

**Proposal for a Draft Decision on
“Principles of the mechanisms pursuant to Article 6.2 and 6.4 of the Paris Agreement”**

Introduction

The following proposal on “Principles of the mechanisms pursuant to Article 6.2 and 6.4 of the Paris Agreement” aims at informing the international discussion on how to operationalize key elements of Art. 6 of the Paris Agreement in 2018, namely the notions of sustainable development (SD), environmental integrity (EI), and additionality. The following suggestions are based on the insights of an expert debate held in Berlin in December 2017 supported by the Federal Ministry of the Environment. Atlas Environmental Law Advisory and adelphi have been cooperating to facilitate this discussion, digest the main issues, and – with the following – advance draft language on how a number of intrinsic elements of a future trading environment could be addressed by way of a decision of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA). With the draft decision we hope to inspire and inform the ongoing discussion. We look forward to any comments on this proposal.¹

Section	Dimension	Issues addressed
Caption	General	<ul style="list-style-type: none"> - The decision is structured as a stand-alone to address guiding principles for the mechanisms under Art. 6.2 and Art. 6.4, and it could be extended to integrate specific elements for Art. 6.8 (outside the scope of the present analysis); - A similar approach was taken as part of the Marrakesh Agreements, when identifying common denominators for the mechanisms of Art. 6, 12 and 17 of the Kyoto Protocol (cf. Decision 15/CP.7); - The decision may eventually (as an option) be merged with other future decisions dedicated to the mechanisms under Art. 6;
Preamble	Setting the scene and legal referencing	<ul style="list-style-type: none"> - Mandatory: Reference to delegated legislation seconding this decision, in particular on instrumentalizing Article 6.2 and 6.4 - Mandatory: Reference to ‘instructions’ on the architecture from the Paris Decision; - Mandatory: General remarks on the subject of the decision: SD and EI (which should be read to include the principle of “additionality”) - Optional: Reference to treaty principles and/or documents, e.g. by referring to the preamble of the UNFCCC, which reflects many of the guiding themes of the international architecture (Notabene: the preamble to the UNFCCC includes, among many others, a reference to the principle of common but differentiated responsibilities, so a reverberating principle in the context of the Paris Agreement); other possible references include the 2030 Agenda for Sustainable Development and other key environmental conventions;
1-3	Sustainable Development	<ul style="list-style-type: none"> - Decision leaves the matter to the national prerogative of countries (sec. 1); - However, a common reporting framework is installed (namely concerning the national process and national rules) as well as the principle that both countries involved in any trades must confirm the compliance with their SD rules (thus, it is not the host country alone that needs to regulate and comply with the matter) (sec. 2-3) - Countries must base their SD rules on the 2030 Agenda for Sustainable Development (sec 1);

¹ Please send any comments to Moritz von Unger (m.vonunger@atlasela.com) and Dennis Tänzler (taenzler@adelphi.de).

4-14	Environmental Integrity (Art. 6.2)	<ul style="list-style-type: none"> - Art. 6.2 does not reference additionality, nor does the Paris Decision for the purpose of Art. 6.2; the draft decision regards additionality as an element of EI, however (general; sec 7); - In a narrow reading, Art. 6.2 links the requirements of SD and EI to the transfers of int'l mitigation outputs only, not the underlying measure; however, such reading would set the provision apart from the chapeau provision of Art. 6.1; the draft decision makes clear that both the measure and the transfer need to follow comprehensive SD/EI rules (general); - Decision limits trades under Article 6.2 to mitigation outcomes that are accounted for at the level of both (or all of) the participating countries (sec 4); - Optional: Trades under Art. 6.2 requires independent confirmation of the underlying 'sufficient ambition' (certainly politically difficult to agree on) (sec 5); - Trades under Art. 6.2 require both (all) participating countries to demonstrate 'own-efforts' underlying NDC implementation (sec 6); - Trades under Art. 6.2 requires participating countries to demonstrate real and additional nature of the outcome transferred (no independent verification foreseen) (sec 7); - Trades under Art. 6.2 require equivalent "accounting metric" (rules on metrics and equivalence to be issued by the delegated body) (sec 8, 14); - Trade under Art. 6.2 must be followed by a corresponding adjustment ("CA") on the side of the host country (for purchasing country: not a requirement), <ul style="list-style-type: none"> - that the host country's CA (debit) must be higher than the adjustment at the buyer(s) level (credit), and - that all transfers must be reported in a particular way (information on type, transfer amount, adjustment amount, transaction parties, involvement of private entities) and within fixed deadlines (sec 8-13);
15-29	Environmental Integrity (Art. 6.4)	<ul style="list-style-type: none"> - Mechanism under Article 6.4 is open to any sector (no need to be within the scope of an NDC) (sec 15); - Country must decide (one-time decision) whether it wishes emission reductions or removals (both referred to as "ERs" in the following) to be usable by other countries for their NDC achievement or not (sec 16); - Ringfencing of No-Use-Decision: If country decides that ERs may not be usable, all ERs issued must be kept in domestic registry of host country and are construed as non-transferrable (sec 17); - If country decides that ERs are usable by other countries, the main provisions of Article 6.2 apply (see above) as well as sector- and/or country-specific multipliers to secure net-climatic benefit (sec 18); - ERs can only be issued for additional measures (sec 19); - Determination of ERs requires baseline-calculations, whereby the definition and types of baselines broadly follow the concepts laid out by CDM/ JI (sec 20-28); - [Executive Body] is to develop standardized baselines and can use the CDM/JI legacy (sec 24); - However: All policies and measures implemented to achieve an NDC target must be accounted for in the baseline scenario (rejection of E+/E-) (sec 23); - Decision also includes a placeholder for sectors/project types for priority-development of standardized baselines (sec 26);

