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 the rules, modalities and procedures for the mechanism established by Article 6, paragraph 4, of the Paris Agreement, "inter alia, on the content of the rules, modalities and procedures, including the structure and areas, issues and elements to be addressed, including those raised by Parties at SBSTA 46", as set out in document FCCC/SBSTA/2017/L.16. The present submission should be read in conjunction with previous Brazilian submissions on this issue[1].

2. Brazil understands that the mechanism under Article 6.4 - the sustainable development mechanism or **SDM** – is to succeed the **clean development mechanism (CDM)** of the Kyoto Protocol. Hence, it will be paramount to ensure a **smooth transition from the SDM to the CDM**, notably with respect to (i) the use of **CDM CERs** towards NDCs; (ii) the continued validity of **CDM methodologies** under the SDM; (iii) the issuance of SDM CERs for **CDM registered project activities**; and (iv) the full migration of the **CDM accreditation system** for the SDM.

3. The ability of the climate change regime to ensure a smooth transition from the CDM to the SDM will be key to the reputation of the Convention and to secure continued engagement of the private sector in mitigation action. Failure to guarantee stakeholders, especially CDM project developers, that their efforts will be recognized and tangible in the context of the new Paris Agreement would jeopardize legal certainty and prevent CERs from fully contributing to early-action and to enhancing ambition in all sectors.

4. Consistent with the legal text of the Paris Agreement and of Decision 1/CP.21, the scope of the SDM is similar to that of the CDM. In this sense, its rules, modalities and procedures must encompass the verification and certification, by designated operational entities (DOEs), of real, measurable, and long-term benefits related to additional emission reductions – certified emission reductions (CERs) - resulting from voluntary activities authorized by each Party involved and supervised by a body designated by the Conference of the Parties serving as the meeting of the Paris to the Paris Agreement (CMA). Brazil envisages the SDM to become the **ultimate international mechanism to certify climate action and issue credits**. The mechanism has an outstanding potential of supporting sustainable development, in particular in developing countries, by fostering innovative technologies, stimulating financial flows, generating income and contributing to climate action that would not happen otherwise.

5. The proper operationalization of the concept of "**additionality**", as mandated in paragraph 37(d) of Decision 1/CP.21, is central to the aims of the SDM and to its potential to enhance climate ambition. "Additionality" should award projects that would not have been possible in the absence of the 6.4 mechanism. With the

[1] http://www4.unfccc.int/Submissions/Lists/OSPSubmissionUpload/525_318_131354420270499165-BRAZIL%20-%20Article%206.4.%20SBSTA46%20May%202017.%20FINAL.pdf
http://www4.unfccc.int/Submissions/Lists/OSPSubmissionUpload/525_270_131198656711178821-BRAZIL%20-%20Article%206.4%20final.pdf

progressive implementation of the Paris Agreement and of policies undertaken in the context of Party's NDCs, it should be expected that activities that were once deemed additional might no more be able to demonstrate that they are first-of-its-kind or that they pass the investment, barriers and common practice analysis. Brazil believes that current CDM methodologies, being also applicable to the SDM, will ensure that additionality continues to be properly assessed.

6. The rules, modalities and procedures for the SDM should reflect the fact that the mechanism innovates in relation to the CDM by also aiming *"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, public or private, for any purpose that entails measuring, reporting and verifying climate actions, including climate finance.

7. The rules, modalities and procedures must provide that all certified emission reductions units issued by the SDM Executive Board are 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 voluntary climate strategies or commitments. If a Party acquires a SDM unit towards its NDC, that unit should be transferred to its national account within the multilateral registry to be established in accordance with the guidance under Article 6, paragraph 2, of the Paris Agreement. Once transferred to a national account, the accounting of SDM units is to follow the 6.2 guidance. 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.

8. It is important to highlight that, in the initial forwarding from the SDM registry to the 6.2 multilateral registry, a "corresponding adjustment by Parties for both anthropogenic emissions by sources and removals by sinks" is not applicable. A corresponding adjustment will apply in a possible second transaction, in which a Party that has acquired a SDM unit from the SDM registry later transfers that same unit to a third Party. In that case, a corresponding adjustment will occur within national accounts in the multilateral registry of the acquiring and transferring Parties respectively.

9. During discussions at SBSTA 46, some Parties implied that corresponding adjustments should take place at the very initial transfer from the SDM registry to a national account. There are legal, technical and environmental considerations to dispute this idea.

10. From a legal perspective, 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. It is equally important to consider 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 fulfill its nationally determined contribution*". The application of a corresponding adjustment in the context of Article 6.4 would, therefore, infringe the legal text of the Paris Agreement.

