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POLICY BRIEF

Finalising the rulebook

Key outcomes of COP26 negotiations on Article 6

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Executive summary

After extensive negotiations, delegates at COP26 in Glasgow finally completed the rulebook for Article 6 of the Paris Agreement, which establishes the rules for the operationalisation of international carbon market mechanisms. The details of the rulebook had remained unresolved since 2015, despite numerous rounds of negotiation.

Key outcomes for the rulebook on Art. 6 PA¹ include a comprehensive accounting framework for the avoidance of double counting under Art. 6.2 PA (2.1.1), as well as greater clarity regarding the definition of internationally transferred mitigation outcomes (ITMOs) (2.1.2). Provisions imposing mandatory ‘taxation’ on the mechanism of Art. 6.2 PA via a ‘share of proceeds’ (SOP) and an ‘overall mitigation in global emissions’ (2.1.3) were not included in the final draft of the rulebook. The crediting mechanism of Art. 6.4 PA addressed a pressing issue: how to account for mitigation activities occurring ‘outside’ and/or ‘inside’ the scope of NDCs. No exception was granted for accounting depending on the ‘inside/outside’ notion (2.2.1). The new text allows for a limited carryover of Clean Development Mechanism (CDM) activities and credits (2.2.2) and sets rules for methodology on which to build (2.2.3). Lastly, rules for the operationalisation of SOP and ‘overall mitigation in global emissions’ were established under Art. 6.4 PA (2.2.4).

In particular, the implementation of an accounting framework for Art. 6 PA to avoid double counting should be considered a milestone. These rules will likely also be of great importance for developments on the **voluntary carbon market** (3). Given the possible issuance of units with and without corresponding adjustments onto this market, much will depend on the rules determined by Parties and actors regarding the possible use of these unauthorised mitigation outcomes.

The rules for Art. 6 PA, however, can be understood to mean that corresponding adjustments are a prerequisite for environmental integrity – which, in turn, can influence the market value of credits that do not present a double-counting risk. The **eligibility of REDD+ projects** (4) under the market mechanism may not have been identified as one of the most challenging aspects of the negotiations in the past, but it nevertheless proved to be a contentious subject. In the current text, the use of future REDD+ credits under Art. 6 PA, including the avoidance of deforestation, is not explicitly excluded through the definition of ITMOs. Despite the sometimes-dubious results of REDD+ projects in the past, this is ultimately a desirable outcome. If REDD+ is included without prioritisation over other projects, and if it is subject to the high standards of Art. 6 PA, it could provide an effective financing method to protect and enhance forests and their mitigation potential.

The compromise reached by the Parties on ‘crunch issues’ is a considerable accomplishment, particularly because disagreements on these issues had derailed past negotiations. By finalising the rulebook at COP26, Parties laid the groundwork for a credible international carbon market. Although the agreed-upon rules do not adequately address certain climate-related challenges, they provide a robust framework for the mechanisms of Art. 6.2 and 6.4 PA. To ensure functionality while maintaining a high level of environmental integrity for carbon markets, however, it is not sufficient to rely solely on these rules. Much will depend on the efforts of Parties, participants and international bodies to ensure that future carbon markets are functional, credible and robust.

¹ This paper refers to the published ‘advance unedited’ versions of the relevant decisions. Minor changes to the decision texts are possible.

1. Finding rules for carbon markets

The Paris Rulebook has finally been completed – six years after the adoption of the Paris Agreement (PA) and three years after COP24 in Katowice. The rules on market mechanisms, as enshrined in Art. 6 PA, proved to be some of the most contested provisions of the rulebook. The rules on Art. 6 PA would come with potentially far-reaching effects: markets have the potential to offer flexibility for Parties and can be crucial to exploit the potential for cost-effective mitigation. They can also help to activate the private sector and thus facilitate important financial flows and technological innovation. At the same time, experiences with the Kyoto mechanisms have shown that the use of markets for enhanced mitigation action has potential drawbacks: if designed poorly, rules on international carbon markets can ultimately have negative effects on the climate and the environment, for example if the same mitigation outcome is counted more than once.²

Against this background, there were fears that the rules for market-based cooperation would ‘make or break’ the Paris Agreement.³ The discussions around Art. 6 PA were particularly difficult, because crucial issues were often both highly political and highly technical in nature. After extensive negotiations, all Parties were forced to make compromises. Despite certain shortcomings, the results provide a solid foundation for future markets, although the creation of credible and functioning carbon market will require an all-hands-on-deck effort from every Party and entity involved.

In this short paper, we will first briefly outline the key outcomes and implications of COP26 negotiations for Art. 6 PA, and then discuss potential consequences for the voluntary carbon market. We will conclude by examining what the outcomes of the Art. 6 PA negotiations could mean for REDD+.⁴

2. Key outcomes for Art. 6 PA

We will first outline the most significant rules agreed upon for Art. 6.2 PA and 6.4 PA, and then discuss the possible implications of these rules.⁵

2.1 Key outcomes for Art. 6.2 PA

The market mechanism governed by Art. 6.2 PA encompasses bilateral or multilateral cooperative market-based approaches that involve the international transfer of mitigation outcomes by Parties to facilitate the achievements of their NDCs. Art. 6.2 PA is designed to give Parties flexibility to determine how to engage in cooperation. There is no international oversight under the UNFCCC for the mechanism of Art. 6.2 PA, but international rules for this mechanism were to include an accounting framework for international cooperation. The avoidance of double counting is one of the central elements of the mechanism. Disagreement over accounting rules proved to be a major obstacle in past negotiations.

² Michael Mehling, Camilla Bausch, Der Klimagipfel von Glasgow: Notwendig aber nicht hinreichend, Klima und Recht, Issue 1 (2022): 24.

³ Simon Evans, Josh Gabbatiss, In depth Q&A: How ‘Article 6’ carbon markets could ‘make or break’ the Paris Agreement, Carbon Brief Explainers, 29.11.2019, available at: <https://www.carbonbrief.org/in-depth-q-and-a-how-article-6-carbon-markets-could-make-or-break-the-paris-agreement>

⁴ Art. 6.8 PA is beyond the scope of this paper.

