

Commentary

on the current state of sustainable development provisions in the Article 6 'rulebook' negotiations following the 50th Meeting of the Subsidiary Bodies to the UN Climate Convention in Bonn, Germany

By Sven Braden, Karen Olsen and Marion Verles for the Sustainable Development Initiative (SDI¹) on Implementation of Article 6 of the Paris Agreement under the UNFCCC process

Introduction to SBSTA negotiations under Art. 6

At the occasion of the 50th meeting of the Subsidiary Bodies of the Climate Convention (SB 50) held in the second half of June 2019, Art. 6 negotiators came together to progress on the rulebook provisions of Art. 6. These provisions were the only elements that remained incomplete at the last climate conference in Katowice in 2018. The objective of Art. 6 negotiations was to agree on a draft text that could form the basis for an agreement at COP25 in Chile. At the end of the meeting Parties achieved that objective. The basis for negotiations in Chile will be three text headings that contain provisions to operationalize Art. 6.2 (cooperative approaches), Art. 6.4 (mechanism) and Art. 6.8 (non—market approaches). The content of the texts did not change substantively compared to the last SBSTA iterations at COP 24 in Katowice.

SBSTA negotiations and sustainable development under Art. 6

In Bonn it became once again evident that the topic of sustainable development (SD), despite several mentions of SD in Article 6 text, does not play a crucial role in the discussions between negotiators. This has been the case since the Art. 6 negotiations started back in 2016 at COP22 in Marrakesh. The text proposal on Art. 6 by the Presidency of COP 24, which emerged in the final hours of Katowice, is only the latest example, of how the role of SD is marginalized. This to a level, where they would have been reduced to an empty shelf, very much like the respective SD provisions in the Kyoto Protocol. The same tendency became visible in the course of the recent SB50 meeting in Bonn. Previously integrated SD provisions disappeared between iterations of draft texts. They were only reinserted upon the specific request of some Parties. Given these developments, it may be considered a success that crucial SD elements can still be found in the latest SB50 text drafts.

It is obvious that the SD elements in the current drafts have a limited meaning, given that the draft's contents are not based on consensus, contain bracketed texts as well as various and sometimes even contradicting options. However, the following considerations aim at providing a brief analysis on the current status of SD provisions in the Art. 6 rulebook draft.

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[Art. 6.2 SD elements \(SBSTA Non-Paper\), 26. June 2019](#)

In the context of provisions for cooperative approaches under Art. 6.2, elements on SD are mainly mentioned as **reporting elements** within the biennial transparency report of Parties (see p. 11 ff). One reporting obligation for Parties would be to submit information, on how Art. 6.2 activities are consistent with national SD objectives (or SDGs). In addition, Parties would submit information on their Art. 6.2 activities in order to explain that no environmental harm is done, or how social and economic impacts have been avoided.

Besides such reporting elements there is one further consideration on sustainable development to be found. Namely, the call that use of Art. 6.2 should not lead to other negative environmental and social impacts and should respect human rights in its application. This call can be found in the draft preamble (p. 2) and under **safeguards** and limits (p. 14). But there are no procedures foreseen in case these safeguards are breached or not in place.

To sum up, the SD elements in Art. 6.2 provide a minimum starting ground to promote sustainable development through Art. 6.2 – nothing more. Given the '*shall* requirement' to promote SD in the preamble of Art. 6, yet the fact that Art. 6.2 has no international oversight and the open and flexible formulations around cooperative approaches, the negotiators should enable that Art. 6.2 activities follow common best practice. Although the draft provisions on Art. 6.2 do contain some SD elements, they do not enable support to Parties, who need it. Enabling conditions around the quantity or quality of information to be submitted is lacking. In addition, there is no call for grievance mechanisms, nor any provisions to enable that sustainable development is monitored and assessed over time.

[Art. 6.4 SD elements \(SBSTA Non-Paper\), 26. June 2019](#)

With respect to the mechanism established under Art. 6.4, SD elements are more elaborated than in cooperative approaches. SD elements are embedded into the architecture of the mechanism, e.g. in the "Participation Responsibilities" (p. 7 and 11). In order to participate in the mechanism, the host country would have to confirm towards the Supervisory Body that the activity fosters SD. However, such a confirmation (or authorisation by the Host Party, without publicly available information on what it is based on) only equals the status quo under the CDM, which led to what is known as a 'race to the bottom' for SD.

A new procedural element to SD can be found under "Rights and Responsibilities" of host parties (p. 8). Parties would need to specify towards the Supervisory Body, how their participation contributes to SD in their jurisdiction. The draft text also contains basic SD conditions safeguarding the Art. 6.4 activity design, such as through avoidance of negative environmental and social impacts as well as by promoting and human rights within the activity processes. Moreover, the possibility of stakeholders, Parties or other activity participants to appeal decisions of the Supervisory Board would state a clear improvement of the current framework under the CDM (p. 13). In addition, the Supervisory Body could also receive complaints in case the safeguarding provisions of the activity design (see above) have been violated (p. 13).

The draft text on Art. 6.4 suggests undertaking a work programme to develop provisions for the implementation of the right to appeal and the grievance process. The programme should also work out provisions that assist Parties to respect, promote and consider obligations under human

rights (p. 15 and 1). Finally, the draft contains a provision that addresses social and economic impacts, especially on developing country Parties, resulting from Art. 6.4 (p. 16). Unfortunately, this provision only focuses on negative impacts of Art. 6.4 activities. This limits its potential to promote positive impacts for sustainable development and enable monitoring and assessment over time.

To sum up, the draft text on operationalizing Art. 6.4 contains good elements that, if adopted, would represent a clear step forward compared to the CDM mechanism from the Kyoto Protocol of 1997. Although provisions on ex-post SD assessments as well as linkages to the Agenda 2030 are still missing, the suggestions in Art. 6.4 would allocate an important role to the Supervisory Body in developing the framework to support SD through Art. 6.4. This holds the potential that work of the Art. 6.4 Supervisory Body may serve Parties as a best practice for the development of SD approaches within Art. 6.2.

[Art. 6.8 SD elements \(SBSTA Non-Paper\). 26. June 2019](#)

Negotiations under Art. 6.8 do not focus on concrete provisions on operationalizing a mechanism or a cooperative approach. They aim at the determination of a respective work programme that contains non-market approaches to assist countries in the joint implementation of their NDCs. The draft text mentions a set of focus areas of Art. 6.8 activities (Sustainable Forest Management, Energy Efficiency Schemes, Integrated Water Management etc, p. 1) but it is still unclear, what the approach will deliver in terms of concrete results. SD, alongside with poverty eradication, is mentioned several times (Principles, p. 3, activities). The most specific reference to SD is the suggestion to develop tools for addressing possible negative social and economic impacts of activities under Art. 6 as well as for measuring and monitoring the implementation of non-market approaches in terms of their contribution to sustainable development and poverty eradication (p. 6 and 7).

To sum up, the draft text on the work programme of Art. 6.8 still leaves a lot of room for interpretation regarding the future design of Art. 6.8 activities. However, Art. 6.8 does propose the development of tools for assessing positive and negative impacts of its activities over time. Since these tools are part of the work programme, they could be developed in conjunction with the overall design of Art. 6.8 approaches. The development of tools as suggested in Art. 6.8 should also be considered for cooperative approaches of Art. 6.2 and the mechanism of Art. 6.4.