

VIEWS OF BRAZIL ON THE PROCESS RELATED TO THE RULES, MODALITIES AND PROCEDURES FOR THE MECHANISM ESTABLISHED BY ARTICLE 6, PARAGRAPH 4, OF THE PARIS AGREEMENT

1. The Government of Brazil welcomes the opportunity to submit “views on, inter alia, the elements to be addressed, including their operationalization, in the rules, modalities and procedures for the mechanism established by Article 6, paragraph 4, of the Paris Agreement, overarching issues, and relationships between Article 6, paragraphs 4–6, and other provisions of the Paris Agreement, the Convention and its related legal instruments, as relevant”, as set out in document FCCC/SBSTA/2016/L.29. This submission should be read in conjunction with the previous submission on this matter, dated October 2 2016, prior to SBSTA 45, as well as with the submission on guidance related to article 6.2.

I- Overarching issues

2. At the core of Article 6.4 is the establishment of:

“A mechanism to contribute to the mitigation of greenhouse gas emissions and support sustainable development [...] under the authority and guidance of the Conference of the Parties serving as the meeting of the Parties to this Agreement [(CMA)] for use by Parties on a voluntary basis [..., and] supervised by a body designated by the [CMA]”.

3. The aims of the mechanism under Article 6.4 – the “Sustainable Development Mechanism” (SDM) are:

- (a) *“To promote the mitigation of greenhouse gas emissions while fostering sustainable development;*
- (b) *To incentivize and facilitate participation in the mitigation of greenhouse gas emissions by public and private entities authorized by a Party;*
- (c) *To contribute to the reduction of emission levels in the host Party, which will benefit from mitigation activities resulting in emission reductions that can also be used by another Party to fulfil its nationally determined contribution; and*
- (d) *To deliver an overall mitigation in global emissions.”*

4. Paragraph 37 of Decision 1/CP.21 states that the rules, modalities and procedures for the SDM should be based on:

- (i) *“voluntary participation authorized by each Party involved;*
- (ii) *real, measurable, and long-term benefits to the mitigation of climate change;*
- (iii) *reductions in emissions that are additional to any that would otherwise occur;*
- (iv) *verification and certification of emission reductions resulting from mitigation activities by designated operational entities.”*

A) “contribute to the mitigation of greenhouse gas emissions”

6. Brazil envisages the SDM to become the **ultimate international mechanism to certify climate action and issue credits**. The SDM would be expected to contribute to the mitigation of greenhouse gas emissions by means of (i) **scaling-up** emission reduction **activities** in participating countries, and by (ii) ensuring **environmental integrity** of certified emission reduction. The proper operationalization of the concept of “**additionality**”, as mandated in paragraph 37(c) of Decision 1/CP.21, is central to the aims of the SDM and to its potential to enhance climate ambition.

7. Environmental integrity of SDM activities is to be provided by its **centralized nature**: the SDM will be based on supervision by a body designated by the CMA and on **multilaterally-agreed rules**, modalities, procedures and **governance** structures. Accordingly, mitigation activities under 6.4 will abide by decisions and methodologies by the CMA and its supervisory body. The SDM will guarantee accountability to Parties jointly and that emission reductions are accurately monitored, verified, approved and certified, in a process involving not only project developers, but also host Parties’ national authorities, designated operational entities and the multilateral supervisory body, under the authority and guidance of the CMA.

8. Scaling-up emission reduction activities will be contingent upon the capacity of the SDM to make feasible mitigation activities that would not occur in its absence. This will depend on the level of **demand for SDM credits**, which, on its turn, will be driven by **ambition by Parties** and engagement by **non-State stakeholders**. Brazil envisions the new 6.4 mechanism to play a role in assisting both Parties and non-State actors in stepping-up in the fight against climate change, **under the auspices of the United Nations**. Besides facilitating the demonstration of **achievement of NDCs**, the mechanism should serve as an additional tool for implementing mitigation actions by non-Parties (public and private entities) through the cancellation of units.

9. The way in which the SDM needs to be operationalized towards its scope and its aims is strictly linked to other provisions of the Paris Agreement, the Convention and its related legal instruments, notably the **Kyoto Protocol and its clean development mechanism (CDM)**.

B) *“support sustainable development”*

10. It must be recalled that the promotion of sustainable development is a national prerogative, which should be guided by the United Nations **2030 Agenda for Sustainable Development**, adopted by the General Assembly, in 2015. The 2030 Agenda enshrines 17 Sustainable Development Goals and 169 targets, while reiterating government’s primary responsibility for follow-up and review with respect to their implementation.

