

Recommendations for SBSTA48 agenda item 12(b) as it relates to the rules, modalities, and procedures of the Sustainable Development Mechanism (SDM) established under article 6.4

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In elaborating the rules, modalities, and procedures for Article 6.4, it is imperative that Parties learn from past experiences with the Kyoto Protocol's carbon offsetting mechanisms Clean Development Mechanism (CDM) and Joint Implementation (JI), and integrate provisions to ensure environmental integrity, foster sustainable development, and protect human rights in the future international market regime.

The Paris Agreement serves as a way to increase ambition while promoting sustainable development, which requires a transition away from the concept of offsetting, notably through a fresh start with the Sustainable Development Mechanism (SDM), coinciding with the end of the Clean Development Mechanism (CDM).

The challenge is now to create a framework for the SDM that moves away from the concept of offsetting and incentivises mitigation activities through results based climate finance. In doing so, the rules and modalities of the SDM should benefit from existing structures while learning from the failures of the CDM. This document provides an overview about key issues - a shift away from offsetting, governance requirements and social considerations to be considered in the process of defining the rules, modalities and procedures of the SDM and refers to the Informal note¹ as prepared by the SBSTA chair.

KEY RECOMMENDATIONS

- **Moving away from zero-sum offsetting by establishing the SDM as a tool for results based climate finance**
- **Ensuring environmental integrity by establishing robust criteria for climate projects under the SDM**
- **Rendering CDM and JI projects and their associated units ineligible under the SDM**
- **Establishing accountability by ensuring the constitution and conduct of all SDM governance bodies is impartial and transparent**
- **Protecting social safeguards by establishing a grievance mechanism**
- **Allowing for stakeholders to inform and scrutinize development of rules and project implementation through adequate public participation channels**
- **Fostering sustainable development by developing an environmental and social policy for the SDM including means for monitoring and validation**

¹ <https://unfccc.int/documents/65151>

Increasing ambition

Moving away from the concept of zero-sum offsetting

To fulfil the condition of increasing ambition beyond the concept of offsetting, the SDM should be established as a scheme for results based climate finance (RBCF). This approach would entail that a host country could account for achieved emission reductions while the finance contribution to enable the mitigation activity could be accounted for against the climate finance commitment of the financing party, as proposed in the informal note under paragraph 67(g). Contrary to an offsetting system, RBCF schemes can truly lead to increasing ambition because the emissions reduced in the host country will not be displaced to the buyer countries. Parties which purchase SDM credits should use these to meet climate finance targets, as defined inter alia under article 9 of the Paris Agreement.

Ensuring Environmental Integrity

Even when moving beyond carbon offsetting, ensuring environmental integrity of units from the SDM is equally important under a climate finance approach. In light of this, the rules, modalities, and procedures of Article 6 need to ensure that project activities are real, verifiable and additional, and do not incentivise technologies that prevent the transition towards a low-carbon society or have negative environmental impacts, such as coal. The informal note “General requirements for mitigation activities” provides a good basis for these requirements, yet to be defined:

- Deliver real, verifiable, measurable and additional long-term benefits related to the mitigation of climate change beyond what would be achieved without finance;
- Apply an activity period approved by a centralized body;
- Avoid incentivizing the use of technologies in a manner that disincentivizes the uptake of newer, more environmentally friendly and/or less greenhouse gas intensive technologies;
- Foster sustainable development in accordance with Article 6, paragraph 4(a);
- Protect human rights and provide clear criteria for local stakeholder consultation;
- Not include activity types that have negative environmental impacts;
- Foster transition towards a low-carbon economy, in accordance with the long-term low emission development strategies of the participating Parties communicated in accordance with Article 4, paragraph 19;

For the unique case of aviation’s offset market, where a claim will be made on units to achieve their goal of carbon neutrality at 2020 levels, strict double counting rules should apply (see our CORSIA recommendations)².

Drawing a line between pre-2020 CDM and post-2020 SDM projects in line with the Paris goals

The Paris climate deal established a new “mechanism to contribute to the mitigation of greenhouse gas emissions and support sustainable development”³, in short the Sustainable Development Mechanism or SDM. This mechanism aims to serve to increase climate ambition among the Parties, and contribute to overall mitigation of GHG emissions. This goal marks a clear break from the logic of offsetting and calls for the end of

² (Link to CORSIA recommendations)

³ Paris Agreement, Art. 6(4)

the CDM, which is based on the concept of zero-sum offsetting.

A key question relates to the fate of the almost 8.000 projects, currently registered under the CDM, and the associated units from these projects. While finance for pre-2020 projects at risk of discontinuing mitigation should be secured, the SDM needs a fresh start to ensure the uptake of new projects post-2020 for an overall environmental benefit in line with the environmental integrity criteria above.

