



## **Carbon Market Watch recommendations to the Article 6.4 Supervisory Body: sustainable development tool**

Brussels, 9 August 2024

Dear Members and Alternate Members of the Article 6.4 Supervisory Body,

In light of the foreseen adoption of the Sustainable Development tool at SBM014, Carbon Market Watch would like to offer recommendations for the finalization of the document based on [A6.4-SBM013-A05 - Draft tool: Article 6.4 sustainable development tool \(version 08.0\)](#), as well as the discussions that took place during SBM013. We limit our recommendations to the most urgent issues remaining. Please also see our [previously submitted recommendations](#) on the SD tool.

### **The role of existing regulation outside of the 6.4 mechanism**

The main issue that we see as a risk for the integrity of the SD tool is the role of existing regulation outside of the 6.4 mechanism, such as applicable national regulation and international regulations the host Party is a Party to.

In order to disentangle the relationship between the risk assessment and both national and international regulations, a restructuring of the risk assessment is needed. In our view, the solution to this is already contained in the document itself: the SD tool contains clear principles and criteria. These set out requirements for safeguarding. It therefore seems logical to use these requirements as a basis for the risk assessment and the subsequent monitoring plan, instead of making the risk assessment principally dependent on any type of regulation external to the 6.4 mechanism, whether national, international, or any corporate policy.

We would thus suggest a more central role for the principles and criteria of the SD tool itself in assessing risks. This prevents both the risk of variation in stringency between different host Parties, as well as creating a risk assessment that is too burdensome for the DOE. Applicable regulation external to the 6.4 mechanism, such as national and international regulation, should complement the SD tool's principles and criteria as long as it does not undermine the minimum requirements set out by the principles and criteria of the SD tool.

As an example of how our proposal could be implemented in the text, we would propose edits along the following lines. Of course, similar changes would have to be made throughout the entire document.

18. In addition to the requirements of the Validation and Verification Standard, Activity Cycle Procedure and Activity Standard listed in section 3 related to compliance with legal and regulatory requirements of the host Party, activity participants are required to document in the activity form [project design document (PDD)] that their proposed activities do not cause any environmental and/or social harm. If harm cannot be avoided, activity participants are required to prevent and minimize identified risks and provide evidence that the activities are consistent with **the principles and criteria of this tool** ~~host party regulations~~ by completing the A6.4 Environmental and Social safeguards risk assessment form and the A6.4 Environmental and Social Management Monitoring Plan Form for addressing environmental and/or social risks identified in A6.4 Environmental and Social Safeguards Risk Assessment Form. While an activity ~~shall be expected to comply with~~ **the principles and criteria of this tool** ~~host Party regulations~~, **and shall also comply with host party regulations**, activity participants are also encouraged to apply relevant standards, industry best practices and their own voluntary corporate policies in addition to ~~or in absence of~~ **the principles and criteria of this tool** ~~host party regulations~~, applicable to the proposed activity. The outcome of the assessment of environmental and social safeguards (A6.4 Environmental and Social Safeguards Risk Assessment and A6.4 Environmental and Social Management Plan) shall be shared at the local stakeholder consultation as per Article 6.4 activity standard.

## Other issues

### Loophole in flowchart (Section 5, Figure 1)

As it currently stands, the Do-No-Harm Risk Assessment flow chart contains a major loophole: where a guiding question is applicable, but no host party regulation nor private actor practice or policy is available, it is possible to circumvent the risk assessment of the potential negative environmental and social impacts.

### **Recognizing Indigenous legal systems (Section 5.3.6. Principle 9: Indigenous Peoples)**

“Indigenous legal systems based on the international law will be recognized if they are consistent with applicable national legislation” must be changed. Only recognizing Indigenous legal systems when these are consistent with applicable national legislation will mean that in the situation where there is a conflict between Indigenous legal systems and national legislation, the sustainable development tool will fall short in upholding the rights of Indigenous Peoples.

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