11. **It is not appropriate, therefore, for the Convention, its related legal instruments and bodies to propose any international definition on or criteria for sustainable development. Nor is the international climate change regime to suggest how Parties should promote sustainable development domestically.**

II- Relationships with other provisions of the Paris Agreement, the Convention and its related legal instruments

A) Other provisions of the Paris Agreement

12. Brazil is of the view that Article 6 must always be read in conjunction with the aims of the Paris Agreement, as established in its **Article 2**. Article 6 should, hence, contribute to the necessary **ambition** for achieving the **temperature goal**, to increasing **resilience** and to mobilizing **finance**. The importance of fostering financial flows, in particular to developing countries, is twofold: it supports climate action, and it promotes sustainable development.

13. The SDM has an outstanding potential of scaling-up mitigation activities that are **additional** to any that would otherwise occur, thus contributing to the **temperature goal**. Its centralized nature and assurances with respect to **multilaterally-based governance and rules** will ensure that its market-based approach is effective in atmospheric terms. The mechanism can, moreover, stimulate flows of **finance, technology and capacity-building**, especially to **developing countries**. Finally, the requirement under paragraph 6.6 to dedicate a **share of proceeds** from SDM activities to “assist developing country Parties that are particularly vulnerable to the adverse effects of climate change to meet the cost of **adaptation**” can greatly benefit resilience.

14. Article 6.4 also bears a mutually supportive role in relation to the use of international transfers of mitigation outcomes or international emissions trading towards NDC, under Article 6.2.

B) Kyoto Protocol

15. The scope, elements and requirements of Article 6, paragraphs 4 to 6, and of paragraph 37 of Decision 1/CP.21 clearly indicates that the **SDM is analogous to the CDM**, under Article 12 of the Kyoto Protocol. The verification and certification of emission reductions by designated operational entities (DOEs) of real, measurable, and long-term benefits related to additional reductions resulting from voluntary activities authorized by each Party involved and supervised by a body designated by the CMA is similar to the CDM process entailing project activities approved by designated national authorities (DNA), verified and certified by DOEs, and final credit issuance by the CDM Executive Board (CDM-EB).

16. Brazil supports the *SDM supervisory body designated by the CMA* to succeed to the **CDM-EB** in virtually all aspects, including, but not limited to, its rules of procedure, code of conduct and guidelines for panels/working groups. Similarly, the modalities and procedures for the CDM and other related decisions, including those adopted by the CDM-EB and the KP Meeting of the Parties (**CMP**) should be incorporated into the SDM rules, modalities and procedures.

17. The aims of the new Paris mechanism reflect the logic of the CDM, while extending its scope even further. The original purpose of the CDM, under Article 12 of the Kyoto Protocol, is to assist non-Annex I Parties in achieving sustainable development and Annex-I Parties in achieving their emission reduction commitments. The SDM innovates in relation to its predecessor insofar as its aims include “*to incentivize and facilitate participation in the mitigation of greenhouse gas emissions by public and private entities authorized by a Party*”, as stated in Article 6.4(b). In other

words, while the demand of CERs under the CDM was originally driven by Annex I Parties, the units issued by the SDM can be used by any actor for any purpose that entails measuring, reporting and verifying climate actions, including climate finance. If properly developed, the rules, modalities and procedures for the SDM can effectively enhance climate action by state and non-state stakeholders, thus contributing to an ambitious and comprehensive response that the urgency of climate change requires.

C) Smooth transition from the CDM to the SDM

18. The ability of the climate change regime to ensure continuity and a **smooth transition from the CDM to the SDM** will be key to the reputation of the Convention, particularly among private sector stakeholders. Failure to guarantee stakeholders, especially CDM project developers, that their efforts will be recognized and tangible in the context of the new Paris Agreement will jeopardize legal certainty and prevent CERs to fully contribute to early-action and to enhancing pre-2020 ambition.

19. For Brazil, smooth transition from the CDM to the SDM entails assurance by Parties on three key elements: (i) the use of existing CDM methodologies and accreditation system under 6.4; (ii) the continuation of registered CDM project activities issuance under the SDM; and (iii) eligibility of existing CDM CERs. As noted by CMP-12, during the Marrakech UN Climate Change Conference, in November 2016, in Decision 3/CMP.12,

“[...] the clean development mechanism of the Kyoto Protocol, to date, has been responsible for:

- (e) Over 7,700 project activities being registered in over 95 countries;*
- (a) Over 1,900 component project activities being included in over 290 programmes of activities registered in over 80 countries;*
- (b) Over 1.7 billion certified emission reductions being issued and over USD 300 billion being invested;*
- (c) Over 15 million certified emission reductions voluntarily cancelled;*
- (d) Over 34 million certified emission reductions being transferred through the share of proceeds to the Adaptation Fund;*
- (e) Over USD 195 million of revenue for the Adaptation Fund from the sale of certified emission reductions;”*

