

Article 6.4 Supervisory Body (“SB”)
United Nations Framework Convention on Climate Change

July 8, 2024

Re: SB013 annotated agenda and related annexes

Comment on the draft Sustainable Development Tool, Version 07.0¹

Transmitted electronically to A6.4mechanism-info@unfccc.int

The Institute for Agriculture and Trade Policy (“IATP”),² an accredited observer organization, appreciates this opportunity to comment briefly on the draft Sustainable Development Tool (“SDT”). IATP thanks the Secretariat for its summary of inputs received to the draft SDT and for its responses to those inputs, particularly to our May 15 template comments and suggested editorial changes to Version 06.0 of the SDT.³ Version 07.0 is an editorially clearer text and better articulates the roles of the activity participants, Designated Operating Entities (“DOEs”) and Host Party authorities in making the SDT a workable tool, particularly regarding the implementation of environmental and social safeguards.

However, there are aspects of the SDT that remain unclear, underdeveloped or absent. If these aspects remain unaddressed and the SB nevertheless decides to finalize the SDT text for the 29th Conference of the Parties (“COP29”), the functioning of the Paris Crediting Mechanism will be impaired. The following comments are template-like because some of them are derived from our May 15 template comments.

Corruption

We characterized Principle 10 Corruption as “underdeveloped” in our May 15 comments. It remains underdeveloped in Version 07.0. (pp. 30-31) We recommended a chapeau paragraph to “clarify the roles of the activity participants, DOEs and relevant host country authorities in preventing, investigating and enforcing both national and UN Convention anti-corruption requirements.” The “Summary of the inputs” states, “Difficult to apply requirement in principle 10 Corruption as the DOE is not a prosecutor.” It is true that the DOE is not a

¹ <https://unfccc.int/sites/default/files/resource/a64-sbm013-a-a-10.pdf>

² To learn more about IATP’s climate change work, including our participation in COP27, please consult <https://www.iatp.org/climate-change>. Our recent contributions to Article 6.4 related matters include a November 1, 2023 letter to the Supervisory Body (<https://www.iatp.org/documents/iatp-comment-unfccc-supervisory-body-draft-recommendations-article-64-mechanism>) and November 30 and December 1, 2023 inputs to the SDT, version 02.0 template. We also submitted a March 12, 2024 letter to the International Organization of Securities Commissions concerning its discussion paper on Voluntary Carbon Markets: <https://www.iatp.org/iatp-comment-voluntary-carbon-markets-consultation-report>

³ https://unfccc.int/sites/default/files/resource/SB013_SD%20Tool_IATP.pdf

prosecutor. However, the authority of the DOE can be defined to enable it to collect information about possible instances of corruption in Article 6.4 mechanism authorized projects, summarize that information and refer that information and summary to the relevant host Party authority, probably in a Ministry of Justice. That relevant authority would decide whether to investigate emissions reduction or removal activities and activity participants further, to make prosecutorial decisions and to take enforcement actions. If the DOE does nothing but review activity participant reporting and forward evaluations of that reporting to relevant host Party authorities, corrupt activities may circumvent the Article 6.4 mechanism.

IATP understands that the issue of corruption is a politically sensitive one. However, the issue cannot be minimized by ignoring how Principle 10 could be applied and risking that potential cases of corruption will be investigated and prosecuted independent of the Article 6.4 mechanism and particularly the SD Tool context. The “Appeal and grievance processes under the Article 6.4 mechanism” applies only to decisions taken by the SB⁴. It is crucial for the integrity of the Paris Crediting Mechanism that the SB provide Principle 10 criteria that outline the roles of the DOE and the relevant host Party authority in assessing information about possible instances of corruption and deciding whether to investigate, prosecute and take enforcement actions regarding activities, activity participants and activity crediting.

Legal responsibilities of activity participants

“Principle 5.2.2 Air, land and water” concerns in part the historical pollution that an activity participant may “inherit” when designing and initiating an emissions reduction or removal activity. IATP proposes the following amendments in italics to respond to a likely situation of legacy pollution.

p. 22 P. 2.1.2 “the activity participants are is legally responsible” *or share legal responsibility with an entity/ies that formerly owned or controlled the territory in which the activities are located.*”

p. 22-23 P2.2.2: “Where historical pollution such as land contamination exists, the activity participants shall seek to determine whether it is responsible *or shares responsibility with an entity/ies that formerly owned or controlled the territory in which the activities are located* for mitigation measures. If it is determined that the activity participants are is legally responsible *or share legal responsibility. . .*”

“Decommissioning” an emissions reduction or removal project

“P3.1 Natural resources” states “avoid negative environmental impacts throughout the implementation and operation and decommissioning, if applicable.” (paragraph 39, p. 24) However, there is no definition of “decommissioning” in the Intergovernmental Panel on Climate Change “Glossary of Terms.” The Article 6.4 mechanism glossary of terms should include a definition of “decommissioning” that would stipulate, inter alia; how an activity is

⁴ Paragraph 3, <https://unfccc.int/sites/default/files/resource/a64-sb011-a03.pdf>

decommissioned; by whom (if not the activity participant); to whom is the decommissioned project notified (if not the DOE); under what computer searchable terms is a decommission project registered in the Article 6.4 mechanism; with what consequence for issuance of Article 6.4 emissions reduction or removal credits? The definition should be further explained in a final SD Tool text.

Physical displacement of those living in an emissions reduction or removal territory

IATP proposes the following language, again in italics, to improve Principle 8 (Land acquisition and involuntary resettlement) criteria and Principle 9 Indigenous Peoples.

pp. 27-28, paragraph 70, P8.2: “When physical displacement (i.e., relocation or loss of shelter) cannot be avoided, the activity shall mitigate the displacement impacts and risks of the displaced persons and host communities to at minimum *at least restore the livelihoods and/or living standards, and the community housing, infrastructure and services to pre project levels.*”

p. 30, paragraph 76. P9.3: “The activity shall not result in the forcible removal of Indigenous Peoples from their lands and territories. No relocation shall take place without the FPIC [Free and Prior Informed Consent, footnote 42] of the Indigenous Peoples concerned. *FPIC negotiations between activity participants and Indigenous Peoples shall be moderated by DOEs, provided with translations of FPIC documents and interpreters in the relevant languages of the Indigenous Peoples and reported to the relevant host Party authorities. FPIC agreements will be part of the documentation of the Article 6.4 mechanism registry and will be electronically tagged to be computer searchable in both the official host Party language/s and the relevant indigenous languages.*”

6.1. Consideration of sustainable development priorities/objectives of host party

p. 32 para 87. “Activity participants shall identify the host country’s Party’s sustainable development priorities/objectives that may include national strategies for sustainable development and/or SDG achievement, SDG national targets and indicators, and economic, social and environmental indicators related to the proposed activity type. *The DoE shall review these identifications as part of the A6.4 Sustainable Development Tool Form documentation and may require activity participant amendments prior to project validation and filing this Form with the relevant host Party authority.*”

Conclusion

IATP was unable to comprehensively assess Version 07.0. Nonetheless, we thank the SB for its consideration of these comments.

Finally, in IATP's April 22 letter to the SB⁵, we recommended how the sharing of the safeguards risks assessment and plan could be improved. IATP asks that the SB reconsider these recommendations wherever "shall be shared at the local stakeholder consultation" appears in the SDT.

Respectfully submitted,

Steve Suppan, Ph.D.
Senior Policy Analyst

⁵ https://unfccc.int/sites/default/files/resource/SB11_call_for_input_annotation_IATP.pdf