

## VIEWS OF BRAZIL ON 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 its views on the issue of avoiding double use for outside the Nationally Determined Contributions (NDC) for Article 6.4 and related matters.
2. Brazil expects the Article 6.4 mechanism to contribute to scaling up investments in emissions reductions activities and to become a lever for enhancing the level of ambition of NDCs over time. To this end, the design of the mechanism must create a framework that is conducive to the involvement of public and private stakeholders, stimulates early action and avoids creating additional obstacles to investments aimed at promoting more sustainable patterns of production and consumption.
3. Cooperative approaches under Article 6 have a key role to play in promoting incentives for activities that go beyond the means of Parties' public policies and measures, thus providing additional incentives for spurring climate action. With the current COVID-19 pandemic posing extra challenges and constraints to the economic and fiscal health of countries, the mechanism to be established under Article 6.4 is an essential part not only of measures to foster much-needed action to allow for higher ambition in mitigation and adaptation actions, but may also play a crucial role in global efforts to build back better from the pandemic.

### I - Governance

4. Article 6.4 establishes:

*“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 for use by Parties on a voluntary basis. It shall be supervised by a body designated by the Conference of the Parties serving as the meeting of the Parties to this Agreement, and shall aim:*

- (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.”*

5. In order for Article 6.4 to be properly operationalised, Decision 1/CP.21 indicated that the rules, modalities and procedures for the mechanism are to be based on:

[...]

- (a) *Voluntary participation authorized by each Party involved;*
- (b) *Real, measurable, and long-term benefits related to the mitigation of climate change;*
- (c) *Specific scopes of activities;*
- (d) *Reductions in emissions that are additional to any that would otherwise occur;*
- (e) *Verification and certification of emission reductions resulting from mitigation activities by designated operational entities;*
- (f) *Experience gained with and lessons learned from existing mechanisms and approaches adopted under the Convention and its related legal instruments.”*

6. Environmental integrity is to be guaranteed by the centralized nature of the mechanism to be established under Article 6.4, as well as on multilaterally-agreed rules under the UNFCCC, modalities, procedures and structures. The Supervisory Body shall be responsible for ensuring that emissions reductions and removals are additional and accurately monitored, verified, approved and certified, in a process involving not only non-governmental stakeholders, but also Parties' national authorities and designated operational entities.

7. Moreover, transparency and environmental integrity go together. Brazil understands that participating Parties and stakeholders are to delegate essential functions to the Supervisory Body, such as making information on approved rules, procedures, methodologies and standards publicly available, keeping a registry and a database of projects and making recommendations to the CMA. The Supervisory Body must also have a mandate to develop and approve methodologies and standardised baselines, to work on activities related to the issuance of certified emission reductions and removals units, the renewal of crediting periods and accreditation of operational entities, among others.

8. The aforementioned non-exhaustive list of tasks to be performed by the Supervisory Body can receive relevant regional and national inputs, but are in no circumstances to be assigned to other actors, such as host Parties, which are not to report directly to the authority and guidance of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement. Decentralizing or transferring functions of the Supervisory Body to other players would significantly change the construct of the mechanism and is legally inconsistent with the provisions of the Paris Agreement. What is more, offering Parties optional functions that would otherwise be performed by a central authority has the potential to create a parallel system within the mechanism without international oversight, thus posing risks to the environmental integrity of its transactions. It would jeopardize transparency and create perverse incentives for Parties and participants to introduce discriminatory practices that would create imbalances between participating Parties and additional transaction costs.

## **II - Accounting for first transfers of A6.4ERs**

9. Recalling that Paragraph 36 of Decision 1/CP.21 requests the Subsidiary Body for Scientific and Technological Advice (SBSTA) to develop and recommend guidance for Article 6.2, including guidance to ensure the avoidance of double counting on the basis of a corresponding adjustment for anthropogenic emissions by sources and removals by sinks covered by participating Parties' nationally determined contributions, and that Paragraph 37 of the same decision stipulates that the operationalisation of Article 6.4 is to be based on the concept of additionality, Brazil takes this opportunity to reemphasise that the mandate for applying a corresponding adjustment to host countries' NDCs in relation to first transfers of units under the 6.4 mechanism has no legal basis.

10. The application of a corresponding adjustment to host countries' NDCs for first transfers of A6.4ERs is also challenging from both technical and political points of view. Technically, there is the issue of ownership of the units. Public or private non-governmental stakeholders are to develop activities and request issuance of units, eventually reaping the economic benefits related to their first transfers. This technical difficulty also leads to a major political consequence: the application of a corresponding adjustment by a host country, which will not ultimately own the A6.4ERs being generated, would mean that it would accept an adjustment in the ambition levels originally expressed in its NDC. Article 4.4 offers differentiation and flexibility for countries to set their targets according to their national circumstances and capacities. The requirement of applying corresponding adjustments for all first transfers is therefore a convoluted way of requesting, through Article 6, that countries move towards types of NDCs and levels of ambition that are different than what they had originally envisaged, irrespective of their national set of conditions.

