



Re: Article 6.4 Sustainable Development Tool (“SD Tool”), version 09.0¹

September 30, 2024

Ms. Maria Al Jishi
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Ministry of Energy
Saudi Arabia

Mr. Martin Hession
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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),² an accredited observer organization, appreciates this opportunity to submit comments on the technical knowledge and skill set of the Designated Operational Entity (DOE) to effectively implement the SD Tool. In accord with the procedure for the “Consideration of unsolicited letters to the Supervisory Body,”³ we hope that you will find that 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.”⁴

¹ <https://unfccc.int/sites/default/files/resource/A64-SBM014-AA-A07.pdf>

² 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/SB008-SDToolTemplateIATPcomments.pdf> and <https://unfccc.int/sites/default/files/resource/SB008-SDToolTemplateIATPcomments2.pdf> (version 02.0)

³ <https://unfccc.int/sites/default/files/resource/A6.4-PROC-GOV-002-v01.0.pdf>

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

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 to advise the SB how it could better integrate the SD Tool with the Article 6.4 Accreditation standard, which entered into force as of Jan. 1, 2024.⁵ An initial and simple means to link the two documents would be to cite and briefly explain the accreditation standard at the first mention of the DOE in the SD Tool (currently paragraph 5f, page 3, in version 09.0). Such a simple linkage would enable both emissions reduction and removal activity participants, and representatives of Indigenous Peoples and local communities in which activities projects were proposed or located, to easily find the document that explains the accreditation qualifications and duties of the DOEs and entities applying to become DOEs.

Version 09.0 states, “The adoption of the Article 6.4 sustainable development tool (hereinafter referred to as the A6.4 SD Tool) will necessitate updates to the relevant Article 6.4 standards and procedures. These updates will ensure alignment with the new A6.4 SD Tool requirements for reporting, validation and verification” (paragraph 3, page 8). The updates cannot be agreed soon enough because the current accreditation requirements, although necessary for reporting, validation and verification of emissions reduction and removal, are insufficient to ensure compliance with the sustainable development indicators, benefit sharing, and safeguards as stipulated in the latest version of the SD Tool.

Praise for version 09.0 except for the lack of criteria to implement the safeguards principle against corruption

Before we propose in greater detail further ideas for enabling better operationalization of the SD Tool through linkage with the accreditation standard, IATP would like to acknowledge the work of the SB in resolving disagreements, signified by bracketed text, in version 08.0 of the SD Tool. IATP submitted an unsolicited letter to the SB on Aug. 30, in which we suggested how the SB might resolve differences in version 08.0.⁶

In general, version 09.0 resolves disagreements in 08.0 to strengthen and make more consistent the legal force of the SD Tool. For example, paragraph 12 of 09.0 states

“that the A6.4 activities comply with the environmental and social safeguarding elements and criteria as defined in section 6 of this tool, including those relevant to the eleventh preambular paragraph of the Paris Agreement, [footnote 5] as well as relevant and applicable national and international instruments to which the host Party is bound (see figures 1 and 2). Such international instruments may include, for example, the UN Guiding Principles on Business and Human Rights, the International Labour Organization fundamental conventions, and recognized international best practices.”

⁵ Paragraph 5, “Standard: Article 6.4 Accreditation,” A6.4-STAN-ACCR-001, Version 01.0.
<https://unfccc.int/sites/default/files/resource/A6.4-STAN-ACCR-001.pdf>

⁶ <https://www.iatp.org/iatp-comment-article-64-sustainable-development-tool>

This is a comprehensive legal framework for activity participant compliance with the environmental and social safeguarding principles and their corresponding criteria. We advised the SB in our Aug. 30 letter to delete the phrase “and/or their [the activity participants] own voluntary policies” as a compliance option. IATP continues to believe that the deletion of this phrase in version 09.0, which might have weakened compliance, will result not only in more robust safeguards but will increase buyer confidence in the integrity of Article 6.4 Emissions Reduction (ER) credits.

IATP still has some concerns about version 09.0, but save for one concern, we do not address them here, since the SD Tool “shall be reviewed every 18 months.” (paragraph 9, page 9). That one concern is the lack of criteria still in version 0.9 with which to enable compliance with the safeguards’ principle against corruption. Our Aug. 30 letter to the SB states,

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” (page 4).

IATP agrees with the Secretariat’s response to our July 24 input on this principle: the DOE’s legal authorities do not extend to investigating possible instances of corruption related to activity participants projects, e.g., regarding bribery.⁷ DOE substantive or procedural errors in validation and/or verification of emissions reduction or removal projects can be appealed through the Article 6.4 grievance mechanism and procedure. However, under the current version 09.0 text, the safeguards principle on corruption has no means of implementation. Among the Designated National Authority’s’ duties must be using SD Tool criteria on the corruption principle to ““avoid, prevent, detect, and respond to corruption or corruption attempts during the design, development, implementation and operation of the proposed activity.”

