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DUBAI CLIMATE NEWS UPDATE
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No consensus on article 6 carbon market approaches

Kuala Lumpur, 26 Dec. (Hilary Kung) – At the Dubai climate talks which ended on 13 Dec, as regards 'cooperative approaches' under Article 6 of the Paris Agreement (PA), Parties managed to agree on a decision only on Article 6.8, on non-market approaches (NMAs), and failed to agree on decisions on market-based approaches under Articles 6.2 and Article 6.4, despite the desire by many for a package deal on all three sub-articles.

Article 6 of the PA is referred to as 'cooperative implementation' among Parties, involving the use of carbon market approaches (referred to as Articles 6.2 and 6.4) and non-market approaches (Article 6.8) in the implementation of their nationally determined contributions (NDCs).

(Article 6.2 allows Parties to engage "on a voluntary basis in cooperative approaches that involve the use of internationally transferred mitigation outcomes (ITMOs) towards NDCs and is generally known as carbon trading between countries; Article 6.4 is a "mechanism to contribute to the mitigation of greenhouse gas emissions and support sustainable development" which is broadly regarded as the international carbon offset market; while Article 6.8 is about NMAs, recognizing the importance of "integrated, holistic and balanced NMAs being available to Parties to assist in the implementation of their NDCs.")

During the closing plenary on 13 Dec, the COP 28 President announced that the consideration of Articles 6.2 and 6.4 "could not be completed here at this session". Matters related to Article 6.2 and Article 6.4 will be taken up again at the upcoming 60th session of the Subsidiary Body for Scientific and Technological Advice (SBSTA 60) (which is scheduled to meet in June 2024), with a view of recommending a draft decision for adoption at the sixth meeting of the Parties to the PA (CMA6), in Azerbaijan next year.

However, Rule 16 of the draft UNFCCC's Rules of Procedure was not mentioned. As heard in the contact group consultations on 12 Dec, this may be due to the fact that Parties wished to transmit the draft texts from Dubai to the next session as a basis for further discussions. This remains to be seen at the upcoming Bonn intersession in June 2024. (Rule 16 states that where an item on the agenda of a session's consideration has not been completed at the session, it shall be included automatically in the agenda of the next session, and normally, Parties begin consideration of the item from scratch, without reference to any documents worked on from the previous session.)

Further, since there was no consensus, the recommendations from the Article 6.4 Supervisory Body were also not adopted in

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Third World Network is an independent non-profit international research and advocacy organization involved in bringing about a greater articulation of the needs, aspirations and rights of the peoples in the South and in promoting just, equitable and ecological development.
Address 131, Jalan Macalister, 10400, Penang, MALAYSIA.
Tel 60-4-2266728/2266159 Fax 60-4-2264505
E-mail twn@twnetwork.org Website https://twn.my/

Dubai. The Article 6.4 Supervisory Body will continue the relevant work to further develop the recommendations on the mechanism methodologies and activities involving removals, for consideration and adoption at CMA6.

(The Article 6.4 Supervisory Body was designated by the CMA to supervise the mechanism under the said article, which is based on the Glasgow Decision 3/CMA.3, containing the rules, modalities and procedures for the mechanism established. The Supervisory Body is fully accountable to the CMA and is operating under it's authority and guidance.) Negotiations under Articles 6.2, 6.4 and 6.8 were the last items to conclude in Dubai, with "take-it-or-leave-it" draft decision texts presented by the co-facilitators, late evening of 12 Dec, which was the original scheduled date for the closing of the talks.

ARTICLE 6.2

One of the main points of contention for both Article 6.2 and 6.4 was the process and timing of the authorisation of credits by host countries. Some developing countries are calling for flexibility in the authorisation, including revisions or revocation of authorisation, while developed countries are against such flexibility because in their view, this would undermine market confidence.

Based on the CMA4 decision in Sharm al-sheikh in 2022, Parties should decide on the process of authorisation, specifically on the scope of changes to the authorisation of ITMOs towards their uses, and the process for managing them, and for authorisation of entities and cooperative approaches to ensure transparency and consistency at CMA5 in Dubai.