⁵ Where fitting, we will pay special attention to the implications for the private sector, building on our publication prior to COP26 which took a closer look at the rules for Art. 6.4 PA through this particular lens, see: Friederike Allolio et al, Article 6.4 of the Paris Agreement and the Private Sector - utilising the potential of private sector engagement through the Paris Rulebook’ (2021), IKEM Policy Paper, available at: <https://www.ikem.de/publikation/article-6-4-of-the-paris-agreement-and-the-private-sector/>.

2.1.1 Corresponding adjustments

One of the most significant achievements at the summit was the establishment of comprehensive accounting rules. The accounting framework outlined in Art. 6.2 PA requires two countries engaging in the transfer of carbon market units to make ‘corresponding adjustments’ to their reported emissions.⁶ If a buyer country applies a mitigation outcome towards their NDC, the host country must adjust its account by adding that outcome to its own emission level. This prevents an emission reduction from being counted more than once.⁷

The variation between metrics and time periods used in NDCs made it difficult to implement this straightforward principle under Art. 6 PA.⁸ Compounding the complexity, some of the Parties’ NDCs only cover certain sectors. In order to proceed on this issue, it was decided that, while the rules do allow for a certain degree of flexibility regarding the standards of measurement for internationally transferred mitigation outcomes (ITMOs),⁹ accounting must be conducted in GHG emission metrics, in metric tonnes of CO₂ equivalent.¹⁰ In addition, seller countries must account for all of the carbon market units that they transfer, without exception.¹¹ Finally, the accounting rules require mitigation outcomes to be used within ‘the same implementation period as when they occurred,’¹² thereby prohibiting the transfer of carbon market units from one NDC period to the next.

By finalising and clarifying the accounting rules for Art. 6.2 PA (and thus to an extent for 6.4 PA; see chapter 2.2.1), the Glasgow Climate summit accomplished one of the main objectives for the rulebook. In one particularly welcome development, no exceptions were made for accounting, which means that transferred mitigation outcomes originating from all parts of a Party’s economy must be accounted for, regardless of whether they are included in a Party’s NDC. This had been a contested issue in the past.¹³

However, as has been noted by Lambert Schneider of the Ökoinstitut, there is one possible loophole in the current design of this rule.¹⁴ The rules allow for an ‘averaging’ approach that can address the fact that many countries have single-year climate target.¹⁵ If a Party chooses this accounting approach, the corresponding adjustments that it applies in 2030 would be based on the average number of mitigation outcomes transferred over the period 2021–2030. As Schneider points out, this could become especially problematic under a scheme like the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA), under which the demand for carbon credits is expected to increase over time.¹⁶ It could lead to a scenario in which a host country in 2030 would only need to apply corresponding adjustments to around half of the emission reductions from carbon-crediting projects in its reported emissions. Under certain circumstances, ‘averaging’ therefore has the potential to place a de facto limitation on policies against double counting.¹⁷

6 UNFCCC 2021 Guidance on cooperative approaches referred to in Art. 6, paragraph 2, of the Paris Agreement, Annex III, decision-3/CMA (advance unedited version), available at: https://unfccc.int/sites/default/files/resource/cma3_auv_12a_PA_6.2.pdf.

7 Lambert Schneider, #COP26 in Glasgow delivered rules for international carbon markets - how good or bad are they? Beiträge und Standpunkte aus dem Öko-Institut, 15.11.2021, available at: <https://blog.oeko.de/glasgow-delivered-rules-for-international-carbon-markets-how-good-or-bad-are-they-cop26/>.

8 Ibid.

9 Lambert Schneider, #COP26 in Glasgow delivered rules for international carbon markets – how good or bad are they? Beiträge und Standpunkte aus dem Öko-Institut, 15.11.2021, available at: <https://blog.oeko.de/glasgow-delivered-rules-for-international-carbon-markets-how-good-or-bad-are-they-cop26/>.

10 UNFCCC 2021, Guidance on cooperative approaches referred to in Art. 6, paragraph 2, of the Paris Agreement, Decision-3/CMA (advance unedited version), Annex III B, available at: https://unfccc.int/sites/default/files/resource/cma3_auv_12a_PA_6.2.pdf

11 Ibid., Annex III A.

12 UNFCCC 2021 Guidance on cooperative approaches referred to in Art. 6, paragraph 2, of the Paris Agreement, Annex III B, 10, b, Decision-3/CMA (advance unedited version), available at: https://unfccc.int/sites/default/files/resource/cma3_auv_12a_PA_6.2.pdf

13 See for a more in depth look: Friederike Allolio et al, Article 6.4 of the Paris Agreement and the Private Sector – utilizing the potential of private sector engagement through the Paris Rulebook, IKEM Policy Paper (2021): 10, available at: <https://www.ikem.de/publikation/article-6-4-of-the-paris-agreement-and-the-private-sector/>

14 Lambert Schneider, #COP26 in Glasgow delivered rules for international carbon markets - how good or bad are they? Beiträge und Standpunkte aus dem Öko-Institut, 15.11.2021, available at: <https://blog.oeko.de/glasgow-delivered-rules-for-international-carbon-markets-how-good-or-bad-are-they-cop26/>.

15 UNFCCC 2021 Guidance on cooperative approaches referred to in Art. 6, paragraph 2, of the Paris Agreement, Annex III 7 ii), Decision-3/CMA (advance unedited version), available at: https://unfccc.int/sites/default/files/resource/cma3_auv_12a_PA_6.2.pdf

16 Lambert Schneider, #COP26 in Glasgow delivered rules for international carbon markets - how good or bad are they? Beiträge und Standpunkte aus dem Öko-Institut, 15.11.2021, available at: <https://blog.oeko.de/glasgow-delivered-rules-for-international-carbon-markets-how-good-or-bad-are-they-cop26/>.

17 Ibid.

2.1.2 Definition of internationally transferred mitigation outcomes (ITMOs)

In addition to being ‘real, verified and additional’, ITMOs from a cooperative approach include ‘emission reductions and removals, including mitigation co-benefits resulting from adaptation actions and/or economic diversification plans or the means to achieve them, when internationally transferred’.¹⁸ The definition also includes ‘6.4.ERS’, units generated under the mechanism of Art. 6.4 PA, if they are authorized for a specific purpose.¹⁹

The rules for Art. 6.2 PA do not only make it possible for Parties to trade among themselves, they also establish a definition of ITMOs that encompasses ‘mitigation outcomes authorized by a participating Party for use for international mitigation purposes other than achievement of an NDC’.²⁰ This is understood to include non-UNFCCC compliance schemes like CORSIA. In addition, the definition includes mitigation outcomes that are authorised ‘for other purposes as determined by the first transferring participating Party’.²¹ These ‘other purposes’ likely include the use of mitigation outcomes on the voluntary carbon market, where credits are used to offset emissions by private companies or individuals.²² As for all other ITMOs,²³ a corresponding adjustment must be applied by the host country for these authorised mitigation outcomes.²⁴

The explicit inclusion of A6.4ERS and potential use ‘for other purposes’ in the definition of ITMOs was a welcome – if not unexpected – development. There was some uncertainty about whether the definition also included REDD+ projects; this issue, as well as the implications of this definition for the voluntary carbon market, will be discussed in greater detail below (see chapters 3 and 4).

