CARBON MARKET WATCH

Carbon Market Watch's recommendations to Article 6 negotiators at SBSTA 60

Carbon Market Watch has prepared recommendations regarding key Article 6 topics on which SBSTA is mandated to provide guidance for adoption by the CMA at COP29. These build on a set of recommendations Carbon Market Watch had prepared before COP 28, given that there was no decision on Article 6.2 or 6.4 at COP 28 due to large divergences between Parties on the crucial topics discussed in this document.

Carbon Market Watch calls on negotiators to "reset" talks at SB 60 in a way that re-prioritises transparency and rigorous environmental and social safeguards, which must underpin Article 6.2 and 6.4 – especially 6.2, where SBSTA has a broader mandate. In this document, we first provide a bit of context highlighting the importance of a high quality outcome on Article 6.2, and then detail several recommendations.

Article 6.2 developments reveal the need for clear and high quality rules

Developments in recent years have underscored the urgency in getting the details right around Article 6.2. Parties have already begun to submit initial reports, authorise ITMOs, and even trade them – a wide range of approaches and interpretations are already clearly visible from existing MoUs and initial reports, including very concerning developments spearheaded by UAE-based company Blue Carbon.[1] The wide interpretations of the Article 6.2 guidance and the lack of coherence in its implementation so far underscore risks that may balloon in the absence of clear rules.

[1] Blue Carbon has signed MoUs and agreements with numerous countries, which in some cases reportedly may grant the company exclusive rights for decades to own and trade any carbon credits generated over millions of hectares of land. There has been little-to-no transparency regarding the scope of such MoUs, which crediting methodologies may be eligible, how consultations will be conducted, revenue-distribution, ownership of the mitigation, and more: https://news.mongabay.com/2023/08/massive-carbon-offset-deal-with-dubai-based-firm-draws-fire-in-liberia/; https://www.lemonde.fr/en/le-monde-africa/article/2023/08/02/liberia-set-to-concede-10-of-its-territory-to-emirati-company-for-carbon-credit-production_6077402_124.html; https://www.ft.com/content/f9bead69-7401-44fe-8db9-1c4063ae958c.

For example, Guyana's recently submitted initial report raises doubts about whether it complies with the Article 6.2 guidance. The initial report describes the cooperative approach as "emissions reductions from sustainable management of forests [....] Guyana's target for enabling ITMOs is an emissions reductions target set against maintaining forest cover". Yet, Guyana's planned ITMOs (as many as 21 million a year) will be issued under ART TREES' methodology for High Forest Low Deforestation (HFLD) jurisdictions, which can be argued to largely represent emissions avoidance against an artificially inflated baseline.

ART TREES' HFLD methodology permits the issuance of carbon credits based on a theoretical, and somewhat arbitrary, assessment of the level of deforestation expected in the jurisdiction. Since HFLD jurisdictions have had little historic deforestation, a typical historical baseline-setting exercise would yield limited credits, and so ART TREES allows for the issuance of credits to be revised upwards, beyond the mitigation that actually occurred. While it is crucial to financially support countries and authorities that have successfully protected their forests and continue to do so, this approach can be problematic because HFLD carbon credits are artificially inflated, but are used to offset very real emissions. Researchers and experts found that of the 33.5 million credits issued by ART TREES to Guyana over the period 2016-2020, a mammoth 28.2 million credits (84%) were a result of the artificial HFLD adjustment factor alone, meaning 28.2 million credits did not represent real emission reductions/removals.

Guyana's cooperative approach thus largely amounts to emissions avoidance, which is not permitted under Article 6.2, unless CMA decides differently in the future. It is thus not obvious whether Guyana can even authorise as many as 21 million irrevocable ART TREES ITMOs per year for use by airlines under CORSIA, or whether the Article 6.2 review team can halt the transfer and use of these ITMOs for not adhering to Article 6.2 guidance. Guyana's initial report also raises other questions: it is unclear which approach will be taken to apply corresponding adjustments – averaging vs multi-year emissions trajectory – and whether unilateral authorisation is even permitted given that cooperative approaches are meant to involve at least two participating Parties.

This is not intended to unfairly call out Guyana nor to say its conservation efforts have no impact – Guyana should certainly benefit from more climate finance flows from governments, companies, and philanthropies, but without this being tied to the artificial inflation of credits sold to airlines to comply with CORSIA. Overall, this case underscores big risks that are already emerging in Article 6.2 due to lack of clarity on key rules.

