

Policy Brief: Considerations for Article 6 Negotiations

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Based on progress to date on the virtual pilot program and CCAP's ongoing engagement with developing country partners, we assess that many Parties are not ready to engage fully in the negotiations of rules for the implementation of Article 6 of the Paris Agreement. In particular:

- They remain unsure as to which mitigation actions they would like to consider as opportunities to generate Mitigation Outcomes (MOs) for potential international transfer.
- They have not yet fully specified implementation plans for their NDCs, such that there is no certainty as to which MOs would be necessary to meet their NDCs, would be surplus, or in some cases whether MOs would be within or beyond the scope of their NDC.

More broadly, the negotiations remain somewhat anchored in a Kyoto Protocol-based framing of risks and benefits of carbon trading, without considering both the opportunities and risks that might arise from the broader ITMO framework underpinned by the ratcheting-up cycles on which the Paris Agreement is based.

Based on this, Parties would be well advised to continue to consider basic points that are relevant to ensuring that Article 6 contributes to raised ambition with integrity and without double counting, without getting overly bogged down in accounting technicalities or other details that should only be worked out when there is common understanding on key concepts.

This note therefore presents several "key messages" for negotiators on matters related to eligibility criteria for participation in Article 6 transfers and on baselines, crediting periods and corresponding adjustment.

Eligibility to participate in Article 6 transfers

Threshold conditions for participation in Article 6 transfers should reflect the level of international oversight required for different categories of transfers: a number of criteria could be envisaged that might impact a Party's ability to benefit from Article 6 transfers, whether as a source of MOs or as a user; accordingly, caution should be exercised to avoid unnecessary pre-approvals.

- In general, **there should be few eligibility criteria for participation in bilateral arrangements (that would be covered by Article 6.2 or 6.8) and that would not lead to the generation of a fungible emission reduction unit that can be further transferred.**¹

¹ ITMOs that are not "pre-authorized" by the UNFCCC should not be given a unique identifier that would allow them to participate in the UNFCCC-based transaction log. This restriction would ensure that such bilateral ITMOs could not be used in any other jurisdictions than the original contracting Parties.

- Guidelines may be necessary to ensure that such ITMOs don't reflect "hot air" and don't discourage transformation, such as clear, conservative thresholds for crediting and short multi-year crediting periods.²
- Parties (generating and using) will need to demonstrate that no double counting has occurred in their Article 13 reporting (and in national communications and inventories more generally), including (or as well as in) specific reporting on the ITMO transaction and its results in relation to NDC achievement, but no *a priori* eligibility needs to be established by an international body for these transfers.
- In addition to the basic criteria described above, **some *a priori* international recognition may be necessary for ITMOs that are generated with a view to their issuance as transferable units that could be subsequently transferred to third Parties** through mechanisms like linked carbon markets.³
 - Ideally, these should be simple criteria that can be assessed by a technical body rather than requiring a political decision by consensus or vote of Parties or a subset of Parties.⁴
 - However, the goal of the *a priori* recognition process should not be to certify the ITMOs or the national systems that generate them for Paris Agreement compliance; the responsibility should remain on Parties to demonstrate their fulfillment of their obligations in achieving NDCs in part through Article 6 activities.
 - In most cases, we expect user Parties to have policies on the types of ITMOs they (or regulated entities covered by their jurisdiction) can use to meet NDC achievement requirements, and this will likely involve some level of bilateral recognition or certification of source country ITMOs.⁵
- Finally, **Article 6.4 transfers should be based on significant *a priori* recognition and certification and/or approval**, to offer Parties the ability to work through a UNFCCC body to generate or source ITMOs without needing additional bilateral recognition or certification policies.

² This could be the subject of a requirement on both Parties to communicate some information up front to ensure transparency, but MRV should occur through the reporting process.

³ Such ITMOs might usefully be tracked as part of a UNFCCC-based transaction log with a unique identifier that reflects their origin, project type, etc.

⁴ For example: (i) whether the ITMO to be generated is sourced from a policy/action about which clear information has been communicated with respect to its relationship to NDC achievement (or not); (ii) whether the ITMO is denominated in CO₂ eq.; (iii) whether the ITMO is generated from a multi-year baseline rather than a point target, and (iv) whether a corresponding adjustment is planned (where appropriate according to relevant Article 6 implementation rules). This information could also be reflected in how ITMO units are coded in the transaction log.

⁵ Such decisions would be supported by information coded against the unit in the transaction log, as noted in footnote 5.

- This could be useful for low capacity Parties that wish to export ITMOs and may not be in a position to meet the individual national requirements of potential users; or conversely, for user Parties that wish to source ITMOs from many Parties without having to go through additional checks than those provided by the Article 6.4 mechanism.
- **In all cases, consideration should be given to whether there could be requirements for Parties to communicate *ex ante*, and report *ex post*, on how an ITMO contributes to raised ambition.**

Baselines, crediting periods and adjustments

While ITMOs sourced from “inside” an NDC should be the subject of a full and immediate corresponding adjustment, it is not CCAP’s view that ITMOs sourced from “outside” an NDC should be subject to the same requirement because the emissions reductions would, by definition, not be counted towards the generating country’s NDC. By encouraging ITMOs from outside the NDC, Article 6 could function as a lever to broaden NDCs over the 5-year cycles as part of the ratcheting up process.⁶

- In exchange for the flexibility afforded by relatively light eligibility criteria argued for above, **there should be clear rules as to when a MO that is transferred out from a Party will be captured in that Party’s NDC.**
 - Parties to an ITMO transaction should agree when the MO will be captured by the source country NDC if it is not currently, subject to international rules that specify the maximum time period, i.e.: x years or by the 1st, 2nd, or nth subsequent NDC.⁷
 - This same period would also be the crediting period. For environmental integrity, this period should be short.⁸
 - There should be an expectation of reporting under Article 13 to provide “a clear understanding of climate change action in the light of the objective of the Convention as set out in its Article 2”.⁹

A clear baseline against which ITMOs can be generated and transferred will be required, and this baseline should be conservative, based on at least a current business as usual emissions projection of relevant scope.

- Depending on the circumstance, the host country **could decide to offer a baseline that is more conservative (lower) than BAU** (that would result in fewer MOs).¹⁰

⁶ L. Blandford; S. Davis; P. Cozzi “Using Transfers to Enhance Ambition over the NDC Cycles”: <http://ccap.org/resource/using-transfers-to-enhance-ambition-over-the-ndc-cycles/>

⁷ *Ibid* contains a full explanation of how this could work. Maximum time periods could be longer for LDCs.

⁸ Financial viability is not a justification for very long periods, as most cash flows beyond ten years are marginal to project viability due to discounting

⁹ This quote from Article 13, paragraph 5 of the Paris Agreement provides an opening to report actions from outside the NDC. Such reports could include, for example, reporting on the baselines developed, MOs generated and transferred, and plans to expand the NDC to include additional sectors or subsectors.



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- Knowing how the crediting baseline relates to the carbon budget for the sector(s)/subsector(s) will determine how the MO relates to the NDC (e.g., whether it would meet/exceed the unilateral/with support parts of the NDC).
- If there is insufficient clarity as to how a potential MO relates to NDC achievement, a full adjustment should be made up front.

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¹⁰ A number of circumstances could justify this, or justify a requirement for this, for example: (i) For MOs to be generated outside of the NDC without a full corresponding adjustment; (ii) for weak NDCs at risk of generating “hot air” transfers; and (iii) to restrict quantity or type, such as if a host wants to ensure only MOs above a Party’s unilateral commitment are transferred or only those above certain unit price.