11. From a technical perspective, given that CERs issued by the SDM Executive Board would sit in the SDM registry (and not in a national account), it is illogical to conceive units to be subtracted from the national account of the host country, when the host country itself has not taken part in such first transaction. It must be noted that the availability of CERs in the SDM registry will be fundamental to ensuring the SDM is fully accessible to non-State stakeholders, while preserving their prerogative to purchase multilaterally certified units for purposes other than the demonstration of achievement of NDCs. Moreover, if a host Party of SDM mitigation activities was to have units subtracted from its national account by means of a corresponding adjustment, such Party's ability to demonstrate achievement of its NDC would be significantly impaired. This would disincentive Parties from approving SDM mitigation activities in their territory, thus undermining the mechanism's potential to deliver real, measurable, and long-term benefits related to additional emission reductions.

12. Finally, from an environmental perspective, environmental integrity concerns related to "double counting" do not apply to the dynamic of the 6.4 mechanism. This is because Article 6.5 prevents "double counting" by not allowing SDM CERs to be used by the host country if used by another Party to demonstrate achievement of its own NDC.

13. Some have suggested that, even with the safeguard under Article 6.5 there would be a risk of "double claiming" of a single mitigation outcome resulting from a CER: the CER as a unit could be claimed by the acquiring Party to account for its NDC; at the same time, the host Party would be able to retain related mitigation benefits in its national inventory. Brazil strongly disputes such a suggestion. Similarly to the CDM, SDM mitigation activities will not automatically affect the calculation of emission levels in national inventories. The calculation of emission levels in national inventories follows *IPCC Guidelines for National Greenhouse Gas Inventories*. It entails a **factual** estimate, reflecting emissions that actually happened. The amount of CERs generated by a SDM/CDM mitigation activity, on the other hand, is to be determined by the application, at the project level, of a baseline and monitoring methodology approved by the *Executive Board*. It is a **counterfactual** estimate, reflecting hypothetical emissions that never came to happen in the first place. In accordance with the IPCC Guidelines, in the energy sector, for example, which is traditionally the main source of greenhouse gas emissions, the estimation of emissions requires in most cases the use of an **average** emission factor for a source category and fuel combination throughout the source category. In contrast, also as an illustration, CDM methodological tools determine the CO2 emission factor of electricity generated by power plants in an electricity system, by calculating the "combined **margin**" emission factor of the electricity system (grid).

14. Consequently, there is not a correspondence in the calculation of CERs issued and of national inventories emissions that would justify "corresponding adjustments" to take place. Instead of a risk of double claiming mitigation outcomes, "corresponding adjustments" in the context of Article 6.4 would entail a risk of "double counting" of emissions, in detriment to the host country. This, again, would disincentive Parties from approving SDM mitigation activities in their territory, thus undermining the mechanism's potential to deliver real, measurable, and long-term benefits related to additional emission reductions.

15. Some have also suggested that, in order to "deliver an overall mitigation in global emissions", "corresponding adjustments" should apply to SDM activities that fall within the scope of the host country's NDC. This suggestion must also be disputed. Besides the use of conservative baselines, the additionality requirement for issuance of CERs ensures that emissions are tackled at a level that goes beyond what would be achieved through the delivery of the host Party's and the acquiring Party's NDCs in aggregate. Ultimately, therefore, additionality would render irrelevant the consideration of whether a SDM activity falls within or without the host Party's NDC. From an environmental perspective, therefore, "corresponding adjustments" are not required for the aim of the SDM "to deliver an overall mitigation in global emissions". It is rather the generation of SDM-certified additional mitigation action at scale that will fulfill this aim. Moreover, this suggested approach would also pose the perverse incentive of Parties not moving to economy-wide commitments, which would go against the spirit of the Paris Agreement.

16. In light of the above considerations, consistent with the legal text of the Paris Agreement, Brazil understands that rules, modalities and procedures for the 6.4 mechanism should reflect the following structure and include the following elements:

- (i) Definition of a CER
- (ii) Transition from CDM to SDM
    - i. fungibility between CERs under the CDM and under the SDM
    - ii. transposition of CDM methodologies
    - iii. CER issuance under the SDM for CDM registered project activities
    - iv. transposition of CDM accreditation system
- (iii) Role of the CMA
- (iv) Executive Board
- (v) Designated national authority (DNA)
- (vi) Accreditation and designation of operational entities (DOEs)
- (vii) Designated operational entities
- (viii) Participation requirements for Parties
- (ix) Participation requirements for public and private entities authorized by Parties
- (x) Validation and registration
- (xi) Written DNA approval, including confirmation by the host Party that the project activity/PoA assists it in achieving sustainable development
- (xii) Monitoring by project activities participants
- (xiii) Verification and certification by DOEs
- (xiv) Issuance of certified emission reductions
- (xv) Project activities
- (xvi) Programme of activities (PoA)
- (xvii) SDM registry established and maintained by the Executive Board
    - i. pending account
    - ii. holding account
    - iii. forwarding
    - iv. retirement account
    - v. cancellation account
    - vi. share of proceeds account

(xviii) Acquisitions by Parties from the SDM registry
(xix) Use of CERs within the SDM registry by public and private entities.