This issue was highly contentious as reflected in the discussions at the contact group on 12 Dec. where several Parties including **Mexico**, the **European Union (EU)**, the **Independent Alliance of Latin America and the Caribbean (AILAC)**, the **United States (US)** and **United Kingdom (UK)** expressed concerns with the draft decision text, especially on the "authorisation" section and rejected the text. The contact group was presided by **Maria Jishi (Saudi Arabia)** and **Peer Stiansen (Norway).**

The **UK** reiterated its position on the revocation of authorisation after the first ITMO and said it was "not comfortable with paragraph 12" of the text and could therefore "not accept the text."

(Paragraph 12 of the text reads: "*Decides that any changes to an authorisation of a cooperative approach should not apply to or affect ITMOs that have already been first transferred, unless otherwise agreed and made publicly available by the participating Parties in a cooperative approach or by a participating Party under extreme circumstances*.")

It was understood that the UK was strongly against any changes to the authorisation, especially after the ITMOs have been transferred to other countries on the grounds that it would undermine market confidence, and thus affect the overall market size of Article 6.2 approaches. Paragraph 12 was also referenced in paragraph 31 of the draft text to ensure consistency between Articles 6.2 and 6.4 about the changes to the authorisation of the A6.4ERs (ERs are emission reductions).

The **EU** said the text is "not safe to adopt" and stated that it had expressed concerns at the beginning of COP that it wants to see clarity in the standard, especially on transparency but felt its voice was not heard. "There are three things at stake: climate, investors, and host countries (and the) markets need to deliver for investors, for the climate and also for the host countries and we don't think this text delivers that," it said. The **EU** said it has "proposed a text that is short, simple and radical but many would be uncomfortable" and asked for the COP 28 Presidency to consider its amendments.

It seems that the **EU** had raised concerns on how to address accounting for reversals, considering the reversal risks, among others for a high-quality standard.

(Reversals occur when the greenhouse gases that are supposed to be 'removed' from the atmosphere or stored through removal activities are reversed and released back into the atmosphere, for example in the event of forest fires, pests, droughts, etc. See more discussion on "reversals" under Article 6.4 in the following section.)

Mexico said that the "human rights" language was removed from the text and that this was a red line for it and that the text does not allow for "transparency" and "accountability". Mexico was referring to the "authorisation" section where it saw the removal of reference to the eleventh preambular paragraph of the PA where "Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights…" as one of the elements the host countries may consider when submitting their authorisation.

The previous draft text contains a longer list of what "may" be contained in the copy of authorisation to be submitted by the host country in a standardized form. Some of these include description of how the cooperative approach minimizes the risk of non-permanence and ensures that reversals are addressed in full, or how reversal risks will be addressed, and how the cooperative approach contributes to implementation of the NDC and the Long-Term Low Emissions Development Strategies (LT-LEDS) (if any) and to the achievement of the long-term goals of the PA. These were removed from the final draft decision text.

The final draft "encourages participating Parties to include, at their discretion, the following elements in the authorisation(s) of each cooperative approach", such as the unique identifier, name and parameters of the cooperative approach, definition of first transfer by the authorizing Party, metrics, sectors, vintages, contribution of resources for adaptation and overall mitigation in global emissions, arrangement for authorizing entities, among others.

The other key issue on Article 6.2 is the process of identifying, notifying and correcting inconsistencies. As seen in the earlier draft, Parties were considering what would be the consequences when material inconsistencies of ITMOs were identified during the consistency check. Among the proposals were: (1) ITMOs shall not be used towards NDC achievement or other international mitigation purposes until corrected, and shall not be subject to any further transaction or transfer until the inconsistencies are resolved; or (2) may still be used towards NDC achievement or other international mitigation purposes, despite being marked as inconsistent in the output of the consistency check procedure.
The final draft text suggested those ITMOS be marked by the consistency check procedure developed by the secretariat, and the output of the consistency checks will be publicly displayed.

The **Least Developed Countries (LDCs)**, the **African Group (AG)**, the **Coalition for Rainforest Nations (CfRN)** and the **Alliance of Small Island States (AOSIS)** said they can accept the text as a package deal together with the Article 6.4 draft text, while **Japan** and **Switzerland** accepted the text as is.

