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Unlocking Article 6 of the Paris Agreement

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1. Background

Article 6 was the only chapter in the Paris Agreement rulebook which was not completed in Katowice at COP 24, for reasons that have been outlined at length in other publications, including "Rulebook for Article 6 of the Paris Agreement – Takeaway from the COP 24 outcome"[1].

While there is likely no single answer, it could be said that the rulebook for Article 6 has not made progress primarily as negotiators fall back on the same positions and are unable, or unwilling, at this point to offer any new solutions/positions which may unlock discussions.

Some have also speculated that there may be not enough urgency to complete this section of the rulebook, as Parties are seized with other priorities, or may not see Article 6 as useful, except if it passes all their red lines – and some Parties have very strong red lines.

Finally, and this gets most of the votes, many would also conclude that unlocking Article 6 would require the identification of "issues of principle" (to avoid calling them issues that have broader political implications), which would need to be addressed in order to unlock "buckets of operational issues", and allow for further work on operational matters to continue until COP 26.

In principle this may sound right, except that many of the issues of principle may also be "circular" and mutually interconnected. Indeed, it may be challenging to identify what is the real "root issue".

These issues may need to be elevated to the policy/political level, but the timing may not need to be identical for all of them – do all these need to be addressed at COP 25, or can some be decided at a later time? Some issues are matter of principle that block logical progress on the work for the rulebook, while others are simply "binary issues", that may not lend themselves to middle-of-the-road solutions, but are not on the critical path. As such, a differentiation may be necessary.

At this time, no issue can be considered as having been closed. In fact, old issues that may have been considered as "closed" at COP 24 have made a comeback, and new issues are either emphasized more, or are being outright now introduced. While all issues are important, some of the thornier ones may, and in our view, include:

- What is an ITMO? What are the attributes/characteristics of an ITMO? This will include issues such as:
    - Form
    - Metric
    - Inclusion of sinks

[1] Marcu, A. & Rambharos, M. (2019) "*Rulebook for Article 6 of the Paris Agreement – Takeaway from the COP 24 outcome*", https://ercst.org/publication-rulebook-for-article-6-of-the-paris-agreement-takeaway-from-the-cop-24-outcome/ .

    - Article 6.4 mechanism units (A6.4M)
- Corresponding adjustment
    - What gets adjusted: NDC or emissions-based number?
    - Timing of adjustment: at transfer, at usage
    - Amount of adjustment: treatment of single year NDC
- Use of ITMOs for purposes other than NDCs.
- Governance and Rules of Procedures for Article 6.4, including level of decentralization
- What information is made available to the international regulator (CMA)? What gets reported and recorded, timing of the reporting?
- Is there a share of proceeds for Article 6.2?
- Nature of overall mitigation of global emissions (OMGE) for Article 6.4 – voluntary or not?
- Is there an OMGE provision for Article 6.2 at all?
- Avoidance of double counting for Article 6.4.
- Transition of the KP mechanisms to Article 6 of the Paris Agreement.

All these issues are just a sample of the many options that populate the Article 6 rulebook from SBSTA 50. However, the objective of this paper is not enumerating all issues that are contentious, but to identify a limited number of issues which need to be considered early on at COP 25 by policy makers, in order to unlock the work on the operational elements of the Article 6 rulebook. It also examines possible landing grounds.

Some of the operational matters may be part of the outcome at COP 25, while others may become the subject of work that is undertaken during 2020.

2. Issues of principle

What needs to be identified are those issues where a) the lack of outcome is on the critical path and blocks decisions on a "bucket" of operational issues and b) different outcomes may lead, in the view of some Parties, to implications for the fundamentals of the Paris Agreement

The discussion on "issues of principle" should include:

- Expression of the issue in terms of political/principle choices, including the reason why it is an issue with policy/political ramifications
- Discover the issues that are included in the "operational buckets" which depend on this issue of principle?
- Detail how the potential packages/bucket outcomes look like based on different decisions.

Some of the "issues of principle" that can be examined may include:

- Accounting & avoidance of double counting – is the accounting towards:
    - NDC
    - Emissions
    - Both

- Metrics: COe2 only, or what Parties agree on?
- Concept of additionality: treatment of Article 6.4 first issuance.
- Use of ITMOs for purposes other than NDCs.
- Overall mitigation in global emissions.
- Removals by sinks.
- SOP for Article 6.2.
- What is an ITMO: what does the international regulator need to know?

2.1 Accounting and avoidance of double counting

What is the issue?

Double counting implies that it is a problem which emerges in the context of accounting. The question then is: no double counting when accounting towards what? Accounting, and therefore the avoidance of double counting, can be towards:

- The NDC of a Party
- The emissions that each Party reports
- Both emissions and the NDC of a Party

Why is this an issue of principle?

If accounting towards an NDC and accounting towards emissions need to be one and the same thing, then some will see it as Parties needing to express their NDCs in terms of emissions using CO2e as a metric.

