

# **CORRUPTION BLINDSPOTS IN INTERNATIONAL COOPERATION ON CLIMATE ACTION**

**Building governance and accountability to  
deliver Article 6 of the Paris Agreement**

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# INTRODUCTION

Multilateral action on climate change depends on governments working together with respect to emissions reductions, adaptation, technology transfer and financing. The United Nations Framework Convention on Climate Change (UNFCCC) establishes government-to-government cooperation as the primary means for climate change collaboration.

Other means of cooperation were developed through the Kyoto Protocol (KP), under which emissions reductions from project activities undertaken in one country are credited in favour of another country or a private corporation of that other country which funded such activities.

Under the Paris Agreement, voluntary international cooperation has been included in Article 6. Enhanced international cooperation is needed in order to meet climate targets. This includes a crucial need to recognise that corruption risks exist and have transformed previous initiatives such as the KP into heavily criticised mechanisms with unclear outcomes in terms of emissions reductions and harmful impacts on community rights.

This policy brief provides an overview of Article 6 of the Paris Agreement, and identifies key issues and gaps related to corruption risks within existing UNFCCC mechanisms. It also explores areas for strengthening ongoing negotiations related to international cooperation under Article 6, including the role of an independent grievance and redress mechanism.

## ARTICLE 6 OF THE PARIS AGREEMENT

Article 6 of the Paris Agreement provides for how countries can cooperate with one another to enhance climate mitigation and adaptation actions and implement their nationally determined

contributions (NDCs). Highly contentious negotiations have been ongoing since 2016 around three tracks for defining how Article 6 could be implemented:

1. Article 6.2 is intended to provide a framework for the international transfer of mitigation outcomes between countries.<sup>1</sup> Parties are negotiating ways to increase ambition and are exploring the relationship between the UNFCCC and existing carbon market mechanisms – for example, that established by the International Civil Aviation Organisation.
2. Article 6.4 establishes a new mechanism for mitigation and the promotion of sustainable development intended to achieve emissions reductions, with negotiations focusing on the governance requirements of such a mechanism.
3. Article 6.8 establishes a Framework for Non-Market-Based Approaches, under which countries can cooperate to support NDC implementation.

Although often cited as the Paris Agreement’s “markets” provision,<sup>2</sup> Article 6 contains no direct reference to markets anywhere in its text. The article provides for the transfer of mitigation outcomes and support for mitigation activities and cooperation, including technology transfer, finance and capacity building. It is also intended to provide for support for adaptation and sustainable development.

Article 6 is highly complex and politically contentious. It was one of the last few elements of the Paris Agreement to be finalised in 2015, and remains contentious in the lead-up to COP26. Negotiations to date have failed to put in place measures that would adequately address risks of corruption in efforts to meet climate targets.

# CORRUPTION RISKS WITHIN EXISTING UNFCCC MECHANISMS

Within the UNFCCC there are several mechanisms, frameworks and financial institutions potentially relevant for Article 6 and where risks of corruption have been previously highlighted. The financial mechanisms under the UNFCCC – which include the Green Climate Fund (GCF), the Adaptation Fund (AF) and the Global Environment Facility (GEF) – have faced corruption-related challenges, while the more recently adopted UNFCCC framework to reduce emissions through decreased deforestation and degradation, known as REDD+, has also raised concerns about corruption risks. The Clean Development Mechanism (CDM) established by the Kyoto Protocol enables for support for emissions reductions projects in developing countries, but has been plagued by difficulties in some carbon markets, as well as institutional design and governance failures.