11. Brazil supports the original intention of Article 6.4, which is to create a mechanism aimed at promoting enhanced ambition by incentivizing activities with challenges that exceed the scope of NDCs' public policies and would otherwise not happen, taking into account national circumstances. However, considering recent developments in the negotiations under the Paris Agreement and willing to collaborate in a constructive and cooperative spirit, Brazil takes this opportunity to put forward a set of arguments and possible ways forward on the issue of accounting for transactions occurring under Article 6.4.

12. For a corresponding adjustment to be logical, it would have to be applied in a way that does not penalize host countries that approve Article 6.4 activities in their territories. It would also have to represent the exact contribution (if any) of each Article 6.4 activity to the achievement of the host country's NDC. Therein lie two difficulties: (i) methods for project-based accounting and for national GHG inventories are different and (ii) Article 6.4 activities will have to be additional, by definition, taking into account national circumstances.

13. These complexities are further aggravated by countries' different national circumstances and technical capacities. Brazil understands that it will take time until the relationship between accounting for projects emissions reductions and removals and for national GHG inventories is clearly known and for countries to fully develop national accounting systems that are able to capture the effects of emissions reductions and removals at the disaggregated level of individual activities.

Moreover, countries committed to presenting their intended nationally determined contributions long before discussions related to Article 6 were in sight. Therefore, Brazil is in favor of the introduction of a transition period, in which corresponding adjustments are to be applied only to first transfers of A6.4ERs that are covered by host countries' NDCs. This initial transition period would serve for countries to build the capacities that are needed for them to gradually adapt and incorporate more sophisticated accounting methods that will be required for them to effectively and accurately account for activities.

14. One potential challenge, however, is how to assess that an Article 6.4 activity is proven to be done in a way that concurs with host countries' national public policies and measures aimed at implementing their NDCs, since it is not the role of the Supervisory Body to interfere with the nationally determined definition of mitigation contributions and the way in which countries will implement them.

15. To facilitate clarity and understanding, a way forward on this matter is to require host countries designated national authorities to provide upfront information, at the moment of approving a 6.4 activity, on details regarding the policies, measures and other actions it intends to implement and to achieve and track progress of their NDCs. Recalling Paragraph 14 of Decision 1/CP.20, this can include, as appropriate, quantifiable information on a reference point, time frames and/or periods for implementation, scope and coverage, other planning processes and assumptions. They can also consider, if applicable, a potential alignment with the indicators to be selected to track progress of their NDCs, as per Paragraphs 65 and 66 of Decision 18/CMA.1.

16. Should the information to be provided by host countries in the assessment of projects confirm that a 6.4 activity whose emissions reductions and removals are covered by their NDCs, a corresponding adjustment is to be applied for all A6.4ERs first transferred, consistent with the guidance on cooperative approaches referred to in Article 6, paragraph 2, of the Paris Agreement. However, if it is confirmed that a 6.4 activity will result in emissions reductions or removals not covered by a host country's NDC - and thus not entail double counting-, no corresponding adjustment would be required. This rule is to be evenly applied to all Parties willing to host Article 6.4 activities throughout the transition period. After the expiration of this interval, all first transfers of A6.4ERs, covered and not covered by host countries' NDCs, are to be correspondingly adjusted.

17. Brazil understands that a time-bound solution is meritorious in this case for providing a pathway for a common set of rules to be developed and equally applied to all Parties, both during and after the transition period to be introduced. This, in turn, would avoid perverse incentives for the creation of parallel system and discrimination within the mechanism by having rules that would apply for some Parties (that "opt-in"), but not others (that "opt-out"). It also gives reassurance that a full application of corresponding adjustments for emissions reductions and removals covered and not covered by host countries' NDCs will eventually occur and be the basis for a more permanent set of regulations of the mechanism.

18. It would also provide predictability and the opportunity for Parties to adapt over time and develop national accounting systems that are more appropriate to accurately manage and account for

emissions and emissions reductions. For this aim, Brazil finds it of the utmost importance that developing countries are provided with the means to improve their capacity for organizing a national system for administering and reporting on emissions at a more disaggregated level, so as to have their national inventories more precise and compatible with the aims of the accounting rules to be decided under Article 6.4. We expect that developed country Parties are to continue taking the lead in this regard as well. It is essential that these Parties are able to mobilise adequate resources for a work stream to be potentially developed under the guidance of the Supervisory Body, with a view to providing technical assistance and developing capacity building activities to assist developing countries in this regard.

19. Taking these steps would not only equip host countries with the adequate knowledge and skills to continue enhancing their mitigation efforts through better planning and implementation tools that are necessary for them to move over time towards economy-wide NDCs, but also facilitate future discussions on accounting rules for applying corresponding adjustments that are less arbitrary and more precise to address the issues this operation aims at tackling.

20. Brazil is also open to considering a review clause to be discussed and introduced by the time permanent rules are to entry into force, after the transition period. This review clause would aim at assessing the results and experience related to the functioning of the mechanism throughout the transition and to possibly make the necessary adjustments that would provide for better incentives for Parties and stakeholders to engage and promote scaled-up emissions reductions.

