

Subsidiary Body for Scientific and Technological Advice

Chair's summary, informal consultations/informal technical expert dialogue on Article 6 of the Paris Agreement

Use of Kyoto Protocol units towards NDCs

Background

In relation to Article 6 of the Paris Agreement¹, in the context of the June 2021 subsidiary bodies sessional period, the SBSTA Chair, Mr. Tosi Mpanu Mpanu organized an informal consultation/informal technical expert dialogue on use of Kyoto Protocol units towards NDCs on 8 June 2021. The discussion was facilitated by Kim Solberg of the Netherlands and Anshari Rahman of Singapore. This summary is produced by the SBSTA Chair under his own authority.

This summary aims to capture possible options for further consideration by Parties and Heads of Delegation. It is informal in nature, has no status, and does not provide negotiation text. It does not attempt to provide a record of all views expressed during the dialogue and in submissions, nor indicate the support each of the options appeared to have.

In relation to the topic of the dialogue, as at 9 June 2021, no submissions specifically on this issue had been received, however it was covered in some submissions made under other discussion items.

The informal consultations/informal technical expert dialogue

Parties indicated various views on use of Kyoto Protocol units towards NDCs. Interventions made responded to guiding questions provided by the SBSTA Chair as follows:

Guiding Questions:

- **In what circumstances could CERs be used towards NDCs, if any?**
- **How would this use be implemented, if it were agreed?**

General points

The following general points, which focused primarily on the question of use of certified emission reductions (CERs) per Article 12 of the Kyoto Protocol (rather than other Kyoto Protocol units) towards NDCs were made:

- This is not a technical issue that could be solved by an assessment of different use scenarios. It is a political issue.
- There are no circumstances where CERs or other Kyoto Protocol units can be used towards NDCs, and there is no carry over from the Kyoto Protocol to the Paris Agreement, as there is no legal basis to do so. Any carry over of pre-2021 CERs would deviate from the agreement in Paris.

¹ Documents relating to Article 6 negotiations since 2016 can be accessed here: <https://unfccc.int/process/the-paris-agreement/cooperative-implementation>

- All proposals in the third draft Presidency text undermine current ambition. Current NDCs are insufficient to meet the 1.5 degrees temperature goal, as shown by the UNFCCC synthesis report, so we cannot undermine or erode further the need to meet the goals of the Paris Agreement through carry over.
- It is not the role of Article 6 and the mechanism to resolve the gap that is due to the lack of ambition in NDCs. The mechanism is just a tool aimed to help Parties achieve their NDCs in an easier manner with credible and proven emissions reductions. It is unrealistic to expect Article 6, which is voluntary, to deliver on the Paris Agreement goals when NDCs themselves do not.
- It is important that Parties have a good understanding of the numbers of Kyoto units that might be used for NDCs and that there is a scientific basis for decisions.
- CERs represent real, additional, already monitored achieved emission reductions. Parties cannot disregard real investments and real commitments by companies and governments that were made based on faith in the Kyoto Protocol. The Article 6.4 mechanism will not be credible if the investments that have already been made are not honoured.
- The context has changed since Madrid in 2019 when there were concerns about the impact of allowing CERs to be used for NDCs. There was insufficient quantitative analysis of possible volumes. Now, possible volumes are clearer and are at the most conservative end of original estimates. New rules implemented by the CDM Executive Board also mean that almost half of all CDM activities are out of the system as they can no longer renew their crediting periods, so no further CERs will be generated from those activities. The question of CER use should thus be addressed based on the data we have now.
- Allowing CERs to be used for NDCs provides a price signal that can spur investment in the 6.4 mechanism.
- Price signals for the 6.4 mechanism will be stronger where demand is not dampened by CERs.
- The ambition trade-offs in the Article 6 deal must be found. It would be difficult to make concessions that reduce ambition without concessions also being made that increase ambition.
- Any flexibility asked for carry over needs to be supported with quantified information on volume, limited in time and number and part of a broader package, including robust accounting rules and an ambitious mechanism.
- There are CERs stuck in the queue due to the lack of ambition in the second commitment period of the Kyoto Protocol. A third commitment period would be an opportunity for Annex I Parties to raise their ambition level to accommodate those CERs. If operation of two parallel crediting systems is not desirable, the CERs must be allowed to be used for NDCs.
- The CDM was not successful at limiting climate change and CERs from it cannot be recycled into the Paris Agreement.
- Parties cannot be prevented from using their own pre-2020 mitigation towards their NDC. No Party is forced to buy CERs for use towards their NDC.
- Capacity-building is required to enable countries to set up the domestic institutions that are needed in order to make assessments for NDCs and participate in Article 6.