It is therefore troubling to see the speed and scale of Article 6.2 developments without clarity on key unresolved issues, including but not limited to: the definition, scope, and details of cooperative approaches and authorisations; the sequencing of authorisations, reporting, and trade of ITMOs; the ability of the review team to properly assess information submitted by Parties, including how non-compliance with the 6.2 guidance and inconsistencies are addressed and which corrective measures can occur; whether authorisations can be revoked; the design of the agreed electronic format, and more.

Robust rules are needed to give clarity on all these issues and close loopholes for good – the sooner that strong rules are agreed, the better. If an ambitious outcome can be agreed at CMA 6, then this would certainly be beneficial. However, it goes without saying that a poor outcome risks entrenching loopholes for years to come and must not be accepted simply for the sake of having something to show for at the close of COP 29.

Our recommendations regarding key SBSTA agenda items on Article 6 are below.

On Article 6.2, Parties need to ensure strong outcomes on…

Initial report, cooperative approach, authorizations

Parties must disclose in their authorisation statement(s) and initial report(s) full information regarding each cooperative approach and the planned ITMOs, including all the options in paragraph 10(a-q) of the latest draft 6.2 text from CMA 5 (version 12/12/2023 19:30). Parties should not be able to submit a vague and all-encompassing single authorisation that lacks specifics on the definition and scope of the cooperative approach and/or on key details around expected ITMOs (e.g. activity type, quantity planned for authorisation and which purposes).

Revocations

No revocations or revisions to the authorization should be permissible after ITMOs have been transferred or retired/cancelled. This is a simple principle to operationalise in negotiation text which is essential to prevent double counting of ITMOs from occurring due to the different triggers and possible timings for the application of corresponding adjustments, which revocations can considerably complicate if ITMOs have been transferred.

Sequencing

The 6.2 process should have clearly separated, consecutive procedural steps with implications not just for reporting, but also for transfer.

Correct sequencing requires that ITMOs may not be transferred until the review is complete. Allowing first transfer while merely reporting non-reviewed information risks allowing the trade of ITMOs that fail to comply with all requirements of the Guidance. Paragraph 60 from a version of the Article 6.2 text from COP 28 was the most robust (version 6/12/2023 at 10:00), and should be tabled again at SBSTA 60.

In the event ITMOs have been first transferred prior to the review being completed, and if the review finds inconsistencies, remedial actions will be necessary (as proposed in our point below on inconsistencies). Annual information regarding any ITMOs that have been first transferred prior to a completed review, at a minimum must be marked in the Article 6 database and CARP as "initial report review pending". Once again, we would stress that first transfer of ITMOs and related reporting of annual information should not be possible in the first place until the review has been satisfactorily completed first.

Inconsistencies

Inconsistencies should be flagged publicly, and corrective actions must be required based on the potential impact of such inconsistencies on environmental integrity and accurate reporting. Parties should further define inconsistencies (e.g. material vs non-material) and what qualifies as a persistent inconsistency (unaddressed after two reviews).

Any material inconsistencies regarding a cooperative approach and/or any underlying ITMOs, shall invalidate the use of those ITMOs towards NDC achievement and/or OIMP unless such inconsistencies can be, and are, resolved: e.g. as among the bracketed options in paragraph 70 in a 6.2 text from COP28 (version 6/12/2023 at 10:00). It is not sufficient to simply mark inconsistencies without any halt on the transfer/use of the underlying ITMOs, especially if the inconsistency is material.

Related to this, Parties must also strengthen the review process overall, including by giving a stronger mandate to the review team to (at least temporarily) halt the transfer, use, or cancellation of ITMOs in the event of non-compliance with the 6.2 Guidance or in the event of either material or persistent inconsistencies.

For more serious inconsistencies, such as failing to report on, or comply with, key elements of the 6.2 Guidance concerning environmental integrity (18.h) or human rights (18.i.i, 18.i.ii, 22.f, 22.g), or in the event of revelations the cooperative approach does not uphold these elements, corrective measures are needed and could include: freezing the Party's existing ITMOs (no further transfers/retirements) or halting any future issuance of ITMOs to the Party (including from other cooperative approaches, depending on the severity of the inconsistency or non-responsiveness), or cancelling and replacing ITMOs (e.g. in case of over-issuance or violation of human rights of an activity). In particular, if any such inconsistencies are persistent, then it is necessary to involve the Paris Agreement Implementation and Compliance Committee.