2.1.3 Overall mitigation in global emissions (OMGE) and share of proceeds (SOP)

Overall mitigation in global emissions (OMGE) and share of proceeds (SOP) were two of the crunch issues examined during the negotiations, especially in the context of Art. 6.2 PA.²⁵ The requirements for both OMGE and SOP are explicitly included in Art. 6.4 PA, but not in Art. 6.2 PA. Parties ultimately agreed to include language that ‘strongly encourage[s]’ Parties to make respective payments under Art. 6.2 PA.²⁶

Developing countries, in particular, had strongly advocated the creation of rules for Art. 6.2 PA that would parallel those for Art. 6.4 PA.²⁷ Art. 6.2 PA, however, is designed to provide international rules mainly on accounting. Unlike Art. 6.4 PA, Art. 6.2 PA does not provide for international oversight of the mechanism, as it is intended to allow for significant flexibility for cooperating Parties. Mandating taxation via SOP or OMGE could likely undermine this premise: while adaptation finance is a major issue that must be sufficiently addressed, obligatory fees can serve as a barrier for Parties who seek to make use of the mechanism. For example, mandatory payments may pose a real obstacle to linking emission trading schemes in some jurisdictions.²⁸ The lack of limitations on the mechanism’s flexibility is a positive outcome, because it allows the mechanism to remain broadly accessible.

18 UNFCCC 2021, Guidance on cooperative approaches referred to in Art. 6, paragraph 2, of the Paris Agreement, Annex I, 1, a, b decision-3/CMA (advance unedited version), available at: https://unfccc.int/sites/default/files/resource/cma3_auv_12a_PA_6.2.pdf.

19 Ibid, I 1 g.

20 Ibid, I 1 f.

21 Ibid.

22 Charlotte Streck, What does the Article 6 Rulebook for mean REDD+?, Shades of REDD+, ecosystem market place, 20.12.22, available at: <https://www.ecosystemmarketplace.com/articles/what-does-the-article-6-rulebook-mean-for-redd/>.

23 UNFCCC 2021, Guidance on cooperative approaches referred to in Art. 6, paragraph 2, of the Paris Agreement, Annex III A 6 decision-3/CMA (advanced unedited version), available at: https://unfccc.int/sites/default/files/resource/cma3_auv_12a_PA_6.2.pdf.

24 Lambert Schneider, #COP26 in Glasgow delivered rules for international carbon markets- how good or bad are they? Beiträge und Standpunkte aus dem Öko-Institut, 15.11.2021, available at: <https://blog.oeko.de/glasgow-delivered-rules-for-international-carbon-markets-how-good-or-bad-are-they-cop26/>.

25 Axel Michaelowa, Aglaja Espelage, Benito Müller, 2020 Update, Negotiating cooperation under Article 6 of the Paris Agreement, European Capacity Building Initiative (2020): 21, available at: https://ecbi.org/sites/default/files/Article%206%202020_0.pdf.

26 UNFCCC 2021, Guidance on cooperative approaches referred to in Art. 6, paragraph 2, of the Paris Agreement, Annex VII 39, decision-3/CMA (advance unedited version), available at: https://unfccc.int/sites/default/files/resource/cma3_auv_12a_PA_6.2.pdf.

27 Steve Zwick, Article 6 and its Glasgow Rulebook: the Basics, ecosystem market place, 16.11.2021, available at: <https://www.ecosystemmarketplace.com/articles/article-6-and-its-glasgow-rulebook-the-basics/>.

28 Wolfgang Obergassel et al., COP 25 in search of lost time for Action, an Assessment of COP 25 in Madrid (2020): 11, available at: <https://wupperinst.org/fa/redaktion/downloads/publications/COP25-Report.pdf>.

2.2 Key outcomes for Art. 6.4 PA

Art. 6.4 PA establishes a crediting mechanism that, under the auspices of the UNFCCC, issues emission reduction units for activities authorised by Parties in support of sustainable development. The generated reductions can be acquired by other Parties and applied towards NDCs. The rulebook sets out rules, modalities and procedures for this mechanism, which to a certain extent can be viewed as the successor to the Clean Development Mechanism under the Kyoto Protocol.

2.2.1 Corresponding adjustments

One of the major additions to the text was the inclusion of a provision that prevents double counting under the Art. 6.4 PA mechanism.²⁹ Some countries interpreted Art. 6.5 PA to mean that emission reductions achieved from activities ‘outside’ the NDC should not trigger a corresponding adjustment. Due to divergent views on what constitutes activities ‘outside’ a country’s NDC, an early subject of debate was whether units issued under the Art. 6.4 PA mechanism would trigger a corresponding adjustment at all.³⁰ This contentious issue was resolved when Brazil abandoned its previously held position and agreed to require corresponding adjustments for all new emission reductions generated under Art. 6.4 PA.³¹ A crucial element of this compromise – which was based on a proposal by Japanese negotiators³² – was that the new mechanism would issue two types of mitigation outcomes, one of which would be authorised for specific uses (and is thus accompanied by corresponding adjustments) and one of which would not.³³

In any case, host countries will have to approve and authorize the participation of public or private entities in a certain activity under Art. 6.4 PA³⁴. The ‘second’ authorization for a specific use however is not mandatory and it is this second authorization the requirement of corresponding adjustment is depending on.³⁵ The text allows for non-adjusted units to be issued only implicitly, which is why there does remain some uncertainty. However, it seems clear that activities which are not authorised for a specific use under Art. 6.4 PA must still follow the remaining requirements of the mechanism. This will include methodology provisions as well as the payment of ‘overall mitigation in global emissions’ as well as a ‘share of proceeds’, given that this form of ‘taxation’ is due at first issuance of the units (see chapter 2.2.4).³⁶

Making corresponding adjustments applicable across the board can be considered a win for environmental integrity and an important milestone on the path towards a credible mechanism. The introduction of ‘unauthorised’ credits, which are not backed by a corresponding adjustment, was likely a necessary compromise to come to this agreement. Parties seem to agree that these units can be used domestically, for example in emissions trading systems, or simply as a way to help host countries achieve their NDCs.³⁷

29 UNFCCC 2021, Rules, modalities and procedures for the mechanism established by Article 6, paragraph 4, of the Paris Agreement, Annex, XI,X, Decision-3/CMA (advance unedited version), available at: https://unfccc.int/sites/default/files/resource/cma3_auv_12b_PA_6.4.pdf.

