool text. In accord with the procedure for the “Consideration of unsolicited letters to the Supervisory Body,”² we hope that you will find the following comments merit sharing with all Members and Alternate Members of the Supervisory Body (SB). According to the report of the “Thirteenth meeting of the Article 6.4 mechanism Supervisory Body,” there is an informal working group that is revising SD Tool, version 08.0 “with the aim of adopting the draft tool on the first day of that [the 14th] meeting.”³ Because of the imminence of adoption and the crucial role that successful implementation of the SD Tool plays in the operationalization of the Article 6.4 mechanism, IATP is submitting this letter about unresolved but crucial issues indicated partly in the bracketed text of version 08.0. The SB has done praiseworthy work on the SD Tool since its first version, but important work remains to be done.

Resolving disagreements indicated in bracketed text

¹ IATP is a nonprofit non-governmental organization headquartered in Minneapolis, Minnesota, U.S., with offices in Washington, D.C. and Berlin, Germany. Our responses to the SB Calls for Input on the SD Tool are at

https://unfccc.int/sites/default/files/resource/SBM013_call_for_input_annotation_SDT_IATP.pdf (version 07.0); <https://unfccc.int/sites/default/files/resource/SBoo8-SDToolTemplateIATPcomments.pdf> and <https://unfccc.int/sites/default/files/resource/SBoo8-SDToolTemplateIATPcomments2.pdf> (version 02.0)

² <https://unfccc.int/sites/default/files/resource/A6.4-PROC-GOV-002-v01.0.pdf>

³ Paragraph 16, p. 6. <https://unfccc.int/sites/default/files/resource/A6.4-SBM013.pdf>

Agreement on the adopted text of the SD Tool is a prerequisite for its successful application by activity participants, Designated Operating Entities (DOEs) and host Party authorities, and for the realization of sustainable development benefits resulting from well-designed, monitored and administered mitigation activities. The following sample of bracketed texts indicates the kinds of dilemmas that the SB must resolve before adopting the SD Tool.

Where complete avoidance of risk is not possible, activity participants shall provide evidence that the activities are consistent with safeguarding principles, criteria and host Party laws or regulations [, including agreements that meet the Host Party’s obligations under international law]. In addition, activity participants are encouraged to also apply standards, industry best practices, and/or their own voluntary policies identified as relevant to the environmental and social safeguards principle and are [required][encouraged] to do so in the absence of host Party regulations. 8. In addition, activity participants are [encouraged] [required] to apply relevant standards, industry best practices and/or their own voluntary policies in addition to or in absence of host party laws and regulations. (paragraphs 7 and 8)

Agreement to remove the brackets around “[, including agreements that meet the Host Party’s obligations under international law]” will not be achieved unless the text specifies which international conventions, protocol, treaties and other texts are applicable to the SD Tool. In addition to the “Normative References,” (paragraph 17, p. 10) international agreements are referenced throughout the SD Tool, e.g., in paragraph 53, regarding displacement and resettlement resulting from mitigation activities. Such references should be added as a footnote to the phrase “under international law” in paragraph 7 and should be added to the “Normative References.”

How to resolve the dilemma between “[encouraged]” and “[required]” should be discussed in the context of the “mandatory use” of the SD tool applied to Article 6.4 mitigation activities, including those Clean Development Mechanism activities of Parties that wish CDM credits to be eligible for transfer to the Article 6.4 mechanism registry. (paragraph 5) If the host Party lacks laws and regulations relevant to the environmental and social safeguards principles, surely activity participants must be required to supply evidence in the three SD Tool forms⁴ that their activities comply with the SD Tool’s environmental and social safeguard principles and sustainable development criteria.

IATP proposes that the SB rewrite paragraphs 7 and 8 to delete “and/or their own voluntary policies.” If buyers of Article 6.4 Emissions Reduction (ER) credits discover that activity participants are allowed to comply with the environmental and social safeguard principles and sustainable development criteria just by applying “their own voluntary principles” in the absence of host Party laws and regulations, they may well not buy any more ER credits that allow activity participants to comply merely by applying their “voluntary principles.” The purpose of the successful application of the SD Tool is not only to realize sustainable development benefits and to ensure compliance with the environmental and social safeguards, but also to enable activity

⁴ The A6.4 Environmental and Social Safeguard Risk Assessment Form, the A6.4 Environmental and Social Management Plan Form and the A6.4 Sustainable Development Tool Form.

participants to offer for sale ER credits to non-Parties on competitive terms with the voluntary carbon credits of such crediting programs as Verra.

According to a Task Force on Scaling Voluntary Carbon Markets survey in 2020 of buyers and prospective buyers of carbon offset and removal credits, 45% of those surveyed were concerned about “a lack of environmental and social integrity of certain [offset] projects.”⁵ If sales of ER credits are to increase once the Article 6.4 mechanism is legally operationalized, satisfying the concerns of buyers and prospective buyers about the efficacy of SD Tool environmental and social safeguards will be required.