Possible options for further consideration

Interventions focused on a number of possible options in relation to use of Kyoto Protocol units towards NDCs, that are set out below. In each case, the option has been introduced by at least one Party/group, but this summary does not seek to indicate how much support there is among Parties for each option, as Parties

are familiar with the views expressed in submissions and interventions. Argumentation provided in the interventions to support the various options are set out in italics and in abbreviated and consolidated form below the relevant option.

Use of Kyoto Units towards NDCs

The following options were identified:

- **No use of any Kyoto units towards NDCs**

Argumentation: There are no circumstances where CERs or other Kyoto units can be used towards NDCs, and there is no carry over from the Kyoto Protocol to the Paris Agreement. The first draft Presidency text contains the only acceptable option, namely that Kyoto Protocol units shall not be used by any Party towards their NDC. Fully accounted for CDM activity transition to the 6.4 mechanism is where compromise can be found.

Argumentation: There should be no use of pre-2020 CERs or other Kyoto units for NDCs in order to ensure that the new 6.4 mechanism is not overloaded by those units.

Argumentation: There can be no use of CERs or other Kyoto units for NDCs as it would undermine overall mitigation in global emissions in the 6.4 mechanism. Parties resist high rates of OMGE in the mechanism, but it would have to be a huge OMGE rate if CER or other Kyoto unit use was to be considered, to overcome that loss in ambition.

Argumentation: Use of Kyoto units would deduct from ambition, creating a big hole in ambition only for the benefit of a small group of Parties that wish to use CERs, so it is not equitable to allow it.

- **CERs may be used towards NDCs**

Options for the conditions or requirements to be met in relation to use of CERs for NDCs were identified, which are not mutually exclusive:

- **Parties that may use CERs**

Sub-options were identified:

- **A CDM host Party can use CERs from its own country**

Argumentation: A CDM host Party can use CERs from its own country as it is up to each Party how it meets its NDC.

- **Any Party may use CERs**

Argumentation: The CERs represent real, additional and verified emission reductions that have been achieved and so they can be used towards NDCs.

Argumentation: Parties cannot be forced to buy CERs for use towards an NDC so prohibiting it is not necessary.

- **The CERs meet certain conditions**

Sub-options were identified:

- **The CDM activity² from which the CERs are achieved has a registration date on or after X date**

² Includes CDM projects and programme of activities for the purpose of this Chair's summary.

Sub-options were identified:

- **No date limitations for CDM activity registration are required**

Argumentation: This limitation would be unfair to Host Parties that have only a few CDM activities that are registered as compared to the Host Parties that have many registered CDM activities.

- **Dates per the second draft Presidency Text (2013/X/2016)**

- **The CERs were issued in respect of emission reductions or removals achieved by X date**

Sub-options were identified:

- **No date restriction applies**

Argumentation: A date restriction is arbitrary as there is no difference between CERs produced in different years.

Argumentation: If dates are proposed because there are concerns about total volumes of CERs that could be used towards NDCs, then there are other technical solutions that could be used to avoid flooding the market and those could be considered.

- **Date restriction operationalised based on monitoring periods**

Argumentation: Monitoring may be more relevant than registration date.

- **The CERs are used towards the NDC by X date:**

Sub-options were identified:

- **31 December 2030**

Argumentation: Use could be by the end of the first NDC cycle in order to enable the Party to manage that use.