30 See for a more detailed discussion: Friederike Allolio et al., Article 6.4 of the Paris Agreement and the Private Sector- utilizing the potential of private sector engagement through the Paris Rulebook, IKEM Policy Paper (2021): 10, available at: <https://www.ikem.de/publikation/article-6-4-of-the-paris-agreement-and-the-private-sector/>.

31 Steve Zwick, Article 6 and its Glasgow Rulebook: the Basics, ecosystem market place, 16.11.2021, available at: <https://www.ecosystemmarketplace.com/articles/article-6-and-its-glasgow-rulebook-the-basics/>.

32 Simon Evans et al, COP26 : Key outcomes agreed at the UN climate talks in Glasgow, Carbon Brief, 15.11.2021, available at: <https://www.carbonbrief.org/cop26-key-outcomes-agreed-at-the-un-climate-talks-in-glasgow>.

33 Ibid.

34 UNFCCC 2021, Rules, modalities and procedures for the mechanism established by Article 6, paragraph 4, of the Paris Agreement, Annex, V. C. 41, Decision-3/CMA (advance unedited version), available at: https://unfccc.int/sites/default/files/resource/cma3_auv_12b_PA_6.4.pdf.

35 Ibid. V.C. 42,43,44.

36 Ibid VII, VIII.

37 Lambert Schneider, #COP26 in Glasgow delivered rules for international carbon markets- how good or bad are they? Beiträge und Standpunkte aus dem Öko-Institut, 15.11.2021, available at: <https://blog.oeko.de/glasgow-delivered-rules-for-international-carbon-markets-how-good-or-bad-are-they-cop26/>.

2.2.2 Transition from the Clean Development Mechanism (CDM)

Another crunch issue that hindered an earlier adoption of the Paris Rulebook was the question of whether and under what conditions credits issued under the Clean Development Mechanism (CDM) could be carried over to the mechanisms of the Paris Agreement. This issue is a political one: some Parties argued that any transition should be excluded to prevent Kyoto-era credits from flooding the market, which would undermine ambition. Others feared that such an exclusion would lead to a substantial loss of trust in the mechanisms and in carbon markets as a whole.³⁸

In Glasgow, Parties finally agreed to permit limited carryover, with time-related restrictions. The transition of CDM activities can occur if the project participants request the transition before 2023. The approval by the Supervisory Board must take place by 2025, and methodologies can be used for a certain time period.³⁹ The proposed text sets out criteria for countries to use certified emission reductions (CER) from projects registered after 1 January 2013 to meet their first NDC or first adjusted NDC. The rules further ensure that CERs originating from the CDM are recognisable as such: according to the text, ‘CERs shall be transferred to and held in the mechanism registry and identified as pre-2021 emission reductions’.⁴⁰

Many organisations and a number of countries were disappointed with this outcome, viewing any carryover as contrary to the principle of environmental integrity.⁴¹ As we have argued elsewhere, however, a limited transition is desirable, because it can help to preserve trust in the private sector.⁴² According to a calculation by the NewClimate Institute and the Öko-Institut, roughly 300 million credits will be carried over, while up to 2.8 billion credits from carbon projects could be generated if projects were transitioned.⁴³ These numbers, which are still quite large, could be smaller with stronger restrictions. Despite this number, it may be possible to prevent a flooding of the market: there is no automatic transition, and participants must take comprehensive procedural steps within a limited timeframe. In addition, the credits will be clearly labelled, and it is not unlikely that the reputational risk associated with such purchases will make these credits less appealing to potential buyers.⁴⁴

2.2.3 Methodology

The mechanism methodologies are intended to ensure the environmental integrity of activities and encourage an increase in ambition over time. Some of the most important instruments to achieve these goals are the rules on baselines and additionality.⁴⁵ In principle, baselines are used to determine the mitigation impact of an activity, while additionality requires any mitigation action to show that the emission reductions would not have occurred in the absence of support from the mechanism.

According to the agreed-upon text, each mechanism methodology must apply one of the outlined approaches: baselines must be chosen based on a performance-based approach, taking into account the best available technologies, an ambitious benchmark approach, or an approach based on existing actual or historical emissions.⁴⁶ In addition, ‘[s]tandardized Baselines may be developed by the Supervisory Body at the request of a host party or may be developed by the host Party and approved by the Supervisory Body’.⁴⁷ To be eligible for the new mechanism, the mitigation of GHG emissions must be additional. Additionality, according to the agreed-upon text, must be ‘demonstrated using a robust assessment that shows the activity would not have occurred in the absence of the mechanism’. This includes ‘all relevant national policies, including legislation, and representing mitigation that ex-

38 Friederike Allolio et al., Article 6.4 of the Paris Agreement and the Private Sector- utilising the potential of private sector engagement through the Paris Rulebook’, IKEM Policy Paper (2021): 4, available at: <https://www.ikem.de/publikation/article-6-4-of-the-paris-agreement-and-the-private-sector/>.

39 UNFCCC 2021, Rules, modalities and procedures for the mechanism established by Article 6, paragraph 4, of the Paris Agreement, Annex XI, A. 73. (a), (b), (d), Decision-3/CMA (advance unedited version), available at: https://unfccc.int/sites/default/files/resource/cma3_auv_12b_PA_6.4.pdf.

40 Ibid, B. 75. (a) (b)

41 See for example: Khaled Diab, COP26: Half-baked carbon market rules fail to take heat off the climate, 13.11.2021 available at: <https://carbonmarketwatch.org/2021/11/13/cop26-half-baked-carbon-market-rules-fail-to-take-heat-off-the-climate/>.