As a matter of principle many Parties see the NDC as being a bottom up expression of their contribution towards the goals of the Paris Agreement, in a metric of their own choosing, which may be different from emissions.

Also, as matter of principle, Parties also see the Paris Agreement goals in the terms of emissions and temperature as overriding any other considerations, and as the primary objective that needs to be accounted for and considered during the upcoming stock takes.

It must be re-emphasized that the NDCs are diverse, and currently non-standardized, and therefore may be expressed in any metric that a Party to the Paris Agreement so chooses. In some case the NDC and the inventory of emissions of a Party may be the same thing, but that does not have to always be the case.

If we take the obligation that a Party has to report its progress towards its NDC, together with freedom to express its NDC in any manner it chooses, then there will be an obvious tension between:

a) those that feel that a Party needs to account for its emissions using the inventory as the basis in reporting its progress towards the objectives of the Paris Agreement and its NDC, and
b) those that feel that a Party is only obligated to report its inventory and its progress towards its NDC in the NDC metric, which may be different from the emissions of the Party.

In the case when the NDC is defined as economy-wide emissions the reporting towards the NDC by using the emissions inventory as a basis does not create any problems, and that tension disappears.

However, one thing needs to be emphasized and its importance cannot not be stressed enough: there can be double counting for emissions balance (i.e. Inventory adjusted for ITMOs) while at the same time avoiding double counting towards NDC. This is why the questions: "accounting towards what?" and "avoidance of double counting of emissions/NDC?" are key to this discussion.

In the course of negotiations double counting often emerges as a "litmus test" to which many topics/issues are subject to. Certainly no one would like to admit that they are even contemplating or condoning any solutions that may lead to double counting and affect the environmental integrity of the Paris Agreement.

When in doubt we refer to the Paris Agreement for guidance, including the provisions in Article 13.7 of the Paris Agreement

Each Party shall regularly provide the following information:

> *(a) A national inventory report of anthropogenic emissions by sources and removals by sinks of greenhouse gases, prepared using good practice methodologies accepted by the Intergovernmental Panel on Climate Change and agreed upon by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement;*
>
> *(b) Information necessary to track progress made in implementing and achieving its nationally determined contribution under Article 4.*

Guidance on what to account for will also be found in **Article 4.13** of the Paris Agreement:

> *Parties shall account for their nationally determined contributions. In accounting for anthropogenic emissions and removals corresponding to their nationally determined contributions, Parties shall promote environmental integrity, transparency, accuracy, completeness, comparability and consistency, and ensure the avoidance of double counting, in accordance with guidance adopted by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement.*

However, the Paris Agreement also has very clear goals of net global carbon neutrality and limiting temperature increases "*to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels*" (Art. 2. 1(a)). Parties see this as the only test that the Paris Agreement is achieving its objectives.

What issues are affected?

Metrics: If the accounting is towards emissions in CO2e, then ITMOs will also be denominated in CO2e, since we cannot add apples and oranges. NDC(CO2e) = Outcome(CO2e) +/- ITMO(Co2e).

Some Parties would like to have the ability to have ITMOs exported and/or used in the metric of their choice in order to use them towards NDCs that are expressed in non CO2e metrics. Alternatively, if ITMOs are expressed in different metrics than what they are generated in, Host Parties will have to agree to conversion factors, and the governance of determining these conversion factors.

Corresponding Adjustments: This decision may also affect the way the issuance of A6.4U is treated in terms of corresponding adjustments. The argument is that not doing a corresponding adjustment in the Host Party for issued units leads to double counting - double counting of emissions, as the same emission reduction is accounted in the inventory of the Host Party, and that of the Purchasing Party.

The counter argument seems to be that if the units issued emanate from an action beyond the NDC, then it is not counted towards the NDC of the Host Country, but it is counted towards the NDC of the buying country. This would not then require doing a corresponding adjustment – so there is no corresponding adjustment needed for the Host Country. However, the argument that we are double counting emission reductions may hold water.

Which brings us back to the same issue: are we doing NDC accounting, emissions accounting, or do the two have to be the same?

Buffer/netting account: also related to how corresponding adjustments are to be done, is whether there is a need for a netting/buffer account for each ITMO metric, as an intermediate step.

In the case of accounting for NDCs, there is the possibility of multiple metrics. In order to keep track of the ITMOs, then there will need to be a buffer/netting account for each metric. If the accounting is to be done for emissions, then there is only one metric, and the argument for a netting account becomes less compelling and will rest only on the degree of transparency that Parties provide to the international regulator.

2.2 Additionality & Article 6.4 corresponding adjustments

Why is this an issue?

Any mitigation actions resulting in A6.4U will have to be additional. In the CDM this has created a significant amount of problems, as being a counterfactual that was not easy to demonstrate with certainty. The issue is whether under Article 6.4 there is double counting for a unit from a measure that is deemed additional. Reciprocally, what is the definition of Additionality under the A6.4M?