20. These figures demonstrate that the CDM has undeniably provided outstanding mitigation, adaptation and financial benefits to participating countries and to the international response to climate change in general. Not only has the mechanism mobilized mitigation efforts and finance, but also ensured that all certified emission reductions are additional and subject to stringent multilaterally-agreed rules and governance. Brazil strongly believes no other market-based mechanism offers similar environmental integrity safeguards. The use of existing CDM methodologies and accreditation system by the new 6.4 mechanism would allow such safeguards to continue to play this fundamental role, while preserving the invaluable expertise of project developers, designated national authorities, designated operational entities and other stakeholders involved in CDM activities.

21. Brazil also believes that, although the benefits arising from the CDM have already been significant, the mechanism could potentially contribute much more to mitigation and adaptation, were it not for the disruption in international demand for CERs, as a consequence of lack of ambition by Annex I Parties under the Kyoto

Protocol. The current demand crisis for CERs has jeopardized new and existing CDM project activities, as well as funding for the Adaptation Fund. In Decision 2/CMP.12, on the “Report of the Adaptation Fund Board”, the CMP “*note[d] with concern issues related to the sustainability, adequacy and predictability of funding for the Adaptation Fund based on the **current uncertainty on the prices of certified emission reductions, assigned amount units and emission reduction units***”.

22. Clarity on the continuation of registered CDM project activities issuance under the SDM and on **eligibility of existing CERs** towards Article 6 of the Paris Agreement could address demand issues and provide for a **new price signal** for CERs, which would, in turn, spur new project activities (representing **additional mitigation benefits**) and new financial resources for the **Adaptation Fund**. This would be particularly important for enabling **early-action until the SDM is fully operational**. A price signal from clarity on CERs eligibility would come, on the one hand, from demand from Parties. On the other, from enhanced demand by non-State actors, which would see in the CDM increased advantages related to **legal certainty** and to the **United Nations environmental integrity “stamp”**.

23. In relation to access to the CDM by non-State actors, it is worth emphasizing that the CDM is now open for non-compliance purposes, following the successful experiences pioneered by the compensation of emissions from the organization of the United Nations Conference on Sustainable Development (Rio+20), in Rio de Janeiro, in 2012, through voluntarily cancellation of CERs. In this sense, during the Marrakesh Climate Change Conference, CMP-12 noted “*decision 1/CP.19, on the promotion of the voluntary cancellation of certified emission reductions as a means of closing the pre-2020 ambition gap*”.

III- Elements and operationalization of the SDM

A) Issuance of tradable units

24. Articles 6.4-6.6 and paragraph 37 of Decision 1/CP.21 lay out a process resulting in the issuance of tradable certified emission reductions to be used either by non-State stakeholders or by a Party, in this latter case to demonstrate achievement of its NDC. Similarly to the CDM, the rules, modalities and procedures of the SDM should detail the following steps:

- firstly, the **conception, by a private or public entity**, of a **design document** for an emission reduction activity expected to provide **real, measurable and long-term** mitigation benefits that are **additional** to any that would otherwise occur. Such a design document should include a respective **monitoring plan**;
- secondly, the **approval** of voluntary participation from the **DNA** of Parties involved, including confirmation by the host Party that the activity assists it in achieving **sustainable development**;
- thirdly, the **validation** of the activity by means of its independent evaluation by a **DOE** against SDM requirements, including evidence that benefits of the SDM

were a decisive factor in the decision to proceed with the activities, so as to attest its “**additionality**”;

- fourthly, the **registration** and formal acceptance of the activity by the SDM supervisory body - the **SDM Executive Board** (SDM-EB);
- fifthly, the **monitoring** of emission reductions by the **activity’s developer**;
- sixthly, the **verification** or periodic independent review and *ex post* determination by the **DOE** of the monitored reductions in emissions;
- seventhly, the **certification** through a written assurance by the DOE that, during a specified time period, an activity achieved the reductions in emissions, as verified;
- finally, the **issuance**, by the **SDM EB**, of **certified emission reductions units** equal to the verified amount of reductions in emissions.

25. All certified emission reductions units issued by the SDM Executive Board should be initially held in a SDM registry. Units held in the SDM registry should be either used by a Party towards its NDC, or by a non-State stakeholder towards mitigation actions by non-Parties (public and private entities). If a Party acquires a SDM unit towards its NDC, that unit should be transferred to its national registry or to its national account within the multilateral registry (see “Views of Brazil on the guidance referred to in Article 6, paragraph 2, of the Paris Agreement”). Once transferred to a national registry or to the multilateral registry, the accounting of SDM units is to follow the guidance referred to in article 6, paragraph 2, of the Paris Agreement, for international emissions trading or the use of international transfers of mitigation outcomes towards NDCs. In cases in which SDM units are acquired by non-State stakeholders, such units should be cancelled in the SDM registry with a clear statement of the purpose of the cancellation and proposed use of the unit.