42 Allolio et al, Article 6.4 of the Paris Agreement and the Private Sector- utilizing the potential of private sector engagement through the Paris Rulebook’, IKEM Policy Paper (2021): 4, available at: <https://www.ikem.de/publikation/article-6-4-of-the-paris-agreement-and-the-private-sector/>.

43 Carsten Warnecke et al., The potential impact of transitioning CDM units and activities to the Paris agreement, Webinar presentation, 21.10.2021: slide 15, 22 available at: https://www.oeko.de/fileadmin/oekodoc/WEBINAR_TransitioningCDMActivitiesUnitstoParisEra.pdf.

44 Lambert Schneider, #COP26 in Glasgow delivered rules for international carbon markets- how good or bad are they? Beiträge und Standpunkte aus dem Öko-Institut, 15.11.2021, available at: <https://blog.oeko.de/glasgow-delivered-rules-for-international-carbon-markets-how-good-or-bad-are-they-cop26/>.

45 Axel Michaelowa, Aglaja Espelage, Benito Müller, 2020 Update, Negotiating cooperation under Article 6 of the Paris Agreement, European Capacity Building Initiative (2020): 24, available at: https://ecbi.org/sites/default/files/Article%206%202020_0.pdf.

46 UNFCCC 2021, Rules, modalities and procedures for the mechanism established by Art. 6 para. 4 of the Paris Agreement, Annex V. B 36, Decision-3/CMA (advance unedited version), available at: https://unfccc.int/sites/default/files/resource/cma3_auv_12b_PA_6.4.pdf.

47 Ibid, 37.

ceeds any mitigation that is required by law or regulation'.⁴⁸ The text also calls for an approach that avoids locking in levels of emissions, technologies or carbon-intensive practices.⁴⁹

The discussions on baselines and additionality are, at their core, highly technical in nature, but are crucial to the integrity of the Art. 6.4 PA mechanism to enhance ambition. In a clear (though not entirely unexpected) sign of progress, decisive language was used to require an additionality assessment based on regulatory aspects. It remains to be seen whether further operationalisation of the rules on additionality will be ambitious enough, and whether there will be some level of standardisation, which could help keep transaction costs down. Regarding the baselines, Parties decided against pushing all operational language to a later point in time, opting instead for a menu-based approach that offered some flexibility to those participating in the mechanism. The Supervisory Body's role in working with Parties to establish standardised baselines at a high level of aggregation is also a favourable outcome, as this may increase predictability, especially in the context of the private sector.⁵⁰ While these are overall positive developments, the decisions cannot and do not provide sufficient instructions for the immediate implementation of the mechanism. It is therefore crucial that the responsible bodies reach prompt decisions on the remaining technical and methodological details.

2.2.4 Overall mitigation in global emissions and share of proceeds

The operational rules for overall mitigation in global emissions (OMGE) and share of proceeds (SOP) have been finalised: OMGE must be delivered via a mandatory cancellation of a minimum of 2 % of the issued A6.4ERs to the cancellation account.⁵¹ The SOP for adaptation and administrative expenses was set at 5 % of A6.4ERs and levied at issuance.⁵²

While some argue that, in particular, the minimum OMGE required is very low,⁵³ others fear that the combination of 2 % OMGE, a 5 % SOP, and conservative baselines (together with the additional monetary contribution under para. 67 (b)) could create an overly high barrier to entering the Art. 6.4 PA mechanism.⁵⁴ It is certainly true that, under the new rulebook, the use of the Art. 6.4 PA mechanism comes at a considerable cost to the participants. Given the necessity of adaptation finance, however, a tax of 5 % should not be considered too high per se, especially given that the SOP has not been extended to all cooperative approaches. It remains to be seen whether this level of taxation will indeed prove to be a real barrier to participation. In any case, the fact that the design of OMGE is now in place is a welcome development. When rules are reviewed in the future, this architecture can be used to adapt the rate if necessary.⁵⁵

48 Ibid, 38.

49 UNFCCC 2021, Rules, modalities and procedures for the mechanism established by Art. 6 para. 4 of the Paris Agreement, Annex V B 38, Decision-3/CMA (advance unedited version), available at: https://unfccc.int/sites/default/files/resource/cma3_auv_12b_PA_6.4.pdf.

50 See for further discussion: Friederike Allolio et al, Article 6.4 of the Paris Agreement and the Private Sector- utilizing the potential of private sector engagement through the Paris Rulebook, IKEM Policy Paper (2021): 5-7 available at: <https://www.ikem.de/publikation/article-6-4-of-the-paris-agreement-and-the-private-sector/>.

51 UNFCCC 2021, Rules, modalities and procedures for the mechanism established by Art. 6 para. 4 of the Paris Agreement, Annex VIII, 69, (a), Decision-3/CMA (advance unedited version), available at: https://unfccc.int/sites/default/files/resource/cma3_auv_12b_PA_6.4.pdf.

52 Ibid, VII, 67 (a).

53 Lambert Schneider, #COP26 in Glasgow delivered rules for international carbon markets- how good or bad are they? Beiträge und Standpunkte aus dem Öko-Institut, 15.11.2021, available at: <https://blog.oeko.de/glasgow-delivered-rules-for-international-carbon-markets-how-good-or-bad-are-they-cop26/>.

54 Andrei Marcu, Article 6 rulebook: a post COP26 assessment, Roundtable on Climate Change and Sustainable Transition (2021): 11, available at: <https://ercst.org/postcop26assessment/>.

55 Lambert Schneider, #COP26 in Glasgow delivered rules for international carbon markets – how good or bad are they? Beiträge und Standpunkte aus dem Öko-Institut, 15.11.2021, available at: <https://blog.oeko.de/glasgow-delivered-rules-for-international-carbon-markets-how-good-or-bad-are-they-cop26/>.

3. Implications for the voluntary carbon market

On the voluntary carbon market, private businesses, non-governmental or public-organisations, and even individuals can buy credits, for example to claim ‘carbon neutrality’. In contrast to mandatory carbon markets, they do so voluntarily and are not obliged to do so by regulation. The voluntary carbon market is mainly driven by corporate or consumer wishes to offset their emissions and, in principle, operates independently of the UNFCCC or other regulations. The development of rules for Art. 6 PA was nevertheless accompanied by a great deal of anticipation, as these rules would heavily influence the operation of the voluntary carbon market.