- **Further work is needed to assess by when such CERs would be required to be used.**

Argumentation: The deadline in the draft Presidency texts would require further work. Use by dates would need to be later, due to the delay since Madrid.

- **No use-date is needed where the CERs are from the Host Party that is using the CERs.**

Argumentation: Any deadline would be arbitrary.

- **A total maximum volume of CERs that may be used is set by the CMA**

Sub-options were identified, which are not mutually exclusive:

- **A maximum use cap for any non-host Party using CERs**
- **A maximum volume from each CDM activity**

- **Use of CERs would be implemented through methods specified by the CMA**

Sub-options were identified:

- **The CERs are moved to the 6.4 registry and retagged for use for NDCs**

Argumentation: The first draft Presidency text identifies an option to require the eligible CERs to be transferred to the 6.4 registry and retagged, as ITMOs are defined in the draft Presidency text for the 6.2 guidance as achieved from 2021 onwards, and thus any use of CERs would be on an exceptional basis, requiring the CERs to have been retagged to enable reporting and accounting per the 6.2 guidance.

Argumentation: Moving CERs for NDC use by the Host Party enables the Host Party to be able to use them.

- **The CERs are placed in a reserve for use towards NDCs**

Argumentation: This could be good for the 6.4 mechanism as it could be used to protect against price fluctuations.

- **No further requirements**

Argumentation: The reporting requirements are sufficient to identify the CERs and so further provisions are not required.

- **Reporting in relation to CERs used towards NDCs is in accordance with the enhanced transparency framework**

Argumentation: CERs used towards NDCs by the Host Party and the using Party would be required to be reported in accordance with the enhanced transparency framework and the reporting requirements of the 6.2 guidance.

Sub-options were identified:

- **The units would be required to be identified as pre-2021 CERs.**

Argumentation: This is necessary for reporting and accounting for ITMOs per the 6.2 guidance.

- **Identification as pre-2021 CERs is not necessary.**

- **Accounting requirements in relation to CERs used towards NDCs**

Sub-options were identified:

- **The Host Party is not required to apply a corresponding adjustment per 6.2 guidance, non-Host Parties do apply a corresponding adjustment**

Argumentation: Non-Host Parties apply a corresponding adjustment because the CER has been internationally transferred.

- **Any Party using pre-2021 CERs towards its NDC is required to apply a corresponding adjustment per 6.2 guidance**

Argumentation: The host Party is required to apply a corresponding adjustment because the CER is from the time period before the start of the NDC. Non-Host Parties apply a

corresponding adjustment because the CER has been internationally transferred and the CER is from the time period before the start of the NDC.

Other points

Interventions raised the following points:

- There is a need to understand more deeply which parts of the 6.2 guidance would apply to CERs where they are used towards NDCs – for example, whether Parties have to meet the participation requirements per that guidance.
- Parties wishing to use CERs from their own country towards their own NDC need to share estimates and expectations for use because there is no general carry over/banking in the UNFCCC – in the Kyoto Protocol limits on banking were set out in relation to all unit types – for CERs it was 2.5 per cent, as it was for emission reduction units from joint implementation and no removal units can be carried over.
- Before CMA.3, the secretariat could be tasked to assess the implications of any use of CERs towards NDC on ambition and other aspects of the 6.4 mechanism, such as OMGE, to provide an objective and credible reference point that is based on agreed assumptions, to enable further discussions.
- Technical work by the secretariat would likely not change positions of Parties on this issue as it is an issue of principle.
- The discussion covered whether the issue of use of Kyoto Units towards NDCs also relates to emission reductions achieved on or after 1 January 2021 by CDM activities and accounting implications that would be relevant. In this regard, the temporary measures agreed by the CDM Executive Board in relation to that issue were understood differently by different groups and those groups highlighted their respective interpretations of the issue and the temporary measures.
- The view was given that if CERs can be used for NDC use, consideration should also be given to other types of units, such as REDD+.
