

Carbon Market Watch recommendations on establishing an independent grievance body under Article 6 of the Paris Agreement



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This note presents recommendations for consideration by Article 6 negotiators and members of the 6.4 Supervisory Body during the UNFCCC's 56th session of the subsidiary bodies (SB 56) and beyond. The recommendations concern the establishment of an independent grievance body under Article 6. It is expected that this first set of recommendations will be further elaborated depending on how negotiations advance.

Summary

At SB 56, negotiators should discuss how to broaden the scope of the grievance mechanism established under Article 6.4, in order to extend it or create a separate process to address grievances under 6.2.

Technical work needs to begin as soon as possible to establish a robust independent grievance body. The body must be operational before any 6.4 activities are initiated or registered. Key principles to underpin this body include:

- the grievance body must be independent and able to issue recommendations at any time without prior approval (e.g. from 6.4 supervisory body, CMA);
- if significant or repeated grievances are made against a project, developer, or methodology, the grievance body has the authority to impose certain temporary measures (e.g. suspending issuance), until a thorough review has been completed;
- project developers must inform local communities that the project is in the context of Article 6.4, that a grievance mechanism exists and how to access it;
- no fee must be required to make a grievance or for it to be reviewed/remediated;
- stakeholders must be given the option of confidentiality when filing a grievance;

- if confidentiality is not requested, the grievance and resulting decisions or remediations should be public (guidelines on confidentiality need to be defined);
- grievances can be made in any official language and submitted in any format;
- the body should be predictable and grievances should be reviewed and addressed in a reasonable time frame, which should be communicated with stakeholders;
- grievances can be filed on any aspect relating to activities, methodologies, or wider programme rules regarding the 6.4 mechanism.

The Article 6.4 rules require the establishment of an independent grievance process: “Stakeholders, activity participants and participating Parties may appeal decisions of the Supervisory Body or request that a grievance be addressed by an independent grievance process” ([Decision 3/CMA.3](#), Annex, §62).

This mechanism must be operational before the 6.4 mechanism starts (i.e. before activities are initiated or registered and before credits are traded).

Under the Clean Development Mechanism, there has been no grievance process, a shortcoming long flagged by many stakeholders.¹ In the voluntary carbon market, there are different provisions for grievance mechanisms with varying levels of specificity (see end of document).

It is worth reminding that UN Human Rights already has guiding principles regarding grievance mechanisms such that they be legitimate, accessible, predictable, equitable, transparent, rights-respecting, and a source of continuous learning.²

Article 6 negotiators can draw on existing detailed analysis and best practice on the subject, such as the Center for International Environmental Law’s [“Rights, Carbon, Caution: Upholding Human Rights under Article 6 of the Paris Agreement”](#) (2021). The report presents an overview of grievance mechanisms and details minimum requirements for a functional grievance process under Article 6. The below key principles are drawn in part from CIEL’s report.

¹ Center for International Environmental Law (CIEL) (2021), “Rights, Carbon, Caution: Upholding Human Rights under Article 6 of the Paris Agreement”, <https://www.ciel.org/reports/rights-carbon-caution/>.

² United Nations Human Rights Office of the High Commissioner (2011), “Principle 31: Effectiveness Criteria for Non-judicial Grievance Mechanisms” in United Nations Guiding Principles on Business and Human Rights, https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf.

Technical work on an independent grievance process should begin as soon as possible in order to ensure a robust process is established in a well thought out manner. This should go hand-in-hand with the development of how the 6.4 and 6.2 mechanisms will ensure the respect for human rights in their activities, since for example, the development of policies to guide the 6.4 Supervisory Body's work is closely related to the independent grievance process.

The Article 6.4 mechanism must not begin operating unless an independent grievance body is in place. Otherwise, there would be a lack of transparency and accountability since third-party scrutiny of activities would be severely limited and since key stakeholders, such as local communities, would be deprived of an essential right to redress.

Any 6.4ER activity registered in the absence of an operational grievance body would face significant reputational and integrity risks.

- **High-quality activities would suffer from such an absence:** i.e. even if a project were good and employed strong safeguards, it could be perceived as low-quality by stakeholders and buyers if no transparent grievance process were in place when the project was registered. Even with strong safeguards in place, issues can and do arise in practice, so it is essential that communities have a way to seek remedy.
- **Low-quality activities** that cut corners or infringe on peoples' rights **would perhaps not even face consequences for malpractice** (and if they did, it might problematically only be after the set-up of a grievance process at an undefined future date).
- **The absence of a grievance body could even incentivise corner-cutting** with developers rushing to set up projects before formal third-party scrutiny/grievance becomes possible. This would be unacceptable and would rightly undermine trust in the entire 6.4 mechanism.