In prior negotiations, one of the main points of contention was whether international transfers of mitigation outcomes from a host country to a company on the voluntary market would necessarily entail a corresponding adjustment, even if the company’s claim of carbon neutrality would not influence the NDC of the country in which that company is based. We have argued previously that this is necessary to ensure environmental integrity and even enhance the credibility of the voluntary market.⁵⁶

So, what did Parties decide? As noted above, the reference to ‘other purposes’ in the decision is broadly understood to allow private entities to participate in Art. 6 PA transactions to offset their emissions voluntarily.⁵⁷ Regarding the issue of double counting, however, the decision does not mandate an adjustment of such transactions. The rulebook allows the host countries to decide whether transactions include an authorisation and ‘corresponding adjustment’, and – with regard to standards and crediting programmes – whether and how these mitigation outcomes should be labelled.⁵⁸

Negotiations also focused on rules for the voluntary market beyond officially authorised units. A prior draft of Art. 6.4 PA included a provision referring to A6.4ERS ‘that are not authorized and therefore may only be used for other purposes which support the reduction of emission levels in host parties’.⁵⁹ As this limitation did not become part of the final decision, it remains possible that companies will use non-adjusted credits for offsetting claims, creating the risk of double counting.⁶⁰

Despite this possibility, two things must be acknowledged. First, rules for Art. 6 PA emphasise that robust accounting is crucial to Parties to the Paris Agreement. Second, the framework to apply adjustments for the voluntary market is now also in place. In practice, these developments likely mean that an ‘adjusted credit’ will be considered of higher quality than a credit without a corresponding adjustment. Reputational risks attached to non-adjusted credits could then make the market shift towards adjusted credits over time, precisely because of their higher level of environmental integrity. It is not unlikely that this will result in the development of a two-tier market, similar to the one implicitly envisaged in the early draft mentioned above. Such a market could see ‘adjusted units’ used for offsetting purposes and ‘support units’ used for other purposes.⁶¹ The claims that companies can make regarding ‘non-adjusted’ carbon credits may one day be regulated by Parties within their jurisdictions.⁶²

Such a development has the potential to increase the number of quality credits for offsetting on the voluntary carbon market. Given the steep increase in demand recently observed on the voluntary market, this could have a significant positive impact.⁶³ It will surely take time for this market to develop. Given the complex processes involved in implementing Art. 6 PA activities, it is likely that the voluntary carbon market operating separately from the Paris mechanisms will remain important for buyers in the near future.⁶⁴ However, even if there is no clear guidance yet for the voluntary carbon market, the agreed-upon rules certainly offer the potential to help steer the market towards higher levels of integrity and credibility.⁶⁵

⁵⁶ Ibid.

⁵⁷ Kerstin Appunn, Carbon markets COP26 closes biggest loophole but lacks clarity on voluntary trade, clean energy wire, 15.11.2021, available at: <https://www.cleanenergywire.org/news/carbon-markets-cop26-closes-biggest-loopholes-lacks-clarity-voluntary-trade>

⁵⁸ Charlotte Streck, What does the Article 6 Rulebook for mean REDD+?, Shades of REDD+, ecosystem market place, 20.12.22, available at: <https://www.ecosystemmarketplace.com/articles/what-does-the-article-6-rulebook-mean-for-redd/>.

⁵⁹ Simon Evans et al, COP26: Key outcomes agreed at the UN climate talks in Glasgow, Carbon Brief, 15.11.2021, available at: <https://www.carbonbrief.org/cop26-key-outcomes-agreed-at-the-un-climate-talks->

⁶⁰ Ibid.

⁶¹ Silvia Favasuli, Paris accord Art. 6 approval set to jump start evolution of voluntary carbon market, 17.11.2021, available at: <https://www.spglobal.com/platts/en/market-insights/latest-news/energy-transition/111721-paris-accord-article-6-approval-set-to-jump-start-evolution-of-voluntary-carbon-market>.

⁶² Ibid.

⁶³ See, for example, Ecosystem marketplace, Voluntary Carbon Markets Rocket in 2021, On Track to Break 1\$ B for the first time, Press release, 15.12.2021 available at: <https://www.ecosystemmarketplace.com/articles/press-release-voluntary-carbon-markets-rocket-in-2021-on-track-to-break-1b-for-first-time/>.

⁶⁴ Charlotte Streck, What does the Article 6 Rulebook for mean REDD+?, Shades of REDD+, ecosystem market place, 20.12.22, available at: <https://www.ecosystemmarketplace.com/articles/what-does-the-article-6-rulebook-mean-for-redd/>.

⁶⁵ Jessica Dell, Viewpoint: Article 6 to spur further VCO development, Argus blog, 23.12.2021, available at: <https://www.argusmedia.com/en/news/2286199-viewpoint-article-6-to-spur-further-vco-development>.

4. REDD+ under the new rulebook

COP26 has been dubbed ‘Nature COP’ by some who view the Glasgow Climate Summit as a turning point in the protection and restoration of the natural environment.⁶⁶ Indeed, forests and their conservation were often at the heart of the discussion: the ‘Glasgow Leaders’ Declaration on Forests and Land Use’, issued at the beginning of the summit, highlighted the interdependent roles of forests, biodiversity and sustainable land use, emphasising the pivotal role of the latter in mitigating climate change.⁶⁷ With this declaration, leaders pledged to ‘work collectively to halt and reverse forest loss and degradation by 2030’.⁶⁸ In addition, 28 countries – representing 75 % of global trade in key commodities that contribute to deforestation – signed on to a new Forest, Agriculture and Commodity Trade statement at a dialogue hosted by the COP26 presidency.⁶⁹ According to its ‘roadmap to action’, the dialogue was intended to ‘promote sustainable development and trade while protecting forests and other critical ecosystems’.⁷⁰

Tools to protect forests for the climate already exist at the international level. After years of negotiations, a framework for ‘reducing emissions from deforestation and forest degradation and the role of conservation, sustainable management of forests and enhancement of the forest carbon stocks in developing countries’⁷¹ – known as REDD+ – was adopted at COP 13 in Warsaw.

