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PROMOTING SUSTAINABLE DEVELOPMENT THROUGH ARTICLE 6 - THE ROLE OF BILATERAL AGREEMENTS

This paper is dedicated to Sven Braden, a founding partner of the Sustainable Development Initiative who sadly passed away in the summer of 2021. Sven's commitment to the inclusion of sustainable development within Article 6 was, and remains, an inspiration to us all.

1 - Context

Article 6 of the Paris Agreement enables national governments ('Parties') to cooperate in the implementation and achievement of their Nationally Determined Contributions (NDCs), through both market and non-market approaches. Under Article 6.2, Parties are able to cooperate through the international transfer of mitigation outcomes, meaning in effect that an emission reduction achieved in one jurisdiction can be used by a different national government towards the achievement of its own NDC.

Article 6.2 is explicit that cooperation involving such transfers must “promote sustainable development”, in line with the overall intention of Article 6. Parties are also required by Article 6.2 guidance adopted at COP26 to explain in their Biennial Transparency Reports how each cooperative approach “is consistent with and contributes to the sustainable development objectives of the Party, noting national prerogatives”. Parties must also explain how cooperative approaches minimise and where possible avoid negative environmental, economic and social impacts.

These provisions establish a basic framework for incorporating sustainable development considerations into Article 6.2 cooperative approaches. The text provisions do not however specify how this should be achieved, and therefore leave significant room for interpretation. Considering past CDM experience and critique that the assessment of sustainable development by host country Designated National Authorities (DNAs) is weak due to lack of guidance and robust tools being available (Olsen et al.2017), this is not considered by the Sustainable Development Initiative (SDI) to ensure the full potential of what Article 6 cooperation can achieve.

2 - Bilateral agreements

It is expected that Parties entering into cooperative approaches under Article 6.2 will, in many if not all cases, establish bilateral agreements between their respective national governments¹. The Government of Switzerland has already adopted such bilateral agreements with several partner governments, including Ghana, Peru, Senegal and Georgia.

¹ In the future, we may also see the emergence of plurilateral agreements between groups of governments. The recommendations contained within this paper would also apply for such multi-government agreements.

These agreements establish a legal framework between two governments under which mitigation outcomes can be internationally transferred. They in effect act to operationalise Article 6.2, with the two Parties agreeing to adhere to its principles and act in accordance with UNFCCC guidance, as well as adopting any further provisions and requirements considered necessary or desirable in addition to those specified in Decisions under the UNFCCC.

In some cases, these additional provisions may relate to issues not addressed under Article 6.2 or its draft guidance, such as the avoidance of corruption. In other cases, they may provide additional detail required for the implementation of provisions included in Article 6.2 and its guidance, such as the authorisation of an international transfer of mitigation outcomes. The promotion of sustainable development also falls into this second category.

As shown in Box 1, Switzerland’s current agreements include provisions on sustainable development with a level of detail beyond the high-level requirements of Article 6.2 guidance.

Box 1

Article 4 – Sustainable Development

Mitigation Outcomes for which transfer and use is authorised shall originate from activities that:

1. Are in line with sustainable development and any respective strategies and policies;
2. Are in line with the long-term low emission development strategies, as applicable;
3. Promote low emission development;
4. Prevent environmental-related negative impacts and respect national and international environmental regulations;
5. Do not lead to social conflict and violation of human rights

Box 1 – Sustainable development provisions in ‘Cooperation Agreement Between the Swiss Confederation and the Republic of Ghana Towards the Implementation of the Paris Agreement’. These are broadly replicated in Switzerland’s other current bilateral agreements.

3 - Sustainable development in bilateral agreements

As Switzerland's recent agreements with Ghana, Peru, Senegal and Georgia show, bilateral agreements will be fundamental to the implementation of Article 6.2. They provide Parties with an opportunity to apply additional principles and requirements, provided these are consistent with the Paris Agreement and any future Decisions adopted within the UNFCCC. This means that bilateral agreements can be an important mechanism for the promotion of sustainable development under Article 6.2: Parties can set a higher bar for sustainable development to ensure that activities within their cooperative approaches make a meaningful and measurable contribution to the SDGs at local, national and global levels.

Applying additional requirements for sustainable development will often be in the interest of the national government acquiring mitigation outcomes as well as the national government transferring these mitigation outcomes.

For the acquiring government, the sustainable development benefits of activities may for instance be an important part of the government's narrative related to their use of Article 6, in particular for their domestic audience. The contribution that activities make to sustainable development provides an additional rationale for investing in mitigation activity in another country, rather than domestically.