Towards the end of the contact group, **Ukraine** said that it was "very disappointed with what is happening in this room" adding that "We are even more disappointed by some Parties to create blocks….'Human Rights' and 'Environmental Integrity' are used to block decisions in both Article 6.2 and Article 6.4."

In response to Parties wanting to spend more time on the text to find consensus and bridge proposals, the **US** said it "would be deeply uncomfortable to reconcile these differences in the time that remains". Most Parties then called for "saving the text" and using it as a basis for further discussion.
The co-facilitators noted that there was no consensus to forward the text for adoption, but also quoted what **Japan** has been saying that "we are in operational mode". It was reported that some Parties have already started engaging in bilateral Article 6.2 cooperation.

Also, the consideration of whether ITMOs could include emission avoidance will be decided at CMA6 (Nov. 2024) as per the CMA4 decision.

ARTICLE 6.4

The major divergences on Article 6.4 were on the consideration of the Supervisory Body's (A6.4 SB) recommendations on mechanism methodologies and activities involving removals (referred to as the 'guidance on removals') and also on "changes to authorisation".

(The Intergovernmental Panel on Climate Change (IPCC) Sixth Assessment Report (AR6) definitions of activities involving removals include the

following:
(a) Anthropogenic removals as the withdrawal of greenhouse gases (GHGs) from the atmosphere as a result of deliberate human activities.
(b) Carbon dioxide removal (CO2; CDR) as anthropogenic activities removing CO2 from the atmosphere and durably storing it in geological, terrestrial, or ocean reservoirs, or in products. It includes existing and potential anthropogenic enhancement of biological, geochemical or chemical CO2 sinks, but excludes natural CO2 uptake not directly caused by human activities.)

During the contact group on 12 Dec presided over by **Sonam Tashi (Bhutan)** and **Kate Hancock (Australia)**, several Parties including the **EU**, **AILAC**, **Mexico**, and **CfRN** rejected the third iteration of the draft text, citing concerns about the guidance on removals which they have stated before.

The **EU**, **Mexico** and **AILAC** also raised concerns over the lack of effective operational language on the "human rights" issue, as the draft text only "acknowledges that in this cooperation Parties should respect, promote and consider their respective obligations on human rights…."

The draft decision text welcomed the requirements for activities involving removals and methodologies forwarded by the Article 6.4 SB and also requests the SB to apply these requirements while noting that further work is needed to "*elaborate and develop clarifications ensuring that terminology applied is consistent and that guidance is clear, update the requirements, as appropriate, and report on its progress to the (CMA)*.

Many Parties also expressed concerns that there were gaps in the SB's recommendations on activities involving removals, but there were diverging views on whether to adopt or reject them, as witnessed during the informal consultation on 11 Dec.

The **CfRN**, **Ukraine**, **Dominica**, **Suriname**, **Mexico**, **DRC Congo**, the **Dominican Republic**, and **Norway** proposed to send the recommendations back to the A6.4 SB with the CMA's guidance for further work, and consider its adoption at CMA6.

Brazil suggested a bridging proposal that allows for "interim adoption or pilot program", and mandate the A6.4 SB to clarify and amend it as needed, subject to the view of CMA at subsequent sessions. In a similar vein, **Ethiopia** also proposed its "provisional adoption."

The **EU** said it was "happy with the mechanism's methodologies document but not the 'removals' document as it does not give the necessary clarity to make the benchmark." Commenting further, it said these two documents are the "constitutional documents that shape the direction of Article 6.4". It was also willing to engage with Brazil's bridging proposal, but wanted clarification on what "interim adoption" means.

Earlier, the **EU** said it had significant concerns with the guidance on removals, specifically on the "reversals" as the guidance was not clear and there is need to do further work to ensure all reversals are adequately addressed. For example, the EU pointed out that paragraph 27 on accounting for removals was confusing; while "paragraph 55 is a bit premature".