The purpose of REDD+ is to offer financial incentives for developing countries to protect their forests by creating a financial value for the carbon stored in them. The framework includes guidelines for national forest monitoring systems, technical assessments of reference levels, and programmes on finance and results-based payments.⁷² In practice, REDD+ activities operate on two different levels. Jurisdictional REDD+ is a government-led approach to forest and land use that covers whole administrative areas, or even a country as a whole.⁷³ It uses payments in the form of results-based climate finance as incentives for a policy-driven reduction of forest-based emissions on jurisdictional scales.⁷⁴ Project-based REDD+, on the other hand, focuses on the prevention of emissions within a defined project area.⁷⁵ So far, jurisdictional REDD+ programmes have mainly been financed through public funding, while REDD+ projects have provided the majority of REDD+ credits sold as offsets to companies, thereby receiving financing via the voluntary carbon market.⁷⁶

REDD+ is acknowledged in the Paris Agreement, particularly in the context of jurisdictional scales as part of countries’ NDCs.⁷⁷ In Art. 5 (1), the Agreement urges Parties ‘to take action to conserve and enhance, as appropriate, sinks and reservoirs of greenhouse gases’. The provisions of Art. 5 PA also explicitly encourage countries to implement and support approaches to REDD+ within the UNFCCC.

66 Shyla Raghav, Natures Unprecedented Role at the Glasgow UN Climate Summit, Think Global Health, 19.11.2021, available at: <https://www.thinkglobalhealth.org/article/natures-unprecedented-role-glasgow-un-climate-summit>.

67 Glasgow Leaders’ Declaration on Forest and Land-Use 2.11.2021, available at: <https://ukcop26.org/glasgow-leaders-declaration-on-forests-and-land-use/>

68 Ibid.

69 Nature based solutions initiative, COP26 highlight: Global Leaders pledge to end deforestation by 2030, University of Oxford, 2.11.2021, available at: <https://www.naturebasedsolutionsinitiative.org/news/cop26-global-leaders-pledge-deforestation-2030/>.

70 Forests, Agriculture and Commodity Trade Dialogue: A Roadmap for Action (2021): 4, available at: <https://www.factdialogue.org/fact-roadmap>

71 UNCC, Redd+ Background, available at: <https://unfccc.int/topics/land-use/workstreams/reddplus>

72 See UNFCCC secretariat, Key decisions relevant for reducing emissions from deforestation and forest degradation in developing countries (REDD+), Decision booklet REDD+ (includes the Warsaw Framework for REDD+), 2016, available at: https://unfccc.int/files/land_use_and_climate_change/redd/application/pdf/compilation_redd_decision_booklet_v1.2.pdf.

73 William Boyd et al, Jurisdictional approaches to REDD+ and low emissions development: progress and prospects, World resources institute working paper (2018): 2, available at: <https://wriorg.s3.amazonaws.com/s3fs-public/ending-tropical-deforestation-jurisdictional-approaches-redd.pdf>.

74 Sven Wunder et al, REDD+ in theory and practice: How lessons from local projects can inform jurisdictional approaches, Frontiers in forests and Global Change (2020): 2, available at: <https://www.frontiersin.org/articles/10.3389/ffgc.2020.00011/full>.

75 Jutta Kill, REDD: The pitfalls of market-compliant forest conservation, Heinrich Böll Stiftung, 28.8.2020, available at: <https://www.boell.de/en/2020/08/28/redd-pitfalls-market-compliant-forest-conservation>

76 Kelley Hemrick, Chris Webb, Ryan Ellis, Nesting REDD+; Pathways to Bridge Project and Jurisdictional Programs (2021): 3, available at: https://www.nature.org/content/dam/tnc/nature/en/documents/REDDPlus_PathwaystoBridgeProjectandJurisdictionalPrograms.pdf; See this publication also for information on so called ‘nesting approaches’ which aim to integrate project-based REDD+ into jurisdictional initiatives to prevent emission reductions from being double counted.

77 Sven Wunder et al, REDD+ in theory and practice: How lessons from local projects can inform jurisdictional approaches, Frontiers in forests and Global Change (2020): 2, available at: <https://www.frontiersin.org/articles/10.3389/ffgc.2020.00011/full>.

The inclusion of REDD+ and the role of ‘emission avoidance’ in Art. 6 PA was a ‘smouldering issue’⁷⁸ in the negotiations leading up to COP 26. The eligibility of REDD+ activities under Art. 6 PA, especially under Art. 6.4 PA, was, and still is, contentious. This is mainly due to the fact that issues concerning permanence, displacement of emissions, measurement of emission reductions, and conflicts with local communities have rightly called the credibility and quality of REDD+ into question in the past.⁷⁹ Due to similar considerations, under the CDM, REDD+ activities were eligible only for afforestation and reforestation, not for the prevention of deforestation. Some Parties pushed for the general eligibility of REDD+ activities under the Paris Agreement, citing the huge mitigation potential of preserving and enhancing forests; others viewed the inclusion as a risk to environmental integrity.⁸⁰

The Paris Rulebook has now been finalised, and so far, there has been no decision to explicitly exclude REDD+ from the market mechanisms of Art. 6 PA. However, many questions remain regarding its integration into the market mechanisms.

The definition of ITMOs includes ‘[e]mission reductions and removals, including mitigation co-benefits resulting from adaptation actions and/or economic diversification plans or the means to achieve them, when internationally transferred’.⁸¹ In a prior draft, the definition also included ‘[e]mission reductions and removals resulting from decision 14/CP.19 from 2015 onwards’⁸², which would have led to the acceptance not only of REDD+ meeting a specific standard under Art. 6.2. PA, but also of REDD+ units from 2015–2021. This text did not become part of the definition.⁸³ According to the rulebook, the Subsidiary Body for Scientific and Technological Advice (SBSTA) is to develop recommendations on ‘whether internationally transferred mitigation outcomes could include emissions avoidance’.⁸⁴

Some observers have interpreted these choices as excluding REDD+ from the Art. 6 PA mechanisms altogether.⁸⁵ However, excluding the text cited above merely prevents the acceptance of vintage REDD+ or any prioritisation of REDD+ or its methodology. In addition, it seems likely that the reference to ‘avoidance’ addresses proposals to credit decisions not to extract fossil fuels⁸⁶ and possibly to protect forests not under immediate threat.⁸⁷

The provisions of Art. 6.2 PA and 6.4 PA therefore do not generally exclude REDD+ activities such as avoided deforestation, afforestation and reforestation or sustainable forest management from eligibility under Art. 6 PA. In principle, these activities can be developed under both implementation modalities of Art. 6 PA (Art. 6.2 and 6.4 PA), provided that they comply with the applicable international and national rules. This is ultimately a desirable outcome, despite past flaws in the REDD+ programme. Given the huge mitigation potential of forests, it is worth trying to diversify opportunities to finance their conversion and enhancement. In addition, when using Art. 6 PA mechanisms, the forest sector must comply with Art. 6 PA rules, which has the potential to further improve the quality of projects.⁸⁸

78 Axel Michaelowa, Aglaja Espelage, Benito Müller, 2020 Update, Negotiating cooperation under Article 6 of the Paris Agreement, European Capacity Building Initiative (2020): 26, available at: https://ecbi.org/sites/default/files/Article%206%202020_0.pdf.