Draft Decision -/CMA.3 (Mechanisms)

Principles of the mechanisms pursuant to Article 6.2 and 6.4 of the Paris Agreement

The Conference of the Parties serving as the meeting of the Parties to the Paris Agreement,

Aware of its decisions [...],

Recalling decision 1/CP.21, in particular its paragraphs 36 and 37;

Recalling also the [preamble to the Convention],

Recognizing that Parties to the Paris Agreement may choose to pursue voluntary cooperation in the implementation of their nationally determined contributions to allow for higher ambition in their mitigation and adaptation actions and to promote sustainable development and environmental integrity,

Affirming that it is a participating Party's prerogative to confirm whether a cooperative implementation action assists it in achieving sustainable development,

Emphasizing that environmental integrity is to be achieved through sound modalities, rules, guidelines and oversight,

Sustainable Development

1. Decides that a Party wishing to engage in voluntary cooperation shall have procedures in place to ensure the promotion of sustainable development, based on the guidance provided by the United Nations 2030 Agenda for Sustainable Development;
2. Decides that each Party shall communicate its procedures for the promotion of sustainable development to the secretariat, as well as any updates made, and shall designate a national authority responsible for the application of such procedures, including the approval of any measures for implementation;
3. Decides that, for any measure for implementation, the designated national authority of the host Party as well as the designated national authority of any cooperating Party must confirm the compliance with the relevant procedures on sustainable development and make their findings public;

Environmental Integrity (Article 6 paragraph 2)

4. Decides that a Party participating in the mechanism pursuant to Article 6, paragraph 2, may only transfer mitigation outputs internationally that are accounted for under the Party's nationally determined contribution;
5. *[... and only provided the ambitious efforts underlying a Party's nationally determined contribution for the sector or sub-sector concerned or for the economy as a whole has been verified by [accredited independent experts] [accredited regional expert organizations] [the technical expert review led in accordance with article 13, paragraph 11];*
6. Decides that an international transfer of a mitigation output in accordance with Article 6, paragraph 2, requires both a transferring and a receiving Party to demonstrate – as part of the information regularly provided to track progress made in implementing and achieving its nationally determined contribution under Article 4 – that their own efforts underlying each Party's nationally determined contribution for the sector or sub-sector concerned or for their economy as a whole are sufficiently ambitious;
7. Decides that an international transfer of a mitigation output in accordance with Article 6, paragraph 2, requires the transferring Party to demonstrate – as part of the information regularly provided to track progress made in implementing and achieving its nationally determined contribution under Article 4 – that the specific mitigation output is the result of a real and ambitious measure for implementation that is additional to the Party's own efforts underlying each Party's nationally determined contribution;
8. Decides that Parties participating in the mechanism pursuant to Article 6.2 may engage in a specific bilateral or multilateral transfer of mitigation outputs, provided the accounting metric used to calculate the mitigation output under a Party's nationally determined contribution is the same or equivalent for both the transferring Party and the receiving Party or Parties and such equivalence has been confirmed by the [Supervisory Body] established pursuant to decision --/--;
9. Decides that each international transfer of a mitigation output must be accounted for as a debit under the transferring Party's nationally determined contribution and may be accounted for as a credit under the receiving Party's nationally determined contribution;
10. Decides that any credit accounted for by the receiving Party, or the cumulative credits accounted for if there are multiple receiving Parties, must not be greater than the accounting debit for the transferring Party;
11. Decides that all debits and credits from an international transfer must be notified to the [Supervisory Body] to become valid;