Why is this an issue of principle?

In the case of Article 6.4 the case is being made that if mitigation outcomes (and respective units) are additional (to the NDC) then there is no rationale to do a CA to the NDC when an Art. 6.4 unit is issued.

There seems to be an implication that if forced to make a corresponding adjustment, then any project that is additional becomes part of a "quasi conditional NDC" the moment it is undertaken. The counter argument is that not doing a CA would result in double counting of emissions and an increase in overall global emissions.

The issue is what is the definition of additionality and how does it relate to the need for a corresponding adjustment for units issued by the A6.4M? It is a matter of principle as it relates to the issue of Accounting & double counting – is it double counting of emissions, or double counting towards the NDC?

Enlarging the NDC whenever a A6.4U is issued is seen by some Parties as essentially losing control of their NDC – and they see that as a matter of principle. Every unit issued increases the NDC, which they find unpalatable.

What issues are being affected?

This will be an issue on its own that has a circular relationship with accounting/double counting. Given this relationship, it will have similar impact on ITMO metrics and on the need for a buffer/netting account.

It will clearly impact the definition of additionality – will the additionality be now defined as any project that is not included in an unconditional NDC? That will bring some clarity but will not detract from the complexity.

If the discussion goes in the direction of additionality as defined as "activities beyond the NDC" then defining a protocol to determine that an activity is not part of the unconditional NDC is then the test and the task at hand.

Therefore, the issue for discussion may now become "how to demonstrate that an activity is not part of the unconditional NDC". This may require demonstration of regulatory additionality. The acceptability of this approach is yet to be concluded.

2.3 Metrics

Why is this an issue?

Metrics have emerged as an issue from two sides: a) some Parties would like to be able to sell ITMOs in metrics that are relevant to the transaction they are undertaking and relevant to the baseline in the their country; b) other Parties feel that if ITMOs are all in CO2e then any Party participating in Art. 6 would be obliged to express their NDC in CO2e and also show progress towards their NDC in that metric.

Why is this an issue of principle?

They object to this as a matter of principle – "do the NDCs have to adapt to the accounting rules of Article 6. or do Aricle 6 rules need to be inclusive?"

What issues are being affected?

The argument is interrelated with the other issues discussed above. Metrics will impact what is being adjusted, whether it is the netting account and then the NDC, or it is the emissions related number.

As discussed above, more than one metric would, in principle, require an equivalent number of netting/buffer accounts.

As well as accounting, the metrics that ITMOs are measured in are also a matter of principle but would seem to rather flow from the accounting issue rather than precede it.

3. Landing scenarios

These issues have been intractable in UNFCCC negotiations and have not moved much leading to, and since Katowice. While many don't see them as interrelated, in our view they are, and the positioning of different Parties and Groups would seem to support that.

It may be that some see an agreement on metrics as presented in the texts currently on the table, allowing for multiple metrics under tight constraints. It is not an agreement - as it currently stands it is a simple option and has strong caveats which severely limit the way Parties that may wish to use metrics other than CO2e can operate under Article 6 of the Paris Agreement. Some find this approach perfectly justifiable; others find it unjustifiably limiting.

The root issue in our view remains the divergence in views, maybe not always well articulated or well understood, on whether we are doing **NDC accounting or emissions accounting**.

Parties will have to report on their inventory and on their progress on the NDC - this is not contested by anyone. NDC accounting should be done in the metric that NDC have been expressed by the Party.

A new and additional reporting element, a voluntary one, may be to provide an inventory number adjusted for the ITMOs net transfer. This will re-assure those that feel that the only measure that matters is that of the emissions and would like to avoid double counting of emissions. While voluntary, this could also easily become a condition precedent to any transaction for Parties that feel strongly about it, essentially making it a quasi-regulatory requirement.

The implication of this decision would be that there would be netting accounts in all metrics that Parties choose to transfer in. ITMOs would be transferred in multiple metrics, and always subject to an intermediary corresponding adjustment in the account of that respective metric.

The corresponding adjustment at the time of showing progress towards the NDC or at the end of the NDC period would need to be done to the NDC using the ITMOs with the metric of the respective NDC.

If ITMOs with other metrics would need to be used, then a conversion factor would need to be used at the time of usage from any metric to the NDC metric. The governance of such conversion would be decided by the CMA. This is strikingly similar to having multiple currency accounts and using exchange rates when different currencies are needed to be used in the currency of a certain jurisdiction.

Therefore, ITMOs can be transferred in any metric, but can only be used in the metric of the NDC. A parallel accounting can take place using inventory-based-ITMO adjusted accounting which would re-assure those that want that type of accounting.

A similar solution can be applied for the CA at the issuance of a A6.4U. In this case Parties may choose to transact only for units that emerge from Article 6.4 and which had been accompanied by a CA. A6.4U may be accompanies by a "passport" certifying a CA. It is unlikely that many units issued with a CA would make it to the market, unless a Party willingly and knowingly made that choice.