## UNFCCC FINANCIAL MECHANISMS

Corruption risks emerge in the context of multilateral financial mechanisms through governance arrangements – including transparency, accountability and integrity frameworks. Concerns about such risks related to climate finance have been raised for several years, and none of these financial mechanisms have been immune. Transparency International has highlighted corruption risks and allegations of corruption, including in financial mismanagement.<sup>3</sup> Several cases have had very negative impacts, prompting the organisation to analyse gaps in integrity measures and to work with these institutions to improve their anti-corruption performance.<sup>4</sup>

## REDD+

Corruption challenges to implementation of the REDD+ framework are widely recognised.<sup>5</sup> These include potential for elite capture, data

manipulation to inflate baselines for results, and the sharing of financial benefits. Studies of challenges associated with REDD+ implementation and corruption in Indonesia and several countries in Africa<sup>6</sup> have identified major risks involving powerful individuals and groups – including politicians, logging companies and the military – seeking to harness opportunities presented by REDD+. This could occur through influencing design of policies and institutions or setting over-inflated baselines, and raises important human rights-related risks for indigenous peoples and forest-dependent communities through further depriving them of their rights and livelihoods.

## CLEAN DEVELOPMENT MECHANISM

Carbon markets inherently demand environmental and financial integrity. This gives rise to a range of inevitable governance challenges and corruption risks.<sup>7</sup> A 2013 report by Interpol noted many ways of manipulating carbon measurements in order to fraudulently claim additional carbon credits.<sup>8</sup> Third-party verification and auditing by some of the large accounting firms have raised questions around conflicts of interest, and such firms have faced temporary suspensions for lax standards.<sup>9</sup> Another corruption risk stems from the intangible nature of the asset, which was an underlying factor behind VAT fraud in the EU Emissions Trading System that cost national authorities over €5 billion (US\$5.8 billion) in lost revenue.<sup>10</sup>

Risks of corruption and fraud have been raised in the CDM mostly in relation to the potential for deceptive practices in determining additionality of projects. An extensive EU-commissioned study into the CDM found that 85 per cent of offset projects were unlikely to be additional, nor to result in reducing emissions.<sup>11</sup> The CDM board has faced allegations of conflicts of interest and lack of transparency, as decisions have been made behind closed doors and without oversight.<sup>12</sup>

# BETTER GOVERNANCE AND ACCOUNTABILITY NEEDED

Strong governance and accountability standards for voluntary international cooperation under Article 6 will be crucial for ensuring risks of corruption are addressed and corruption is prevented, exposed or sanctioned.<sup>13</sup> This is particularly so because activities supported by the Article 6 mechanism present specific corruption risks and will be undertaken in countries with high corruption risks.

Unfortunately, however, discussions among Parties with respect to Articles 6.2 and 6.4 have focused on crafting operational rules to establish carbon markets, with only minimal regard to the inclusion of modalities for public accountability, oversight and governance. Guidance on accountability for the Article 6 mechanism is also lacking in the text of the Paris Agreement itself.

Article 6.2 requires participating Parties to ensure, *inter alia*, “environmental integrity and transparency, including in governance”. The Paris Agreement’s Enhanced Transparency Framework<sup>14</sup> requires each Party taking part in Article 6.2 activities to report on environmental integrity and ensure transparency, including in governance.

The current negotiating text, intended to complete the section of the Paris Agreement Rulebook that relates to Article 6, provides for the establishment of a Supervisory Body and Rules of Procedure. It includes sections on governance and functions; participation; activity design and approaches to methodologies concerning measurement, reporting and verification of carbon.

The text is broad and provides for overarching provisions for further work to be undertaken in coming years. These include adopting principles for methodologies, baseline and additionality approaches, conflicts of interest requirements for accreditation, and provisions concerning safeguards.

The current text is lacking in detail and substance related to governance and accountability standards in several ways. For example, it provides nothing that could prevent the over-inflation of baselines resulting in false emissions reductions outcomes. It provides for no participation by civil society or indigenous peoples in governance arrangements for the Supervisory Body. It also gives no details related to accreditation, to ensure a high standard that prevents accreditation of actors with a track record of corruption. The draft text provides no details on measures to prevent corruption or safeguards to protect human rights. Nor does it establish any independent oversight bodies related to integrity or evaluation. Its provisions concerning grievance redress are weak, envisioning a right to appeal<sup>15</sup> and a local and subnational stakeholder consultation requirement,<sup>16</sup> but failing to constitute an independent system.