One important means to satisfy those concerns is missing from the SD Tool text. Nowhere in version 08.0 is it stated where a prospective ER credit buyer will find the three SD Tool forms filled out by activity participants together with the corresponding DOE validations of the activities design and the DOE verifications that the activities have achieved their SD Tool objectives. IATP recommends that the SB describe in a sentence or two where these activity participant and DOE documents will be posted. A logical place to include this sentence(s) would be “Section 2.3: Entry into force” (paragraph 6, p. 5).

We further recommend that the activity participant documents and DOE documents be posted on an SD Tool page in the Article 6.4 mechanism registry. That page could also host related documents, such DOE reports of activity participant consultations with local communities and Indigenous Peoples, and DOE validations or verifications of activities that did not comply with all the SD Tool principles, criteria and requirements. The SB concludes that if it does not have sufficient authorization from the Fourth Meeting of the Parties⁶ to include such SD Tool documents on the mechanism registry website, it should avail itself of the following authority to continue work on how to make SD Tool-related documents available to prospective buyers and the public. Per the request of the CMA in Dubai, “the Supervisory Body [is] to continue the relevant work to operationalize the mechanism, with a view to elaborating and further developing recommendations for consideration and adoption by CMA 6.”⁷

The removal of brackets is needed to adopt the SD Tool text and take one more step to operationalize the Article 6.4 mechanism. However, bracket removals will not optimize host Party, Indigenous Peoples or local community benefits from mitigation activities if the implementation of social and environmental safeguards by activity participants is perceived by potential buyers of Article 6.4 credits to lack a robust, transparently documented and consistent jurisdictional authority. If the operationalization of the Article 6.4 mechanism is to contribute to achieve the Paris Agreement objectives, the use of the SD Tool must not only be mandatory: The application of the Tool must be rigorous and consistent among all Parties who choose to participate in the mechanism.

Criteria for implementing Principle 10: Corruption

⁵ “Public Consultation Report,” Task Force on Scaling Voluntary Carbon Markets, May 20, 2021, (Slide 50). https://www.iif.com/Portals/1/Files/TSVCM_Public_Consultation.pdf

⁶ Dec. 7/CMA.4, https://unfccc.int/sites/default/files/resource/cma2023_10a02E.pdf#page=33

⁷ <https://unfccc.int/process-and-meetings/bodies/constituted-bodies/article-64-supervisory-body/rules-and-regulations#CMA-docs>

Currently, there are no criteria for activity participants and DOEs to apply to “avoid, prevent, detect, and respond to corruption or corruption attempts during the design, development, implementation and operation of the proposed activity.” (paragraph 61, p. 23) The only subsequent reference to Principle 10 is this: “3.7. Principle 10: Corruption 11. (p. 63) This principle and any criteria are contained in Social and Environmental Safeguards, Section 6.3.7.” (p. 63) However, Section 6.3.7 contains no criteria.

IATP’s July 8, 2024, response to the SB Call for Input states, “It is crucial for the integrity of the Paris Crediting Mechanism that the SB provide Principle 10 criteria that outline the roles of the DOE and the relevant host Party authority in assessing information about possible instances of corruption and deciding whether to investigate, prosecute and take enforcement actions regarding activities, activity participants and activity crediting.”⁸ The Secretariat responded that the DOE is not a prosecutor, which is true. IATP should have clarified that the DOE can only gather information about possible instances of corruption. Relevant host Party authorities decide whether there is sufficient information for a host Party prosecutor to undertake a formal investigation, and if warranted by the evidence, issue a prosecutorial decision.

Corruption is a politically sensitive issue that does not, however, disappear if the SB agrees to provide no criteria for assessing whether instances of corruption may be occurring in relation to mitigation activities. It is far better for the reputation and the commercially successful operation of the Article 6.4 mechanism if the SD Tool provides criteria for the activity participants and that the DOEs and relevant host Party authorities to work cooperatively and proactively to “avoid, prevent, detect, and respond to corruption or corruption attempts during the design, development, implementation and operation of the proposed activity.”

Conclusion

According to three scientists, the realization of the Paris Agreement objectives is imperiled by record-high fossil fuel production and greenhouse gas emissions on a pathway to an overshoot of the 1.5⁰ C goal. They warn against relying on engineering solutions to save us from the consequences of overshoot.⁹ In this dire situation, a high integrity Article 6.4 mechanism requires a high integrity SD Tool. IATP hopes that this unsolicited letter and our responses to SB Calls for Input, cited in footnotes 1 and 4, will assist the SB in improving the SD Tool text. Thank you for your consideration of our analyses.

Respectfully submitted,
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⁸ p. 2.

https://unfccc.int/sites/default/files/resource/SBMo13_call_for_input_annotation_SDT_IATP.pdf

⁹ James Dyke, Robert Watson and Wolfgang Knorr, “The overshoot myth: you can’t keep burning fossil fuels and expect the scientists of the future to get us back to 1.5⁰ C,” *The Conversation*, August 20, 2024.

<https://theconversation.com/the-overshoot-myth-you-cant-keep-burning-fossil-fuels-and-expect-scientists-of-the-future-to-get-us-back-to-1-5-c-230814>