For the transferring government, the sustainable development impacts of activities are one of the primary ways in which they will benefit from cooperating under Article 6. The transferring government will, by the nature of Article 6.2, give up the right to at least a portion of the climate mitigation outcomes of activities, and not be able to use these towards their NDC. They will though retain the wider sustainable development benefits of projects, such as improved health, enhanced natural capital and economic opportunity. This is the subject of a separate paper by the Sustainable Development Initiative, published in 2022¹.

In addition, activities that make a more meaningful contribution to the SDGs are also in the interest of local communities and stakeholders, who may experience more tangible benefits from activities. This may also mean that activities and practices are more sustainable in the long-term after the end of an activity's crediting period.

¹ [Co-operating for the SDGs: Article 6 through a sustainable development lens](#)

4 - Recommended provisions to promote sustainable development in bilateral agreements

It is recommended that all Parties entering into bilateral agreements for cooperation under Article 6 include specific provisions within these agreements related to sustainable development. This section outlines different types of provisions which could be included in bilateral agreements, with rationales for each provision. These are intended to act as a guide for Parties using cooperative approaches, and to inform the preparation of bilateral agreements. Parties and other actors may identify additional provisions not included here that can complement and enhance those recommended, which would be welcome.

In the interest of encouraging alignment across countries' bilateral agreements, the provisions considered and discussed here are based on those included in existing bilateral agreements available at the time of writing. The provisions are also consistent with the [Good Practice Guidance for the Preliminary Assessment of Sustainable Development in Article 6 Actions](#) produced by the SDI in December 2020, which may inform the implementation of each provision.

4.1. Provision 1: Consistency and contribution to sustainable development objectives of the host country

Under Article 6.2 guidance, Parties are required to report, as part of their biennial transparency report, on how each cooperative approach in which it participates is “consistent with and contributes to the sustainable development objectives of the host Party, noting national prerogatives”. Including a provision within bilateral agreements that requires such consistency and contribution is therefore deemed to be essential to comply with Article 6.2 guidance, complemented by Provision 2 below.

4.2. Provision 2: Application of appropriate tools or approaches to monitor sustainable development impacts

Through Provision 1, it could be ensured that activities are selected that will make a contribution to sustainable development objectives of the host country. To make this meaningful and to enable transparency, it is important that activities are also required to monitor their contribution to identified Sustainable Development Goals, using appropriate tools and approaches.

Tools to monitor sustainable development impacts are available, including tools developed by established carbon market standards as well as other actors. It is expected that a new tool will also be developed for use in the new crediting mechanism established by Article 6.4. The rules, modalities and procedures for Article 6.4 adopted at COP26 request the new Supervisory Body to “review the sustainable development tool in use for the clean development mechanism and other tools and safeguard systems in use in existing market-based mechanisms to promote sustainable development with a view to developing similar tools for the mechanism by the end of 2023”.

The use of tools and approaches to monitor and measure the sustainable development impacts achieved by activities can support Parties in their reporting under the UNFCCC. It can also support host Parties to understand and track progress towards their sustainable development objectives and can help to ensure development impacts are actually achieved on the ground. It is therefore recommended that this is included as a requirement within bilateral agreements.

4.3. Provision 3: Alignment with long-term low emission development strategies, as applicable

An increasing number of governments are adopting long-term strategies to plan for their transition to a low-carbon economy, while ensuring economic prosperity and broader sustainable development. Cooperation under Article 6 can and should play an important role in support of these long-term strategies. Governments hosting Article 6 activities may be agreeing to transfer mitigation outcomes in the short-term, but these activities can generate longer-term benefits by channelling investment into, and driving innovation in, sectors that will be important for their longer-term emissions goals, and also for their longer-term development pathway. It is therefore recommended that this provision is included as a complement to Provision 1 and 2.

4.4. Provision 4: Prevent environmental-related negative impacts

Provisions 4 and 5 collectively represent the commonly accepted principle that carbon market activity should ‘do no harm’. As well as contributing positively to sustainable development, it is important that activities consider and put in place safeguards against any negative impacts. If host countries already have national requirements in place such as mandatory Environmental Impact Assessments (EIAs), these can be used to avoid duplication of work.

This has been divided here into separate principles related to environmental and social negative impacts, both of which are relevant for participation in cooperative approaches under Article 6. As described above, Parties will be required under Article 6.2 guidance to report regularly on how

each cooperative approach they are involved in minimises and where possible avoids negative environmental, economic and social impacts.