26. It is important to highlight that in this initial forwarding from the 6.4 SDM registry to the 6.2 multilateral/national registry does not yet configure an international transfer and, therefore, the “corresponding adjustment by Parties for both anthropogenic emissions by sources and removals by sinks” is not applicable. In accordance with Decision 1/CP.21 and with Article 6 of the Paris Agreement, the corresponding adjustment to avoid double counting is restricted only to the guidance referred to in Article 6.2. It does not apply to the rules, modalities and procedures for the mechanism established by Article 6.4. However, a corresponding adjustment will always apply when a Party that has acquired a SDM unit from the SDM registry later transfers that same unit to a third Party – thus configuring an international transfer. In that case, a corresponding adjustment will occur within the national registries of the acquiring and transferring Parties, respectively, or within their accounts under the multilateral registry of article 6.2.

27. The accounting process involving the SDM registry under 6.4 and the multilateral registry and national registries under 6.2, with the validation of the **international transaction mechanism**, will ensure that one SDM certified emission reduction unit is used towards only one NDC, as mandated by paragraph 5 of Article 6:

“Emission reductions resulting from the mechanism referred to in paragraph 4 of this Article shall not be used to demonstrate achievement of the host Party’s nationally determined contribution if used by another Party to demonstrate achievement of its nationally determined contribution.”

28. Given the role of the SDM registry, Brazil acknowledges that a Party wishing to host a SDM activity does not necessarily need to undertake the accounting requirements under Article 6.2, if it does not intend to acquire units from a third Party or does not intend to use SDM units to demonstrate achievement of its own NDC. Direct engagement in 6.2 would only be indispensable for acquiring SDM certified emission reduction units to demonstrate achievement of NDCs. A Party may wish to host SDM activities but neither use them to demonstrate achievement of its NDC, nor acquire units from third Parties, in which case there would be no need to maintain a national registry of SDM units. Any corresponding adjustment would take place between the SDM registry and the acquiring Party’s national registry or national account at the multilateral registry. The SDM activities would nevertheless still be required to demonstrate additionality in relation to the NDC of the host Party.

29. It is equally important to recall that, in accordance with Article 6.4(c), one of the aims of the SDM is:

“to contribute to the reduction of emission levels in the host Party, which will benefit from mitigation activities resulting in emission reductions that can also be used by another Party to fulfil its nationally determined contribution”.

30. Indirectly, SDM activities will contribute to the reduction of emission levels in the host Party, to be reported in its national GHG inventory. Directly, it will result in a tradable unit. While retaining the indirect mitigation gains arising from the SDM, the SDM certified emission reduction units from activities it hosts could also be transferred from the SDM registry to a third Party’s national registry or national account within the multilateral registry. The modalities and procedures of the SDM should, therefore, provide mutual benefits to all parties and stakeholders involved – the project developer receives an economic incentive, the host Party benefits from mitigation activities and the acquiring Party may use it to demonstrate achievement of its NDC.

B) Additionality

31. The SDM must reward certified emission reductions that are additional to any that would otherwise occur in a business-as-usual scenario. “Business-as-usual” in this context does not refer to a scenario in which no efforts are undertaken domestically. In the context of article 6.4 of the Paris Agreement, a business-as-usual scenario is that in which Parties are expected to implement their NDCs and associated national policies.

32. In accordance with criteria under the CDM, also applicable to the SDM, additionality can be assessed through demonstration that the mitigation activity is the first-of-its-kind or through analysis on investment, barriers and common practice, showing that less costly alternatives would not present equal climate benefits. Mandatory regulations also interfere with additionality: if a proposed activity is the only alternative that is in compliance with mandatory regulations, it cannot be considered additional.

33. Requiring activities to be additional is, therefore, fundamental for supporting climate-friendly technologies or practices that are promising but still not financially viable or widespread. Through additionality assessments, the SDM will be able to support new technologies and innovations, until they gain sufficient scale to allow them to be deployed in a competitive basis. After a technology or innovation becomes economically competitive or common practice, it will no longer be additional. Rather, it will reach a stage in which its associated mitigation benefits do not depend on the 6.4 mechanism to occur. Assuming that existing CDM methodologies and accreditation system will continue to be in force under the SDM, new SDM project activities that have been considered to be additional up to 2017 may not pass the additionality test after 2020, when technologies formerly needing incentives might become attractive irrespective of their environmental benefits.