Integrating the Accreditation mechanism standard with the SD Tool

In the part of the Procedural Notes to the version 09.0 that explains the history of the development of the SD Tool, the Secretariat receives this instruction from the SB: that the SD Tool “Reflect balance between host Party priorities and safeguards principles” (paragraph 5g, page 3). In the SD Tool, the safeguards are specified: the host Party priorities are not. One means to promote some balance is to ensure that DOE personnel are qualified and accredited to assess compliance of activity participants with the sustainable development indicators and the environmental and social safeguards.

⁷ p. 2.

https://unfccc.int/sites/default/files/resource/SBM013_call_for_input_annotation_SDT_IATP.pdf

The Accreditation mechanism standard's provisions on "Human resources and competence" of DOEs have little to say about the human resources and competence required to evaluate the activity participants' 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. Instead, the standard's section on "Human resources and competence" states,

A DOE shall have sufficient human resources with the necessary competence relating to the type, range, and volume of estimated/planned workload for each technical area in which the DOE intends to operate or operates, within all sectoral scopes in which the DOE has applied for accreditation or has been accredited. (page 18, paragraph 50)

As Appendix 2, "Sector scopes and sectoral technical knowledge," (pages, 40-54) shows, none of these resources and competences are in the evaluation of environmental and social safeguards nor of sustainable development indicators. In Appendix 3, "Validation and verification/certification technical knowledge," (pages 51-54), there is just one subparagraph to indicate that the DOE will have the human resources and competence to assess the accuracy and completeness of the activity participant responses to the three SD Tool forms mentioned above.

A designated operational entity (DOE) shall ensure that a validation or verification/certification team: . . . Environmental and social impacts as part of the sustainable development tool and taking into account stakeholder engagement and consultation, and any host Party guidance (page 51).

Relative to the highly detailed description of human resources and competence requirements in both these annexes, this description of the requirements to implement the SD Tool is almost an afterthought. Instead, implementation of the SDT should be a core management function of the DOE with well-specified personnel requirements and competences coordinated with the sector scopes and sectoral technical knowledge requirements and competences, e.g. regarding forestry-based activities.

IATP is further concerned about the coherence of the Accreditation mechanism standard with the SD Tool because of the provisions for outsourcing DOE functions to contractors. For example, "The DOE shall outsource functions only to entities that comply with applicable national laws" (page 19, paragraph 58). This requirement would be by itself unobjectionable if the purpose of the Article 6.4 mechanism were to sell Article 6.4 ER credits only within the host Party. However, because the SD Tool and the Article 6.4 Mechanism have a comprehensive international and national legal framework, as cited above, to outsource DOE functions to entities only subject to national laws could create implementation and compliance loopholes.

"Appendix 1: Functions that may be outsourced" (pages 36-39) lists many core DOE functions that may not be outsourced. But IATP does not understand why a DOE would outsource "Validation/verification contract review" or "Control of records." Although we don't know why a DOE would outsource such functions, the SB should discuss possible consequences of outsourcing for compliance with SD Tool requirements.

Conclusion

The implementation of policy depends on personnel, in the case of this letter, concerning DOE personnel requirements and competency. However, the role of the Designated National Authority, particularly in relation to the DOE, is not stipulated in the SD Tool nor in the Accreditation mechanism standard. The SB should consider whether to stipulate that role before adopting the SD Tool.

The stakeholder engagement section of the SD Tool has improved markedly in version 09.0. For example, “After the registration of the A6.4 activity under the Article 6.4 mechanism, activity participants shall establish and maintain a continuous engagement mechanism for stakeholders to comment on compliance with the A6.4 SD Tool until the end of the valid crediting period of the project” (page 11, paragraph 17). This is a much-needed engagement mechanism that the DOE can and should oversee. However, the limitations of the “continuous engagement mechanism,” even if perfectly implemented, are the limitations of the “valid crediting period,” since that mechanism ceases to function following the end of the crediting period. There is no definition of “crediting period” in the UNFCCC glossary, much less a definition for “valid crediting period.”⁸ If the methodologies expert working group agrees on a definition for “valid crediting period,” we would expect to see that and other methodological definitions incorporated into the SD Tool, since what is a “valid crediting period” in an activity participant emissions reduction or removal contract may not suffice for needed environmental and social safeguards and sustainable development in activity participant project areas.

Thank you for your consideration of these comments.

Respectfully submitted,

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⁸ “Glossary,” Non-Annex I Training Package,
https://unfccc.int/resource/cd_roms/na1/ghg_inventories/english/8_glossary/Glossary.htm#V