- Moving away from zero-sum offsetting by establishing the SDM as a tool for results based climate finance
- Ensuring environmental integrity by establishing robust criteria for climate projects under the SDM
- Registered projects under Kyoto's CDM and JI and their associated units should not be eligible under the SDM

SDM Governance Requirements

Learning from governance structures under CDM and JI

The central body overseeing the rules and implementation of the Sustainable Development Mechanism can pull from the experiences of the CDM Executive Board to improve on how decision-making is made on climate activities that will be financed. In this regard particular attention needs to be given to:

The constitution and conduct of the supervisory and supporting bodies of the Sustainable Development Mechanism: The SDM has to be governed in a professional, transparent, accountable and independent manner. Experience has shown that the two primary goals of the CDM (real, additional and verifiable emission reductions and sustainability benefits) are not always sufficiently considered by the CDM Executive Board. To ensure good governance particular attention must be paid to establishing:

- Robust codes of conduct for all members of the SDM governance structure including boards, working groups or teams assisting the Board, and members of the UNFCCC Secretariat
- Prohibiting nominations from representatives with vested interest in the SDM in order to prevent potential conflicts of interests.
- Ensuring that quota rules on composition of the Board are established that ensure that members from environmental and academic organisations are represented.
- Establishing cumulative term limits so that Board members may only serve a maximum of two terms of two or three years each.

The establishment of a grievance mechanism: There is a need to address the social and environmental impacts of future activities under the SDM during implementation. This includes considering and addressing concerns about human rights impacts of a particular activity raised by or on behalf of individuals and communities

The creation of public participation channels: The structure of the SDM should ensure frequent and open channels with outside stakeholders. This can be provided for in the SDM decision making process through open meetings, public documentation and public calls for input, which is standard practice in the UNFCCC. An essential addition to these functions will be establishing a local stakeholder consultation process to ensure proper implementation of projects and the protection of human rights.

Protecting human rights

The Paris Agreement's accompanying COP decision recognizes the significance of building on the experiences gained and lessons learned from existing mechanisms and approaches adopted under the Convention.⁴ To prevent repeating old mistakes and to help ensure the SDM's success, human rights must be at the core of the new mechanism's modalities and procedures. This means that rules should include the design of an institutional SDM grievance process to allow stakeholders to seek recourse against the impacts of mitigation projects. This mechanism should be operational to protect inter alia against human rights infringements. To that end, and, sections XIII(I) and XIII(J) of the informal note should be further developed to lay out the process which must be followed when a human right violation or other type of grievance is brought to the attention of the Supervisory Board.

In addition, these stakeholders should be involved throughout the design and implementation stages of the project to avoid or minimize such negative impacts. This requires the inclusion in the rulebook of detailed rules for conducting local stakeholder consultations in the context of SDM projects. The existing references to local stakeholder consultations in the informal note (paragraphs 26(i) and 45(f)) should be kept in the final rulebook, but they are insufficient and a more detailed description of how stakeholders must be consulted should also be included in the rulebook.

Without these rules and channels for decision making stakeholders - including all governments, civil society and carbon market actors - may be shut out of ensuring that the SDM ensures environmental integrity, establishes social safeguards, and contributes to sustainable development. Essential consideration to ensure sustainable development is elaborated in the following section.

- Establishing accountability by ensuring the constitution and conduct of all SDM governance bodies is impartial and transparent
- Protecting social safeguards by establishing a grievance mechanism
- Allowing for stakeholders to inform and scrutinize development of rules and project implementation through adequate public participation channels

Sustainable Development

The SDM is intended not only to deliver an overall mitigation in global emissions, but also to foster sustainable development. With this prominent role of sustainable development, even featured in its name, the development of the SDM rules need to learn from the challenges of its predecessor CDM which suffered from a lack of definition and clarity for validation and verification towards its goal of contributing to sustainable development in host countries.

Learning from this experience, the SDM modalities and procedures should clarify the role of host country

⁴ UNFCCC, Paris COP Decision, Decision 1/CP.21, 2015, para. 38(f)

governments in ensuring that SDM projects foster sustainable development, by developing development criteria, including requirements for sustainable development action plans and means for monitoring and validation.

The SDM development should also import elements from other existing mechanisms, such as from the environmental and social policy of Adaptation fund, which requires environmental and social management systems for identifying and assessing environmental and social risks in an open and transparent manner with appropriate consultation, including assessing compliance with principles of domestic and international law related to marginalized and vulnerable groups, human rights, gender equality and women's empowerment, core labour rights, indigenous people, and public health.

Promoting sustainable development is intrinsically linked to the imperative of including strong provisions for the social implications of climate mitigation projects. Parties issuing credits under the SDM should therefore be able to demonstrate that the projects they implemented did not result in adverse impacts on the environment or violated human rights. References to human rights in the informal note should therefore be kept in the final rulebook, including Paragraphs 1(g), 26(g), 34(e), 60.

→ Foster sustainable development by developing an environmental and social policy for the SDM including means for monitoring and validation

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