12. Decides that said notification shall include the type and amount of outcome for transfer, the debit and credit values prior and after the transfer, the identity of the transferring Party and of the receiving Party or Parties, as well information on whether public or private entities have been authorized to participate in the transfer;
13. Decides that said notification must occur within thirty days of the agreed date of international transfer;
14. Decides that the Supervisory Board shall develop guidance for the equivalence of accounting metrics.

Environmental Integrity (Article 6 paragraph 4)

15. Decides that a Party may implement measures in any sector and source category and from any greenhouse gas included in decision --/--, irrespective of whether the specific sector, source category or gas is included in the Party's nationally determined contribution;
16. Decides that prior to a Party's participation in the mechanism pursuant to Article 6, paragraph 4, it must communicate to the secretariat whether emission reductions or removals resulting from this mechanism may be used by another Party to demonstrate achievement of its nationally determined contribution;
17. Decides that where a Party chooses that emission reductions or removals resulting from the mechanism pursuant to Article 6, paragraph 4, may not be used by another Party to demonstrate achievement of its nationally determined contribution, they may not be considered for transfer as mitigation output pursuant to Article 6, paragraph 2, and may not be held outside the Party's [registry] established in accordance with decision --/--;
18. Decides that where a Party chooses that emission reductions or removals resulting from the mechanism pursuant to Article 6, paragraph 4, may be used by another Party to demonstrate achievement of its nationally determined contribution, any transfer must follow the requirements as laid out in paragraph 4, paragraph 6, as well as paragraphs 9-13 for transfers pursuant to Article 6, paragraph 2, while in each case the application of the sector- and/or country-specific multiplication factors as established in accordance with decision --/-- shall ensure that the accounting debit for the transferring Party will be greater than the accounting credit for the receiving Party or Parties to facilitate an overall mitigation in global emissions;
19. Decides that only those measures are eligible for implementation pursuant to Article 6, paragraph 4, which are expected to result in a reduction in, or removal of, anthropogenic emissions by sources of greenhouse gases that are additional to any that would occur in the absence of the proposed measure;

20. Decides that for each eligible measure a baseline shall be established, whereby the baseline shall be defined as the scenario that reasonably represents the anthropogenic emissions or removals by sources of greenhouse gases that would occur in the absence of the proposed measure;
21. Defines that a baseline shall cover emissions from all gases, sectors and source categories pursuant to decision --/--;
22. A baseline shall be deemed to reasonably represent the anthropogenic emissions and removals by sources that would occur in the absence of the proposed measure, if it is derived using a baseline methodology approved by the [Executive Board] established pursuant to decision --/--;
23. Decides that when a baseline methodology is applied to a specific measure, all policies, practices and interventions, as adopted or made from time to time with a view of implementing a Party's nationally determined contribution, shall be taken into consideration;
24. Decides that the [Executive Board] established pursuant to decision --/-- shall develop procedures on standards for a Party or a group of Parties to facilitate the calculation of emission reduction and removals and/or the determination of additionality for measures implemented under the mechanism referred to in Article 6, paragraph 4, while providing assistance for assuring environmental integrity as well as sustainable development, and while building on, as appropriate, procedures adopted by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol;
25. Decides that Parties, public and private entities authorized by a Party to participate in the mechanism referred to in Article 6, paragraph 4, as well as international industry organizations, admitted observer organizations and civil society representatives, through a Party's designated national authority as established pursuant to decision -- / --, may submit proposals for standardized baselines for consideration by the [Executive Board];
26. Requests the [Executive Board], starting at its first meeting, to work and report to the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement on the potential for the establishment of standardized baselines and/or standards for the determination of additionality assessments for the following activities: _____
27. Requests the [Executive Board] to develop specific standards, as appropriate, in consultation with relevant designated national authorities, prioritizing methodologies that are applicable to least developed countries and small island developing States;
28. Decides that the application of the standards as defined in paragraph [...] above shall be at the discretion of the host countries' designated national authorities;
29. Requests the [Executive Board] to periodically review, as appropriate, the standards established.