Impartial and independent external bodies are particularly important, especially in the context of grievance redress. Such a system exists in the GCF, as a good example of another UNFCCC mechanism. Having robust independent mechanisms could prevent further cases of local communities being adversely affected by CDM projects.

Given that Parties are still negotiating Article 6, it is still possible during COP26 to introduce a wide range of provisions that mitigate the corruption risks that may occur under Article 6 transactions. However, the window is rapidly closing. Such new proposals could be made during COP26 and provide additional guidance on the further work to be undertaken. It is important that these issues are raised in at least a broad sense during COP26, to ensure their inclusion in the ongoing additional work needed to put in place governance arrangements.

# RECOMMENDATIONS

There is an urgent need for unprecedented international cooperation to address climate change, especially through the provision of finance, technology and capacity development support to many countries where corruption is unfortunately prevalent. Enhanced international cooperation between countries via the Article 6 mechanism can play an important role. However, corruption risks are high and need to be addressed in current negotiations as a matter of priority.

Without clear and unambiguous public transparency, participation and accountability processes with respect to Article 6 activities, its mechanisms – particularly those under Articles 6.2 and 6.4 – could exacerbate corruption. This could in turn increase global emissions, weaken the implementation of NDCs, undermine the Paris Agreement goals and give rise to human rights violations.

To ensure integrity in Article 6 activities, Transparency International recommends the following is included in the Rules of Procedures:

- + The Supervisory Body should ensure full and effective stakeholder participation, including via participatory observer roles, and in all processes concerning activities supported by Article 6, including in their design and implementation.
- + Independent mechanisms should be established related to integrity and grievance redress, which are accessible to stakeholders such as indigenous peoples and local communities, who may be adversely affected by any Article 6 activities. (See Annex 1: Principles for Grievance Redress.)
- + Measures should be put in place to prevent gaming, fraud, deceptive conduct and corruption, especially in relation to the establishment of emissions baselines and methodologies related to additionality of projects.
- + Safeguards should be put in place to prevent elite capture, land grabs and carbon grabs.
- + An impartial and external body, with investigative powers into allegations of corruption, should be established to serve as an appellate body with respect to decisions made by the proposed centralised Article 6 Supervisory Body.
- + Accreditation requirements to participate in Article 6 should include strong corruption prevention, including in policies and governance structures of accredited entities. It should also be a requirement of accreditation that entities have in place grievance and redress procedures and anti-corruption safeguards.

# ANNEX

## PRINCIPLES OF GRIEVANCE AND REDRESS MECHANISMS

The UN Guiding Principles on Business and Human Rights set out a number of basic principles that offer a starting point for creating an Article 6 grievance redress mechanism. These are: legitimacy, accessibility, predictability, equitableness, transparency, rights-compatibility and being a source of continuous learning.<sup>17</sup>

**Legitimacy** means that the grievance mechanism engenders trust from stakeholders, which requires that it can reach independent conclusions without fear of consequences from the Supervisory Body or UNFCCC Secretariat. This would include involving representatives of affected communities and civil society.<sup>18</sup>

**Accessibility** means that grievance mechanisms should be known about and easily understood by affected communities and all stakeholder groups for whose use they are intended, with specific measures taken to overcome barriers to access. The Asian Development Bank (ADB) and Inter-American Development Bank mechanisms support this goal by requiring project-level grievance mechanisms, whilst the GCF's Independent Redress Mechanism (IRM) offers notable flexibility in allowing complaints in any language or format.<sup>19</sup>

**Predictability** means "providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation".<sup>20</sup>

An **equitable** grievance process requires that complainants have the same rights of participation as the Supervisory Body and the client (project developer). Existing mechanisms have not achieved

this standard, although the European Bank for Reconstruction and Development and the ADB mechanisms at least allow complainants to submit comments on draft findings, while the GCF's IRM requires that the complainant is consulted in the development of any draft remedial action plan and subsequent monitoring reports.<sup>21</sup>

For a grievance mechanism to be **transparent**, it needs to keep complainants informed about its progress, as well as publishing full documenting of its handling of other complaints, as is the case with the African Development Bank's Independent Review Mechanism.<sup>22</sup>

However, the transparency of the grievance mechanism would only be assured if the Article 6 funding and accreditation processes themselves are transparent. This would mean disclosing all sub-projects in the case of programmatic funding, or all beneficiaries in the case of a sectoral mechanism being adopted. It would also require disclosure of adequate details about the accreditation of any operational entities bringing forward financing proposals.