(Paragraph 27 in the guidance for removals reads, "*Removals eligible for crediting shall exceed the applicable baseline determined in accordance with requirements for the development and assessment of Article 6.4 mechanism methodologies and are calculated for each year in the crediting period. In each given monitoring report, such calculations are done in accordance with the following:*

(a) by calculating net removals, which involves the estimation and deduction of emissions within the activity boundary that result from the implementation of the activity and/or from an event that could potentially lead to a reversal of removals, and any leakage emissions, in accordance with the applicable provisions of the Activity Standard, requirements for the development and assessment of Article 6.4 mechanism methodologies, and the applicable methodology; and
(b) by comparing the current cumulative net removals to cumulative net removals in the previous monitoring report. Current cumulative net removals that fall below the cumulative net removals in the previous monitoring report constitute reversals."

Paragraph 55 states that, "Buffer [6.4 Emission Reductions] ERs shall not be cancelled to remediate

avoidable reversals".)

Elaborating further, the **EU** said it was hesitant to endorse the guidance as some of the texts are too narrow and unclear, on what the expectations are with regards to the further guidance to be developed by the SB.

(The guidance document on removals covers a range of topics from monitoring, reporting accounting for removals, addressing reversals, avoidance of leakage and other negative environmental and social impacts and host party roles. However, the guidance document is yet to provide details on a range of issues including the post-crediting period (monitoring, reporting and verification of removals and remediation of reversals and also timeframe), reversal risk assessment tool, notification from third parties of observed events that could potentially lead to reversals, treatment of activities for which a reversal result in calculated removals within the activity boundary that fall below the baseline level, Reversal Risk Buffer Pool to address reversal risk and reversals, avoidable and unavoidable reversals, including how they are distinguished and demonstrated, specific removal activity categories or types taking into account national and international best practices in environmental and social safeguards and host party's role in providing a sovereign guarantee to apply corresponding adjustments in respect of any amount of reversals incurred as an alternative measure to address reversal risk and reversals. The document indicated that further guidance on the above issues will be developed by the SB.)

The **US** said that it did not want to set bad precedence to undermine the integrity of the governance and have the A6.4SB's recommendations subject to review and revision every time, but was happy to engage in the bridging proposal, and "sending further work, clarification, (and) amendment would be tremendous mistakes".

The **AG** and **LDCs** suggested adopting both documents while having the SB continue work to address additional concerns from Parties in the work programme. The **Like Minded Developing Countries (LMDC)** stated its preference to adopt both the guidance documents but was not open to having a list that dictates the work of the SB.

AILAC highlighted that the safeguards on human rights and indigenous peoples were not set yet and it hoped to adopt the recommendations on "removals" and "methodologies" alongside the sustainable development tool as a package at CMA6.

Environmental and social safeguards which are part of the sustainable development tool and also the independent grievance mechanism were another heated debate in the discussions.

New Zealand (NZ) also commented that it would like to see the delivery of all documents as a package, including recommendations on reversal risk assessment tool, baseline, leakage and the "mandatory sustainable development tool". It said the appeal process and the grievance mechanism should move in tandem with this process (referring to the guidance on removals and methodologies) and ensure no activity should start prior to the finalisation of the appeal and grievance mechanism; otherwise, it will risk the environmental integrity of the mechanism.

A few other Parties, including **AILAC, AOSIS,** and **Canada** expressed regret that the key environmental and social safeguards in the sustainable development tool and independent grievance mechanism were not completed.

However, the sustainable development tool which contains the safeguards elements is not subject to CMA adoption, but the A6.4 SB to decide and implement without the need for adoption by the CMA.

(Decision 3/CMA.3 paragraph 5 reads, "*Requests the SB to:.. (c) "Review the sustainable development tool in use for the clean development mechanism and other tools and safeguard systems in use in existing market-based mechanisms to promote sustainable development with a view to developing similar tools for the mechanism by the end of 2023*")

The final draft text, which was rejected by Parties, "urges the SB to prioritize its work on the sustainable development tool, the appeals and grievance procedure, and tools and guidelines relating to baselines, additionality, leakage and a

reversal risk assessment as well as other regulatory provisions as required in the rules, modalities and procedures for the mechanism as a matter of urgency…"

The **CfRN** rejected the text due to its concern about the guidance on removals involving the forest sector. "If the current removal guidance is applied….it would be in clear conflict, (with the already agreed decisions) and there are numerous flaws (in the document)," it said. It is learnt that the **CfRN** had raised concerns about the "removals involving forests" in which Article 6 rules must respect the result of the negotiations at COP 21. and the provisions of the PA, i.e., Article 5.2 of the PA on the REDD-Plus framework. One example pointed out by CfRN is on the baseline for removals involving forests where Article 5.2 requires a national level aggregation or national-level reference.