This provision, requiring the prevention of environmental-related negative impacts within bilateral agreements, can act as a basis for more comprehensive safeguarding requirements in tandem with the provision that follows. This should include safeguards to ensure, for instance, that activities:

1. Do not lead to an overall increase in greenhouse gas emissions
2. Avoid the release of pollutants, and either avoid or minimise and control the release of hazardous materials resulting from the activity
3. Ensure the protection and conservation of water supplies
4. Not negatively influence access to and availability of food supplies
5. Ensure soil protection and minimise erosion and degradation
6. Adopt appropriate and culturally sensitive sustainable resource management practices
7. Avoid or minimise the exacerbation of impacts caused by natural or man-made hazards, such as landslides or floods.

4.5. Provision 5: Prevent negative social impacts, including social conflict, violation of human rights or gender-based discrimination

As highlighted above for Provision 4, it is necessary to ensure that activities under bilateral agreements not only make a positive impact for sustainable development, but also avoid creating or contributing to negative impacts. This includes negative social impacts, as well as environmental ones.

It should be ensured that activities do not create or contribute, directly or indirectly, to a violation of human rights, social conflict or gender-based discrimination. Safeguards should be put in place to ensure this, based on the principle that project developers and other involved actors should respect internationally proclaimed human rights, abide by principles of non-discrimination and equal treatment of individuals and seek to do no social harm.

As for Provision 4, it is considered good practice to include a provision requiring the prevention of negative social impacts within bilateral agreements, which can act as a basis for more comprehensive safeguarding requirements. This can also be supported by enactment of Provision 6 below.

4.6. Provision 6: Establish and maintain a comprehensive stakeholder engagement process and related grievance mechanism

The establishment of a comprehensive stakeholder engagement process is an important means of ensuring that activities are designed and maintained in such a way that sustainable development is effectively promoted, and negative effects are avoided.

This should involve the identification of all relevant stakeholders – those who are local, affected or otherwise interested – and a consultation process that is inclusive and culturally-sensitive, and enables stakeholder input both before and during the activity’s operation. It should also be conducted in such a way that feedback is not just heard, but demonstrably influences the design of activities where this is appropriate. A transparent grievance mechanism can also protect against activities contributing to social or environmental harm, by allowing stakeholders to raise issues.

It is considered good practice for bilateral agreements to include such a provision, as the basis for activities to put in place comprehensive stakeholder engagement arrangements. Stakeholder consultation is required for activities that will register under the new mechanism established by Article 6.4, which will also have an independent grievance mechanism.

4.7. Additional consideration: Ensure transparency through reporting of information on how activities are promoting sustainable development

[Decision 18/CMA.1](#) provides modalities, procedures and guidelines for transparency under the Paris Agreement, and includes requirements for the information that Parties must report to the UNCFCCC. As part of this, Parties participating in cooperative approaches under Article 6.2 are required to provide information on how “each cooperative approach promotes sustainable development...consistent with decisions adopted by the CMA on Article 6”.

Transparency is a key component of cooperative approaches: it is important to give confidence that activities are being undertaken in the appropriate way, and can also provide an incentive for entities to consistently track and monitor relevant information, such as the sustainable development impact of activities under Article 6. Given that Parties are already required by [Decision 18/CMA.1](#) to provide information on the sustainable development contribution of their cooperative approaches, an explicit provision may not be required in bilateral agreements but could be considered.

5 - Model provisions for bilateral agreements

By adopting these provisions within their bilateral agreements, Parties can build a foundation for Article 6 cooperation that is consistent with Article 6.2 guidance and contributes meaningfully to sustainable development, delivering positive impacts in line with host country's sustainable development objectives and long-term low emission development plans, while avoiding or minimising negative impacts.

Box 2 below provides a set of model provisions, which Parties may wish to use as input or as a template for the development of future bilateral agreements.

Box 2

Model provisions - Promotion of sustainable development

Mitigation outcomes for which transfer and use is authorised shall originate from activities that:

1. Are consistent with and contribute to sustainable development objectives of the transferring Party, including any respective strategies and policies
2. Apply appropriate tools or approaches to monitor sustainable development impacts delivered by the activity
3. Are in line with the long-term low emission development strategies, as applicable
4. Prevent environmental-related negative impacts and respect national and international environmental regulations
5. Do not lead to social conflict and violation of human rights
6. Have undertaken consultation with local and otherwise affected stakeholders and have established an independent grievance process that may be accessed by stakeholders

The Sustainable Development Initiative (SDI) for Article 6 aims at promoting strong provisions on sustainable development for the rulebook of Article 6. The initiative is a collaboration of UNEP Copenhagen Climate Centre and the Gold Standard Foundation supported by Finland, Germany, Norway and Sweden in 2021-22. Views stated are those of the authors and do not represent any consensus among the Parties involved.

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