79 See for example, Ronnie Hall, Why REDD is a false solution, The great REDD gamble- Time to ditch risky REDD for community based approaches that are effective, ethical and equitable, Friends of the earth international (2014): 8, available at: <https://www.foei.org/wp-content/uploads/2014/09/The-great-REDD-gamble.pdf>.

80 Axel Michaelowa, Aglaja Espelage, Benito Müller, Negotiating cooperation under Art. 6 of the Paris Agreement, European Capacity Building Initiative (2019): 22, available at: <https://ecbi.org/sites/default/files/Article%206%202019.pdf>.

81 UNFCCC 2021, Guidance on cooperative approaches referred to in Art. 6, paragraph 2, of the Paris Agreement, Annex I, Decision-3/CMA (advance unedited version), available at: https://unfccc.int/sites/default/files/resource/cma3_auv_12a_PA_6.2.pdf.

82 UNFCCC 2021, Draft text on SBSTA 52-55 agenda sub-item 15 (a) Guidance on cooperative approaches re-ferred to in Art. 6 para. 2 of the Paris Agreement (version 4) Annex 1 h, available at: https://unfccc.int/sites/default/files/resource/Art.%206.2%20draft%20decision_2.pdf.

83 Andrei Marcu, Article 6 rule book: a post COP26 assessment, Roundtable on Climate Change and Sustainable Transition (2021): 4, available at: <https://ercst.org/wp-content/uploads/2021/11/20211122-COP26-Art6-final.pdf>.

84 UNFCCC 2021, Guidance on cooperative approaches referred to in Art. 6, paragraph 2, of the Paris Agreement, I, Decision-3/CMA (advance unedited version), available at: https://unfccc.int/sites/default/files/resource/cma3_auv_12a_PA_6.2.pdf.

85 See, e.g., Report on COP26 by The Guardian, available at: <https://www.theguardian.com/environment/live/2021/nov/13/cop26-live-third-draft-text-expected-as-climate-talks-go-into-overtime?page=with:block-618fe1468f08b698cb950f3d>

86 Andrei Marcu, Article 6 rule book: a post COP26 assessment, Roundtable on Climate Change and Sustainable Transition (2021): 4, available at: <https://ercst.org/wp-content/uploads/2021/11/20211122-COP26-Art6-final.pdf>.

87 Charlotte Streck, What does the Article 6 Rulebook for mean REDD+?, Shades of REDD+, Ecosystem Marketplace, 20.12.22, available at: <https://www.ecosystemmarketplace.com/articles/what-does-the-article-6-rulebook-mean-for-redd/>.

88 Ibid.

Implementing REDD+ under Art. 6 PA will take time, particularly for project-based activities under Art. 6.4. PA. There is no body of accredited methodology that could facilitate or fast-track the implementation.⁸⁹ Another issue may arise when countries that include forestry in their NDCs participate in the international transfer of REDD+ outcomes. Host countries may need capacities to manage their emission reductions so that the transfer of REDD+ outcomes will not cause them to risk the achieving of their NDCs. Solutions might include the implementation of national registries.⁹⁰ It is clear that, at both the national and the international level, further work is needed to efficiently integrate REDD+ into Art. 6 PA.

5. Outlook

According to a recent synthesis report by the secretariat, many countries communicated their planned or possible use of voluntary cooperation in their NDCs.⁹¹ In addition, pilot activities carried out by Parties have shown the existing interest in using markets to reach climate goals.⁹² The finalised Paris Rulebook succeeds at offering a solid foundation for the operationalisation of international market mechanisms.⁹³ All sides made considerable compromises to finally overcome the ‘crunch issues’ that had presented negotiators with seemingly insurmountable challenges in the years leading up to Glasgow. Notably, they did so without giving up on the potential to create carbon markets with a high level of environmental integrity. The agreed-upon rules lay the groundwork for a robust, transparent and accountable carbon market that promotes climate ambition and fosters financial flows. It is particularly commendable that negotiators finally agreed to explicit provisions that prohibit double counting. However, while the basic rules have been established, the details necessary to make them function have not. It will take time, considerable administrative work, and the cooperation of all participants to operationalise the rules for Art. 6.2 PA and (especially) Art. 6.4 PA in a way that will help establish ambitious global carbon markets and accelerate progress towards the Paris climate goals.

89 Ibid.

90 Sandra Greiner et al., Moving towards next generation carbon markets – observations from Article 6 pilots, *Climate Finance Innovators* (2019): 96, available at: https://www.climatefinanceinnovators.com/wp-content/uploads/2019/06/Moving-toward-next-generation-carbon-markets_update-june-2019-1.pdf.

91 UNFCCC 2021, Nationally determined contributions under the Paris Agreement, Synthesis report by the secretariat, IV, 96, (advance version) FCCC/PA/CMA/2018/8 available at: https://unfccc.int/sites/default/files/resource/cma2021_08_adv_1.pdf.

92 Michael Mehling, Camilla Bausch, Der Klimagipfel von Glasgow: Notwendig aber nicht hinreichend, *Klima und Recht*, Issue 1 (2022): 24; See for pilot activities, Sandra Greiner et al., Moving towards next generation carbon markets – observations from Article 6 pilots, *Climate Finance Innovators* (2019): 96, available at: https://www.climatefinanceinnovators.com/wp-content/uploads/2019/06/Moving-toward-next-generation-carbon-markets_update-june-2019-1.pdf.

93 Michael Mehling, Camilla Bausch, Der Klimagipfel von Glasgow: Notwendig aber nicht hinreichend, *Klima und Recht*, Issue 1 (2022): 24.

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