The discussion on "authorisation and mitigation contribution (of) A6.4ER" was based on the earlier draft text which suggests "*that the host Party may provide to the SB at any time a statement authorizing mitigation contribution A6.4ERs already issued for use towards achievement of NDCs and/or for other international mitigation purposes*." (For background, please see TWN Update 17 from Sharm el-Sheikh on the Sharm el-Sheikh on the contentious issues over Article 6).

(Mitigation contribution A6.4ER [were referred by Parties as mitigation contribution units – MCUs] is the A6.4ERs that are not authorized. See Paragraph 29 of the decision 7/CMA4 which states that "…(b) A6.4ERs not specified as authorized for use towards achievement of NDCs and/or for other international mitigation purposes [mitigation contribution A6.4ERs], which may be used, inter alia, for results-based climate finance, domestic mitigation pricing schemes, or domestic price-based measures, for the purpose of contributing to the reduction of emission levels in the host Party.)

The **EU** and **AOSIS** were of the view that this may affect the levy for the share of proceeds [SoP] for adaptation, and cancellation to deliver an overall mitigation in global emissions [OMGE]. The **EU** suggested deleting the relevant paragraphs; while **AOSIS** proposed to have a technical paper from the secretariat to have a better understanding of the implications "to avoid any loopholes" so that Parties can have an informed discussion.

The **AG** disagreed with the deletion proposed by EU, and called for the same level of flexibility under Article 6.2 as there was discussion in Article 6.2 which allows any unit to be authorized at any time before the transfer. It further proposed that the host country may provide a statement authorizing MCUs "at the issuance" and "before the first transfer", while ensuring that all the mitigation contribution A6.4ERs will be subject to all the requirements after authorisation, including the corresponding adjustment, share of proceeds and OMGE.

Ukraine supported the **AG** that authorisation is a national prerogative and Parties can provide such authorisation as they wish. The **EU** responded by saying "not that we are not in favor of maximum flexibility, but some lead to perverse incentive…[and] further complexity. We have some flexibility around the first transfer… but if happens after issuance, there will be difficult problems later."

NZ came with a bridging proposal to recall paragraph 38 of the Sharm el-Sheikh's decision and rephrase the sentence to "at the latest of issuance, recognizing a host party can change authorisation of MCUs that have been issued but not transferred", which was supported by **AGN** but rejected by **EU** and **AOSIS**.

China said it could go along with **NZ**'s bridging proposal but cannot agree with the technical paper proposed by **AOSIS**. It was of the view that this is an issue that can be solved at the technical level by having a CMA decision, for the secretariat to operationalise the matter and not to deal with the technical issue at CMA.

The co-facilitators then came in to say that they were "not seeing consensus and have a hard stop at 1 pm" and there were "more items to consider", hence the need to move on to another item.

The connection of the Article 6.4 registry to the international registry and the consideration of emission avoidance activities were other key issues that saw substantial divergence in the room. The final draft negotiation text saw a

recommendation to consider emission avoidance and conservation enhancement activities, as part of the review of the rules, modalities and procedures for the mechanism at CMA10 (2028)
During the negotiations, **Bolivia** submitted a proposal to calling for a "moratorium" on progress in both Articles 6.2 and 6.4 negotiations, expressing its disappointment with the unbalanced progress in Article 6.8, citing concerns that developed countries had bracketed almost all of the proposals that were meant to advance negotiations on Article 6.8 NMA. Bolivia said that despite the lack of progress in the discussions on Article 6.4, it reaffirmed its position against market-based approaches as the solution to the climate crisis and reiterated its position that global carbon markets are not the structural solution to solve the climate crisis.

ARTICLE 6.8 NON-MARKET APPROACHES

The adopted decision text in Dubai, "*takes note of the progress made by the secretariat in developing and operationalizing the UNFCCC web-based platform for non-market approaches*" but also recognised that the timeline to complete the platform was not met.