19. Finally, Brazil expects that the length of the transition period discussed in this section is agreed in COP-26. In order to contribute positively to the discussions on this matter, Brazil suggests that the duration of the transition period is chosen in a way that does not hinder the implementation of NDCs within the timeframes specified by Parties. It is also desirable that, when discussing and choosing the length of the transition period, Parties take into account the challenges associated with the capacity building activities suggested in the previous paragraphs, so as to make this time span consistent with the efforts to be undertaken.

### **III - Application of corresponding adjustments for the transfer of mitigation outcomes under Article 6, paragraph 2 of the Paris Agreement**

20. Although much attention has been devoted to the issue of accounting options for first transfers of A6.4ERs under Article 6.4, which is a centralised and transparent mechanism, not enough care has been given to the threats potentially posed to environmental integrity by the international transfer of mitigation outcomes under Article 6.2, due to the diverse nature of NDCs. More specifically, no reassurance is given by any of the three versions of the negotiating texts from COP-25 that the use of Article 6.2 will not lead to an increase in emissions within and between the implementation periods of NDCs.

21. Brazil has repeatedly voiced its concerns regarding the lack of comparability of NDCs under the Paris Agreement and the implications this might have for the use of cooperative approaches based on Article 6.2. Unlike the Kyoto Protocol, in which Parties had mitigation targets expressed in the

form of a carbon budget, in the Paris Agreement, Parties are free to propose their own mitigation contributions, in a nationally determined manner.

22. Cognisant of the complexity entailed by the bottom-up character of the Paris Agreement, Brazil has supported that countries, when taking part in cooperative approaches under Article 6.2, make an effort to express their contributions in terms of a budget, so as to make the application of a corresponding adjustment easier by bringing some degree of comparability to the operation. In an attempt to bridge different views, Brazil has also showed flexibility in the choice of the method to apply corresponding adjustments, as long as Parties limit it to only one modality instead of a list with different possibilities.

23. However, not only do the negotiating texts from COP-25 leave to the discretion of Parties the choice of the method to be used, as follows<sup>1</sup>, but also postpone the elaboration of more specific technical guidance to a future work programme under the SBSTA:

“8. [...]

*Each participating Party shall apply one of the following methods consistently throughout the NDC implementation period:*

*(a) Where the participating Party has a single-year NDC:*

*(i) Providing a multi-year emissions trajectory, trajectories or budget for the NDC implementation period that is consistent with implementation and achievement of the NDC, and annually applying corresponding adjustments for the total amount of ITMOs first transferred and used for each year in the NDC implementation period;*

*(ii) Calculating the average annual amount of ITMOs first transferred and used over the NDC implementation period, by taking the cumulative amount of ITMOs and dividing by the number of elapsed years in the NDC implementation period and annually applying indicative corresponding adjustments equal to this average amount for each year in the NDC implementation period and applying corresponding adjustments equal to this average amount in the NDC year;*

*(b) Where the participating Party has a multi-year NDC:*

*(i) Calculating a multi-year emissions trajectory, trajectories or budget for its NDC implementation period that is consistent with the NDC, and annually applying corresponding adjustments for the total amount of ITMOs first transferred and used each year in the NDC implementation period and cumulatively at the end of the NDC implementation period;*

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<sup>1</sup> Version of 15 December 2019.

*12. A method proposed by a Party that meets the requirements of this chapter III, and this guidance, may be included in chapter III. B (Application of corresponding adjustments), in accordance with relevant further guidance of the CMA."*

24. The current solution is, in Brazil's view, a precarious one. The freedom for Parties to select either a trajectory, a budget, the averaging option or even any other method proposed by a Party leaves the door open for them to pick and choose according to their convenience. In practice, this would translate into the possibility that each Party would estimate the modality in which they would have to put a smaller incremental effort into complying with their nationally determined contributions.

25. It is desirable that Parties are able to reach consensus on one single modality for the application of corresponding adjustments. However, given the current complex and diverse universe of NDCs, a transition period is also envisaged by Brazil as a way to find a compromise in this regard. During this transition period, the current solution provided by the negotiating texts from COP-25 would serve as a basis for the application of corresponding adjustments.

26. Brazil expects this period of time to serve to refine the current proposition to account for the transactions occurring under Article 6.2. After the expiration of the transition period, all Parties are to equally use only one modality. To keep the coherence among the accounting approaches of the two cooperative instruments established by Article 6.2 and 6.4 of the Paris Agreement, the length of the transition period can, if Parties so determine, be the same for both cases.

27. A time-bound solution in this case would provide for enough time to adapt and to learn from experience, as well as to have predictability and reassurance that a solution more aligned with the principles of environmental integrity, transparency, accuracy, completeness, comparability and consistency will eventually be in place. Brazil expects, once again, that the length of the transition period discussed in this segment is agreed in COP-26 and that it is chosen in a way that does not interfere with the implementation of NDCs specified by each Party. A review clause to discuss and assess the experience of Parties when using Article 6.2 could also be considered.