

**Submission from the Office of the United Nations High Commissioner for Human Rights (OHCHR) in response to the Call for Inputs on the draft tool “A6.4 SD tool (A6.4-SB011-AA-06) (not including Appendix 1)”**

**13.05.2024**

The Office of the United Nations High Commissioner for Human Rights (OHCHR) welcomes the opportunity to provide input in response to the United Nations Framework Convention on Climate Change (UNFCCC) Call for Inputs on the draft tool “A6.4 SD tool (A6.4-SB011-AA-06) (not including Appendix 1)”. OHCHR wants to reiterate its inputs to the draft tool, submitted on 19.04.2024 in response to the previous call for inputs (on annotated agenda and related annexes for the 11th meeting of the Article 6.4 Supervisory Body (SB 011), which are provided below.

It is especially important that the Supervisory Body of the Article 6.4 mechanism works to ensure environmental and social safeguards are in place before Article 6.4 is operationalized. Further, technologies with uncertain and/or demonstrated risks to human rights and the environment should not be admitted by the Article 6.4 mechanism. All activities under Article 6.4 should respect, protect and fulfil human rights and be guaranteed to meaningfully and sustainably contribute to climate change mitigation. Before operationalizing Article 6.4, OHCHR urges that the Supervisory Body take effective measures to ensure adequate environmental and social safeguards; and continuous and inclusive monitoring and evaluation of all activities under Article 6.4. The sustainable development tool will need to ensure that development actors exercise human rights due diligence to ensure their actions do not harm affected people and communities. Social and environmental safeguards play an important role in this regard.

Para.20 of the draft tool refers to human rights as one of the Environmental and social safeguards principles along with Climate and energy; Air, land and water; Ecology and natural resources; Labour; Health and safety; Gender equality; Land acquisition and involuntary resettlement; Indigenous People; Corruption; and Cultural heritage. OHCHR would like to reiterate that categorization of human rights as one among many environmental and social safeguards principles should be changed towards defining human rights as the overarching legally binding framework informing the safeguards. This approach would ensure that all environmental and social safeguards are designed, interpreted, and implemented in a manner that is fundamentally aligned with and guided by established human rights standards and obligations. Human rights are universally applicable and the subject of detailed legally binding commitments at the global, regional and national level, overlapping extensively with all Environmental and social safeguards and principles described in section 5 of the draft tool.

OHCHR welcome that the latest version of the draft **has** drawn on lessons from both the experiences of multi-lateral development banks and those of other climate financing mechanisms, which is in line with our previous recommendations<sup>1</sup>.

OHCHR takes note of the language in para. 47 of the section 5.3.1 stating: “an activity is to be implemented with due respect for human rights by avoiding infringement on the human rights of others and addressing adverse human rights impacts that the activity may cause or to which it

---

<sup>1</sup> Available at:

[https://unfccc.int/sites/default/files/resource/SB010\\_Call\\_for\\_input\\_annotations\\_OHCHR\\_SD%20Tool.pdf](https://unfccc.int/sites/default/files/resource/SB010_Call_for_input_annotations_OHCHR_SD%20Tool.pdf)

may contribute” as well as references to civil, political, economic, social or cultural rights, the SDGs and the right to development.

Additionally, the draft has made important progress toward protecting labor rights including freedom of association, collective bargaining, and the right to a living wage and principle of non-discrimination and equality, including with respect to the rights of women and girls, LGBTI people, , persons with disabilities , older persons, minorities and Indigenous Peoples. Nevertheless, several other recommendations by OHCHR and other stakeholders are not adequately reflected in the latest version of the Draft tool: Article 6.4 sustainable development tool.<sup>2</sup> The current text is still inconsistent with some obligations and standards of legally binding international human rights instruments and fails to ensure that environmental and social safeguards in the sustainable development tool at a minimum:

1. Ensure accountability and the rule of law;
2. Recognise the centrality of human rights in all process related to Article 6.4 Activities;
3. Ensure rights relating to land and resource tenure, housing, property ownership and resettlement in line with “the Basic principles and guidelines on development based evictions and displacement”<sup>3</sup> and CESCR General comment 7<sup>4</sup>;
4. Specifically recognize that that the rights to information, participation and access to justice are an integral part of all processes related to Article 6.4 Activities;
5. Include a self-standing performance standard on engagement of stakeholders and rightsholders, including detailed requirements that participation be free of intimidation or coercion and on how to prevent and address reprisals risks. This recommendation is consistent with recent practice of several multi-lateral development banks and would address the challenges to effective participation, shrinking civic space, and threats and reprisals against activity-affected people;
6. Ensure that The UN Guiding Principles on Business and Human Rights are explicitly integrated within Safeguard policies in order to strengthen the framework for: (a) risk assessment; (b) ongoing, risk-based due diligence; (c) addressing risks throughout the value chain; and (d) remedy;
7. Ensure not only the monitoring of potential negative environmental and social impacts of the realization of Article 6.4 Activities but remediation of them;
8. Avoid supporting any activities that do not comply with applicable environmental and human rights laws, including national laws and/or obligations of the country as well as those directly applicable to the activities under relevant international treaties and agreements, whichever is the higher standard.

---

<sup>2</sup> A6.4-SB011-AA-A07

<sup>3</sup> Basic principles and guidelines on development based evictions and displacement. Annex 1 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living. A/HRC/4/18. Available at:

[https://www.ohchr.org/sites/default/files/Documents/Issues/Housing/Guidelines\\_en.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/Housing/Guidelines_en.pdf)

<sup>4</sup> The right to adequate housing (Art. 11.1): forced evictions : 20/05/97. CESCR General comment 7.