It may sound obvious, but grievance mechanisms designed to respond to alleged human rights abuses must themselves be "**rights-compatible**". This should be operationalised via a system of environmental and social safeguards that includes human rights protection.

As a **source of continuous learning**, Article 6 grievance mechanisms should identify lessons for improving a mechanism itself, as well as for preventing future grievances and harms. The best practice here is to give the grievance mechanism an explicit advisory mandate, as is the case for the Office of the Compliance Advisor/Ombudsman in relation to the IFC, and the IRM in relation to the GCF.<sup>23</sup>

# ENDNOTES

<sup>1</sup> IISD, Chile/Madrid Climate Conference: Summary Report, 2-15 December 2019, <https://enb.iisd.org/events/chilemadrid-climate-change-conference-december-2019/summary-report-2-15-december-2019>

<sup>2</sup> This is largely because while Article 6 has various origins, some of which (as reflected in Article 6.8) do not imply a market mechanism, the 2015 UNFCCC decision adopting the Paris Agreement recommends that Article 6.4 should learn from “Experience gained with and lessons learned from existing mechanisms and approaches adopted under the Convention and its related legal instruments”. Even then, this recommendation does not explicitly refer to the flexibility mechanisms under the KP that are seen as the KP’s market mechanisms, such as the Clean Development Mechanism and Joint Implementation. See UNFCCC, Decision 1/CP.21, Adoption of the Paris Agreement. FCCC/CP/2015/10/Add.1, para 37(f), <https://unfccc.int/resource/docs/2015/cop21/eng/10a01.pdf#page=2>

<sup>3</sup> <https://www.ft.com/content/054a529c-e793-489b-8986-b65d01672766>

<sup>4</sup> <https://www.transparency.org/en/publications/a-tale-of-four-funds>

<sup>5</sup> <https://www.u4.no/publications/redd-integrity-an-evidence-based-approach-to-anti-corruption-in-redd.pdf>

<sup>6</sup>

[https://www.unodc.org/documents/southeastasiaandpacific/indonesia/publication/Preventing\\_the\\_risk\\_of\\_corruption\\_in\\_REDD\\_in\\_Indonesia.pdf](https://www.unodc.org/documents/southeastasiaandpacific/indonesia/publication/Preventing_the_risk_of_corruption_in_REDD_in_Indonesia.pdf); <https://www.transparency.org/en/publications/redd-and-corruption-risks-for-africas-forests-case-studies-from-cameroon-gh>

<sup>7</sup>

[https://www.transparency.org/files/content/corruptionqas/Carbon\\_market\\_corruption\\_risks\\_and\\_mitigation\\_strategies\\_2015.pdf](https://www.transparency.org/files/content/corruptionqas/Carbon_market_corruption_risks_and_mitigation_strategies_2015.pdf)

<sup>8</sup> Interpol (2013), Guide to Carbon Trading Crime,

<https://www.interpol.int/content/download/5172/file/Guide%2520to%2520Carbon%2520Trading%2520Crime.pdf>

<sup>9</sup> Olawuyi, D. (2016). “The Human Rights-Based Approach to Carbon Finance”. Cambridge University Press, p.35; Interpol (2013), p.13. <https://www.cambridge.org/core/books/human-rights-based-approach-to-carbon-finance/0EC997B8FDB4A60B7ACEF2BA766CF6FF>

<sup>10</sup> European Court of Auditors (2015), “The integrity and implementation of the EU ETS”,