Parties agreed to a new timeline for the secretariat to complete the development and deploy the fully operational UNFCCC web-based platform as soon as possible, before the 5th meeting of the Glasgow Committee on NMA in June 2024.

One of the key contentions was whether there was a meaningful follow-up on the joint mitigation and adaptation approaches (JMA) championed by **Bolivia** and supported by the **LMDC**. This was opposed by many in the room.

(Bolivia introduced its NMA on JMA for the integral and sustainable management of forests, aimed at enhancing sustainable forest management and forest conservation, in particular in the Amazon region during the in-session workshop on 9 June 2023)

The landing zone for the JMA in the adopted text reads, "*Requests the secretariat to (b) Prepare a report on the workshop in line with decision 8/CMA.4, paragraph 10, including on the JMA referred to in Article 5.2 of the PA, and other activities and approaches*."

Another key divergence in the room was regarding the discussion of finance for the implementation of NMA.

The adopted text requests SBSTA, as the convenor or the Glasgow Committee on NMA, *"to invite interested Parties…to have a focused exchange of views on financial, technology and capacity-building support available or provided for identifying and developing NMA, including on enhancing access to various types of support and identifying investment opportunities and actionable solutions that support the achievement of NDCs, as part of the in-session workshop referred to in paragraph 15(c) above*."

Sources informed that the US was not happy with the text. This was witnessed in the contact group for Article 6.8 presided by **Kristin Qui (Trinidad and Tobago)** and **Jacqui Ruesga (New Zealand)** on 12 Dec.

The final text received support from almost all of the Parties, except the **US**. The **US** began by expressing its disappointment with the text, saying that the reference to "…a specific NMA without any other NMAs included is extremely unbalanced and we find it impossible to accept the text on that basis." However, towards the end of the session, the **US** came back and said that it agreed to accept the text but hoped to see more balance in the future Glasgow Committee on NMA.

Another key divergence was the contentious reference to "carbon pricing" and "nature-based solution" which saw strong opposition from developing countries including **Bolivia**, **Argentina**, **LMDC**, **AG**, **AILAC**, **Liberia**, and **CfRN**.

The earlier draft saw a bracketed text on carbon pricing which reads, "Invites Parties to consider non-market approaches, including domestic fiscal measures such as carbon pricing, as a tool for implementing climate policies that are coherent across countries; such as adoption of climate policies, taking into account national circumstances."

Many developing countries proposed to delete the reference to carbon pricing and nature based

solutions to avoid connecting NMAs to the carbon market and maintaining a clear distinction between the market and non-market approaches.
In response to the reactions from developing countries, the **US** said that it saw carbon pricing as a "non-market approach" which can be implemented. The **EU** said it would like to keep the "carbon pricing" language. Explaining further, the EU said it acknowledged the discussion on carbon pricing which can include carbon markets but this was not its intention as carbon pricing also includes other levies and carbon taxes.

China also called to delete the paragraph as it did not want any mention of domestic fiscal measures and carbon pricing.

The final decision text saw the removal of both "Carbon pricing" and "Nature-based solution".

With regards to the proposal from Bolivia to establish a readiness process for scaling up the NMAs presented in the workshop, which was not supported by some developed countries, Parties finally agreed with the language on "capacity building" as a bridging proposal.

The decision text included a section on "Capacity Building" which reads, "*Reiterates its request to the secretariat to include as part of the broader capacity-building programme…including activities to build:*

(a) The capacity for the identification, development and scaling-up of non-market approaches, including by encouraging the participation of relevant stakeholders, including Indigenous Peoples and local communities;
(b) Opportunities for interested Parties that are participating in non-market approaches to communicate with relevant stakeholders for enhancing cooperation and support in non-market approaches;
(c) The capacity for the effective participation of Indigenous Peoples, local communities and other relevant stakeholders in the relevant work programme activities;
(d) The capacity of Parties to record and exchange information on non-market approaches on the UNFCCC web-based platform."

The decision also invites Parties and observers to submit their views and information on (a) Themes for spin-off groups; and (b) Existing non-market approaches under the initial focus areas of the work programme activities by 31 March 2024.