Agreed Electronic Format

The AEF should contain publicly accessible, disaggregated and clearly structured information, including but not limited to: unique identifier and name of cooperative approach; full information on ITMOs (unique identifier(s), mitigation sector and activity type (where applicable), quantity, vintage, permanence risk (where applicable), GHG metric); review status (whether initial report has been reviewed satisfactorily with any inconsistencies resolved); full information on authorisation (authorisation ID, authorising Party and other Participating Parties, acquiring Party, date of authorisation statement, hyperlink to authorisation statement, authorised entities, authorised uses, definition of first transfer); reporting on voluntary cancellation of ITMOs for OMGE and SOP for adaptation purposes.

Inconsistencies and other important information such as non-permanence risk - which Parties must report on per decision 2/CMA.3, Annex IV, para 18(h)(iii) - and expected durability of the underlying mitigation should be flagged in the AEF and reflected on the CARP.

The AEF should also include separate tables (or columns, depending on the final design) to account for reporting on voluntary cancellation of ITMOs for OMGE and SOP for adaptation purposes. The AEF should also allow for specifying voluntary OMGE separately from mandatory OMGE, as cooperative approaches can involve voluntarily cancelling ITMOs for OMGE purposes but can also involve A6.4ERs that face mandatory OMGE.

Registry arrangements

Unauthorized mitigation outcomes cannot be recorded in the international registry or AEF. Authorization is not optional in Article 6.2, and the reporting/review/tracking cycles concern ITMOs which must always be authorized.

Confidential information

No compelling reasons have been expressed for invoking confidentiality – confidentiality should not be invoked, and if it is, a compelling justification must be given to the review team for its review, which should also be made public (this can still accommodate some degree of confidentiality, as we have proposed before). Unjustified confidentiality should have consequences, including being deemed an inconsistency.

Negotiators should bring option 2 in paragraph 117 of one of the texts from COP28 (version 2/12/2023 at 12:00) requesting: i) SBSTA to develop recommendations defining which information should be considered confidential; ii) a process to deal with cases where the basis for confidentiality is not clear or questionable or has not been provided, including a provision for the technical expert review team to assess whether a justification is appropriate; iii) the secretariat to develop a specific code of conduct for Article 6 technical expert review teams regarding confidential information; iv) determining how to address and report on information that has been marked as confidential but which contains inconsistencies.

Avoiding double-counting (methods to account for corresponding adjustments)

Paragraph 16b of Decision 6/CMA.4 gave SBSTA a mandate to provide recommendations on this topic by CMA.6, but since there was no outcome on Article 6.2 at CMA.5 on pre-existing agenda items, it seems unlikely SBSTA will embark on this technical agenda item at SBSTA 60 and CMA.6. This is acceptable, so long as this topic is addressed before the related implementation takes place (e.g. before corresponding adjustments are applied via an averaging approach).

Emission avoidance

Parties should agree on excluding emission avoidance activities from being eligible under Article 6.2.

For Article 6.4, Parties need to ensure strong outcomes on...

Emission avoidance

Parties should also agree on excluding emission avoidance activities from being eligible under Article 6.4.

Authorization statement

Authorization statements should be given prior to issuance to avoid double counting risks and reporting errors. The statement should also contain a minimum level of information for transparency, mirroring all the options relevant for 6.4ERs in paragraph 10(a-q) of the latest draft 6.2 text from CMA 5 (version 12/12/2023 19:30). As for Article 6.2, no revisions or revocations to authorisation should be permissible for any A6.4ER that has been transferred or cancelled/retired.

Removal activities and methodological requirements

Given that there is no mandate for SBSTA to comment on these matters at SBSTA 60, we would simply highlight that Carbon Market Watch has submitted detailed inputs to the Article 6.4 Supervisory Body's recent call for inputs in April 2024, and we would stress that the work of the Article 6.4 Supervisory Body on these topics will need to be of very high quality to be considered for possible adoption at COP28 by CMA.

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Contacts

Jonathan Crook
Policy Expert on Global Carbon Markets
jonathan.crook@carbonmarketwatch.org

Isa Mulder
Policy Expert on Global Carbon Markets
isa.mulder@carbonmarketwatch.org