[https://www.eca.europa.eu/Lists/ECADocuments/SR15\\_06/SR15\\_06\\_EN.pdf](https://www.eca.europa.eu/Lists/ECADocuments/SR15_06/SR15_06_EN.pdf); Berrittella, M., Cimino, F. (2017). “An Assessment of Carousel Value-Added Tax Fraud in the European Carbon Market”. *Review of Law and Economics*, 13(2), doi:10.1515/rle-2014-0023

<sup>11</sup> Clima, D.G. (2016). “How additional is the Clean Development Mechanism? Analysis of the application of current tools and proposed alternatives”, [https://ec.europa.eu/clima/system/files/2017-04/clean\\_dev\\_mechanism\\_en.pdf](https://ec.europa.eu/clima/system/files/2017-04/clean_dev_mechanism_en.pdf)

<sup>12</sup> Bond, P. and Dorsey, M. (2011). “Climate Cash Deals Are Killing Us”, *The Sunday Independent* (South Africa), 21 November 2011, <http://www.iol.co.za/sundayindependent/climatecash-deals-are-killing-us-1.1183034#.VcctqhNVikp>

<sup>13</sup> It could also be argued that in undertaking voluntary cooperation actions under Article 6, countries should also keep in mind the preamble of the Paris Agreement, in which they acknowledged that “Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations, and the right to development, as well as gender equality, empowerment of women and intergenerational equity”.

<sup>14</sup> UNFCCC, decision 18/CMA.1, para. 77(d), at [https://unfccc.int/sites/default/files/resource/CMA2018\\_03a02E.pdf](https://unfccc.int/sites/default/files/resource/CMA2018_03a02E.pdf)

<sup>15</sup> UNFCCC, Proposal by the President: draft decision on Article 6.4 of the Paris Agreement, para. 8(e) and Annex, para. 31, [https://unfccc.int/sites/default/files/resource/CMA2\\_11b\\_DT\\_Art.6.4\\_.pdf](https://unfccc.int/sites/default/files/resource/CMA2_11b_DT_Art.6.4_.pdf). However, the draft negotiating text does not specify how such appeals or requests for the redress of grievance could be made to the Supervisory Body.

<sup>16</sup> *Ibid.*, Annex, para. 31.

<sup>17</sup> Office of the United Nations High Commissioner for Human Rights (OHCHR) (2011), “Guiding Principles on Business and Human Rights”, Principle 31, “Effectiveness Criteria for Non-Judicial Grievance Mechanisms”,

[https://www.ohchr.org/documents/publications/guidingprinciplesbusinessshr\\_en.pdf](https://www.ohchr.org/documents/publications/guidingprinciplesbusinessshr_en.pdf)

<sup>18</sup> Eisen, N. (2021). “Rights, Carbon, Caution: Upholding Human Rights under Article 6 of the Paris Agreement”, CIEL, <https://www.ciel.org/reports/rights-carbon-caution/>, p.15; Daniel, C., Genovese, K., van Huijstee, M. & Singh, S. (Eds.) (2016)

“Glass Half Full? The State of Accountability in Development Finance”. Amsterdam: SOMO, <https://www.ciel.org/glass-half-full-the-state-of-accountability-in-development-finance/>, p.47.

<sup>19</sup> Eisen (2021) p.15; Daniel et al. (2016) p.48; Green Climate Fund (2019). “Independent Redress Mechanism Procedures and Guidelines”, <https://www.greenclimate.fund/document/procedures-and-guidelines-independent-redress-mechanism>, paras. 23-29.

<sup>20</sup> OCHCR (2011) principle 31.

<sup>21</sup> Eisen (2021) p.16.

<sup>22</sup> African Development Bank (2021) Independent Review Mechanism, <https://www.afdb.org/en/independent-review-mechanism-irm>

<sup>23</sup> Eisen (2021) p.16; GCF (2019) para. 107-109; Office of the Compliance Advisor/Ombudsman (CAO) Terms of Reference, [http://www.cao-ombudsman.org/about/whoweare/documents/TOR\\_CAO.pdf](http://www.cao-ombudsman.org/about/whoweare/documents/TOR_CAO.pdf)

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