Additional key principles to underpin the establishment of an independent grievance body under Article 6.4 include:

- **the grievance body must be independent and able to publicly issue recommendations without interference or approval from another body**, e.g. from the 6.4 Supervisory Body, CMA, or Parties. The body can issue recommendations at any time (i.e. the grievance body's recommendations should neither require approval from, nor need to coincide with, a meeting of the 6.4 SB, SBSTA, or CMA).
- **if a project, project developer, or methodology is the subject of significant or repeated grievances, the grievance body should have authority to impose temporary measures** (e.g. halting a project's issuance of credits) until a thorough review has been completed;

- **project developers must inform local communities that a grievance mechanism exists** and must provide related information regarding its operation and how to access it in the event that they are harmed or think they will be. Project developers must also inform local communities that the project is an Article 6.4 activity;
- **stakeholders must not pay a fee** in order to file a grievance or to have one reviewed and, where appropriate, remediated;
- **stakeholders must be given the option of confidentiality when filing a grievance** (in certain cases they could risk retaliation or other consequences). If confidentiality is not requested, the grievance and any resulting decisions/remediations should be made public. Guidelines on confidentiality would need to be defined, and justifications may be needed in some cases (e.g. if remediation outcomes are not made public).
- **grievances can be made in any official language** and in any format;
- **grievances should be reviewed and addressed in a reasonable time frame, which should be communicated with stakeholders having filed a grievance;**
- **the body should regularly update the concerned stakeholder on the status of an ongoing grievance review, e.g. every 1 or 2 month(s) or as major updates occur;**
- **the body should be predictable and publicise a timeline for a typical grievance on a webpage, to ensure stakeholders are aware of the review/remediation steps and related overall timing of this process.** The Gold Standard, for example, has a timeline³;
- **grievances can address any element of the mechanism(s), whether at project-level, methodology-level, or at the level of wider mechanism rules.** For example, grievances can address human rights infringements, lack of meaningful stakeholder engagement (including lack of respect for Indigenous Peoples' right to Free, Prior, and Informed Consent), robustness of social safeguards, negative local impacts from a specific activity, methodological shortcomings e.g. regarding quantification of emission reductions, process deficiencies, and more.

The establishment of a robust independent grievance body under Article 6 would also set a standard for good practice to follow for voluntary carbon market standards, which have inconsistent approaches. For context, the three biggest voluntary carbon market standards in terms of total carbon credit issuance – Verra, American Carbon Registry, the Gold Standard –

³ The Gold Standard (n.d.), “Grievances + Deregistration”, <https://www.goldstandard.org/our-story/grievances-deregistration>.

have a grievance process (Verra's process is inequitable to access due to a fee requirement), while the fourth biggest standard – Climate Action Reserve – does not appear to:

- Verra has a complaints and appeals policy, allowing stakeholders to file a complaint by e-mail, and to appeal the outcome of a complaint.⁴ However, Verra's policy requires the entity making the complaint or appeal to pay for all expenses associated with handling the complaint or appeal (unless the process results in overturning an earlier decision of Verra's). This is fully inappropriate as it creates a significant barrier for stakeholders wishing to make a complaint, and creates a direct incentive for the programme to reject the complaint. Requiring any fee would be inappropriate under Article 6.
- The American Carbon Registry has a similar procedure in place to Verra's but does not require the entity making the complaint/appeal to pay any fee.⁵
- The Gold Standard also allows stakeholders to file a complaint by e-mail and does not require the entity to pay any fee. The Gold Standard provides the most detail regarding its grievance procedure, compared to Verra and the American Carbon Registry, and also includes a timeline for how long it takes to review and address any grievance.⁶
- The Climate Action Reserve, the 4th largest issuer of voluntary market carbon credits – issuing only about 30 million fewer credits than either the American Carbon Registry or the Gold Standard⁷ – does not appear to have a grievance process in place: no policy/procedure or dedicated contact appears to be publicly accessible on its website or in related documentation. Clearly, this would be inappropriate under Article 6.

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⁴ Verra (2019), "Verra Complaints and Appeals Policy v1.0",

<https://verra.org/wp-content/uploads/2019/01/Verra-Complaints-and-Appeals-Policy-v1.0.pdf>

⁵ American Carbon Registry (2020), "American Carbon Registry Standard (Version 7.0)", pp. 60-61,

https://americancarbonregistry.org/carbon-accounting/standards-methodologies/american-carbon-registry-standard/acr-standard-v7-0_final_dec2020.pdf.

⁶ The Gold Standard (2020), "Gold Standard Grievance Procedure v 3.0",

<https://globalgoals.goldstandard.org/000-8-gov-grievance-approval-procedure/>; The Gold Standard (n.d.), "Grievances + Deregistration", <https://www.goldstandard.org/our-story/grievances-deregistration>.

⁷ From 2011 through 2021, Verra cumulatively issued 835 million carbon credits, while the American Carbon Registry issued 203 million, the Gold Standard issued 199 million, and the Climate Action Reserve issued 170 million. Data from: Trove Intelligence (2022), "Carbon Credit Projects & Transactions", <https://trove-intelligence.com/modules/carbon-projects/>.